

TITLE XV: LAND USAGE

Chapter

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CHAPTER 150: SUBSURFACE SEWAGE TREATMENT

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GENERAL PROVISIONS**§ 150.001 AUTHORIZATION.**

(A) This chapter authorizes and provides for sewage treatment and soil dispersal in unsewered areas of the county.

(B) It establishes:

(1) Minimum standards for and regulation of individual sewage treatment systems (ISTS), mid-sized subsurface sewage treatment systems (MSTS), and large-sized subsurface sewage treatment systems (LSTS) (collectively referred to as SSTS) in unsewered incorporated and unincorporated areas of the county incorporating by reference minimum standards established by state statutes and administrative rules of the state's Pollution Control Agency;

(2) Requirements for issuing permits for installation, alteration, repair or expansion of SSTS;

(3) Requirements for all SSTS permitted under the revised Minn. Rules Ch. 7080 and 7081 to be operated under an approved management plan;

(4) Standards for upgrade, repair, replacement or abandonment of SSTS;

(5) Penalties for failure to comply with these provisions;

(6) Provisions for enforcement of these requirements; and

(7) Standards which promote the health, safety and welfare of the public as reflected in M.S. §§ 115.55, 145A.05, 375.51, 394.21 through 394.37 and 471.82, as they may be amended from time to time, the County Comprehensive Plan and the County Zoning and Shoreland Ordinance. (Ord. 2014-01, passed 4-8-2014)

§ 150.002 PURPOSE AND AUTHORITY.

(A) *Purpose.* The purpose of this chapter is to establish minimum requirements for regulation of ISTS, MSTS and LSTS for the treatment and dispersal of sewage within the applicable jurisdiction of the county to protect public health and safety, ground water quality and prevent or eliminate the development of public nuisances. It is intended to serve the best interests of the county's citizens by protecting its health, safety, general welfare and natural resources.

(B) *Intent.* It is intended by the county that this chapter will promote the following:

(1) The protection of lakes, rivers and streams, wetlands and ground water in the county essential to the promotion of public health, safety, welfare, socioeconomic growth and development of the county;

(2) The regulation of proper SSTS construction, reconstruction, repair and maintenance to prevent the entry and migration of contaminants, thereby protecting the degradation of surface water and ground water quality;

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

(4) The appropriate utilization of privy vaults and other non-water carried sewage collection and storage facilities; and

(5) The provision of technical assistance and education, plan review, inspections, SSTS surveys and complaint investigations to prevent and control water-borne diseases, lake degradation, ground water related hazards and public nuisance conditions.

(Ord. 2014-01, passed 4-8-2014)

§ 150.003 AUTHORITY.

This chapter is adopted pursuant to M.S. §§ 115.55, 145A.01 through 145A.08 and 375.51, as they may be amended from time to time, or successor statutes, and Minn. Rules Ch. 7080, 7081 and 7082, or successor rules.

(Ord. 2014-01, passed 4-8-2014)

§ 150.004 EFFECTIVE DATE,

The provisions set forth in this chapter became effective on 4-8-2014.

(Ord. 2014-01, passed 4-8-2014)

§ 150.005 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. For purposes of this chapter, the words “must” and “shall” are mandatory and the words “may” and “should” are permissive.

AUTHORIZED REPRESENTATIVE. An employee or agent of the Rock County Land Management Office.

BOARD OF ADJUSTMENT. A board established by county ordinance with the authority to order the issuance of variances, hear and decide appeals from a member of the affected public and review any order, requirement, decision or determination made by any administrative official charged with enforcing any ordinance adopted pursuant to the provision of M.S. §§ 394.21 to 394.37, as they may be amended from time to time, order the issuance of permits for buildings in areas designated for future public use on an official map and perform such other duties as required by the official controls.

CLASS V INJECTION WELL. A shallow well used to place a variety of fluids directly below the land surface, which includes a domestic SSTS serving more than 20 people. The U.S. Environmental Protection Agency and delegated state ground water 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 C.F.R. parts 144 and 146.)

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

COUNTY. Rock County, Minnesota.

COUNTY BOARD. The Rock County Board of Commissioners.

DEPARTMENT. The Rock County Land Management Office.

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

FAILURE TO PROTECT GROUND WATER. At a minimum, a SSTS that does not protect ground water 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 Minn. Rules part 7080.1500, subpart 4D and E; and a system not abandoned in accordance with part Minn. Rules part 7080.2500. The determination of the threat to ground water for other conditions must be made by a qualified employee or an individual licensed pursuant to § 150.006 of this chapter.

IMMINENT THREAT TO PUBLIC HEALTH AND SAFETY.

(1) 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.

(2) The determination of protectiveness for other conditions must be made by a qualified employee or a SSTS inspection business licensed pursuant to § 150.006 of this chapter.

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

INDUSTRIAL WASTE. Sewage containing waste from activities other than sanitary waste from industrial activities including, but not limited to, the following uses defined under the Standard Industrial Classification (SIC) Codes established by the U.S. Office of Management and Budget.

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<i>SIC Code(s)</i>	<i>Industry Category</i>
753-7549	Automotive repairs and services
7231, 7241	Beauty shops, barber shops
7211-7219	Laundry cleaning and garment services
4011-4581	Transportation (maintenance only)
8062-8069	Hospitals
2000-3999	Manufacturing
2000-2099	Food products
2100-2199	Tobacco products
2400-2499	Lumber and wood products, except furniture
2500-2599	Furniture and fixtures
2600-2699	Paper and allied products
2700-2799	Printing, publishing and allied industries
2800-2899	Chemicals and allied products
2900-2999	Petroleum refining and related industries
3000-3099	Rubber and miscellaneous plastics
3100-3199	Leather tanning and finishing
3200-3299	Stone, clay, glass and concrete products
3300-3399	Primary metal industries
3400-3499	Fabricated metal products (except machinery and transportation equipment)
3500-3599	Industrial and commercial machinery and computer equipment
3700-3799	Transportation equipment
3800-3899	Measuring, analyzing, and controlling instruments; photographic, medical and optical goods; watches and clocks
3900-3999	Miscellaneous manufacturing industries

LSTS. A “large subsurface sewage treatment system” under single ownership that receives sewage from dwellings or other establishments having a design flow of 10,000 gallons per day or greater.

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

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

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

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

NOTICE OF NON-COMPLIANCE. A written document issued by the Department notifying a system owner that the owner’s onsite/cluster treatment system has been observed to be non-compliant with the requirements of this chapter.

MPCA. Minnesota Pollution Control Agency.

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 by the MPCA as a SSTS professional in specialty area endorsements applicable to the work being conducted.

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

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

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

STATE. The State of Minnesota.

TREATMENT LEVEL. Treatment system performance levels defined in Minn. Rules part 7083.4030, Table III, for testing of proprietary treatment products, which include the following:

Level A	cBOD ₅ ≤ 15 mg/l; TSS ≤ 15 mg/l; fecal coliforms ≤ 1,000/100 ml
Level A-2	cBOD ₅ < 15 mg/l; TSS < 15 mg/l; fecal coliforms N/A
Level B	cBOD ₅ ≤ 25 mg/l; TSS ≤ 30 mg/l; fecal coliforms ≤ 10,000/100 ml

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Level B-2	cBOD ₅ < 25 mg/l; TSS < 30 mg/l; fecal coliforms N/A
Level C	cBOD ₅ ≤ 125 mg/l; TSS ≤ 60 mg/l; fecal coliforms N/A

TYPE I SYSTEM. An ISTS that follows a standard trench, bed, at-grade, mound or graywater system design in accordance with MPCA rules, Minn. Rules parts 7080.2200 through 7080.2240.

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

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

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

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

(Ord. 2014-01, passed 4-8-2014)

§ 150.006 SCOPE.

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

(Ord. 2014-01, passed 4-8-2014)

§ 150.007 JURISDICTION.

The jurisdiction of this chapter shall include all lands of the county, except for incorporated areas that administer a subsurface sewage treatment system (SSTS) program by ordinance within their incorporated jurisdiction, which is at least as strict as this chapter and has been approved by the county. The county's Land Management Office shall keep a current list of local jurisdictions within the county administering a SSTS program.

(Ord. 2014-01, passed 4-8-2014)

§ 150.008 VALIDITY.

The validity of any part of this chapter shall not be affected by the invalidity of any other parts of this chapter where the part can be given effect irrespective of any invalid part or parts.

(Ord. 2014-01, passed 4-8-2014)

§ 150.009 LIABILITY.

Any liability or responsibility shall not be imposed upon the department or agency or any of its officials, employees or other contract agent, its employees, agents or servants thereof for damage resulting from the defective construction, operation or abandonment of any onsite or cluster treatment system regulated under this rule by reason of standards, requirements or inspections authorized hereunder.

(Ord. 2014-01, passed 4-8-2014)

§ 150.010 RECORD KEEPING.

(A) The county shall maintain a current record of all permitted systems.

(B) The record shall contain all permit applications, issued permits, fees assessed, variance requests, certificates of compliance, notices of non-compliance, enforcement proceedings, site evaluation reports, design reports, record drawings, management plans, maintenance reports, an annual list of all sewage tanks installed in the county sorted by licensed installation businesses and other records relevant to each system.

(Ord. 2014-01, passed 4-8-2014)

§ 150.011 ANNUAL REPORT.

The department shall provide an annual report of SSTS permitting activities to MPCA no later than February 1 for the previous calendar year.

(Ord. 2014-01, passed 4-8-2014)

§ 150.012 FEES.

(A) From time to time, the County Board shall establish fees for activities undertaken by the Department pursuant to this chapter.

(B) Fees shall be due and payable at a time and in a manner to be determined by the Department.

(Ord. 2014-01, passed 4-8-2014)

§ 150.013 INTERPRETATION.

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

(Ord. 2014-01, passed 4-8-2014)

§ 150.014 SEVERABILITY.

If any section, clause, provision or portion of this chapter is adjudged unconstitutional or invalid by a court of law, the remainder of this chapter shall not be affected and shall remain in full force.

(Ord. 2014-01, passed 4-8-2014)

§ 150.015 ABROGATION AND GREATER RESTRICTIONS.

(A) It is not intended by this chapter to repeal, abrogate or impair any other existing county ordinance, easements, covenants or deed restrictions. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail.

(B) All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

(Ord. 2014-01, passed 4-8-2014)

ADMINISTRATION**§ 150.030 COUNTY ADMINISTRATION.**

The county's Land Management Office shall administer the SSTS program and all provisions of this chapter. At appropriate times, the county shall review this and revise and update this chapter as necessary. The county shall employ or retain under contract qualified and appropriately licensed professionals to administer and operate the SSTS program.

(Ord. 2014-01, passed 4-8-2014)

§ 150.031 STATE REGULATIONS.

Where a single SSTS or group of SSTS under single ownership within one-half mile of each other, have a design flow greater than 10,000 gallons per day, the owner or owners shall make application for and obtain a state disposal system permit from MPCA. For any SSTS that has a measured daily flow for

a consecutive seven-day period which equals or exceeds 10,000 gallons per day, a state disposal system permit is required. SSTS serving establishments or facilities licensed or otherwise regulated by the state shall conform to the requirements of this chapter.

(Ord. 2014-01, passed 4-8-2014)

§ 150.032 CITIES AND TOWNSHIPS.

Any jurisdiction within the county that regulates SSTS must comply with the standards and requirements of this chapter.

(B) The standards and ordinance of the jurisdiction may be administratively and technically more restrictive than this chapter.

(Ord. 2014-01, passed 4-8-2014)

SUPPLEMENTARY REQUIREMENTS

§ 150.045 RETROACTIVITY.

(A) *All SSTS.* Except as explicitly set forth in § 150.005 of this chapter, all provisions of this chapter shall apply to any SSTS regardless of the date it was originally permitted.

(B) *Existing permits.* Unexpired permits which were issued prior to the effective date shall remain valid under the terms and conditions of the original permit until the original expiration date or until a change in system ownership whichever is earlier.

(C) *SSTS on lots created before 1-23-1996.* All lots created after 1-23-1996 must have a minimum of two soil treatment and dispersal areas that can support trenches, seepage beds, mounds and at-grade systems as described in Minn. Rules parts 7080.2200 through 7080.2230 or site conditions described in Minn. Rules part 7081.0270, subparts 3 through 7.

(D) *Existing SSTS without permits.* Existing SSTS with no permits of record shall require a permit and be brought into compliance with the requirements of this chapter regardless of the date they were originally constructed.

(Ord. 2014-01, passed 4-8-2014)

§ 150.046 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 chapter at the time of the expansion.

(B) *Bedroom additions.* The owner is allowed five years from the date of issuance of a bedroom addition permit to upgrade, repair, replace or abandon an existing system if any of the following conditions apply:

- (1) The County Land Management Office issues a permit to add a bedroom;
- (2) A SSTS inspection is triggered by a bedroom addition permit request;
- (3) The existing system was installed between 5-27-1989 and 1-3-1996;

(4) The SSTS is not determined to be an imminent threat to public health or safety in failing to protect ground water and does not comply with Minn. Rules part 7080.1500, subpart 4B; and

(5) The SSTS is not determined to be an imminent threat to public health or safety in accordance with Minn. Rules part 7080.1500, subpart 4A.

(C) *Failure to protect ground water.* An SSTS that is determined not to be protective of ground water in accordance with Minn. Rules part 7080.1500, subpart 4B, shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this chapter within ten months of receipt of a notice of non-compliance.

(D) *Imminent threat to public health or safety.* An SSTS that is determined to be an imminent threat to public health or safety in accordance with Minn. Rules part 7080.1500, subpart 4A, shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this chapter within ten months of receipt of a notice of non-compliance.

(E) *Abandonment.* Any SSTS, or any component thereof, which is no longer intended to be used, must be abandoned in accordance with Minn. Rules part 7080.2500.

(F) *Vertical soil separation requirements.* The soil treatment separation requirement of three feet may be reduced by 15% as allowed under Minn. Rules part 7080.1500, subpart 4, item D.

(Ord. 2014-01, passed 4-8-2014)

§ 150.047 SSTS IN FLOODPLAINS.

(A) SSTS shall not be located in a floodway and wherever possible, location within any part of a floodplain should be avoided.

(B) If no option exists to locate a SSTS outside of a floodplain, location within the flood fringe is allowed if the requirements in Minn. Rules part 7080.2270 and all relevant local requirements are met.

(Ord. 2014-01, passed 4-8-2014)

§ 150.048 CLASS V INJECTION WELLS.

All owners of new or replacement SSTS that are considered to be Class V injection wells, as defined in 40 C.F.R. part 144, are required by the Federal Government to submit SSTS inventory information to the Environmental Protection Agency as described in 40 C.F.R. part 144. Further, owners are required to identify all Class V injection wells in property transfer disclosures.
(Ord. 2014-01, passed 4-8-2014)

§ 150.049 SSTS PRACTITIONER LICENSING.

No person shall engage in site evaluation, inspection, design, installation, construction, alternation, extension, repair, maintenance or pumping of SSTS without an appropriate and valid license issued by MPCA in accordance with Minn. Rules Ch. 7083, except as exempted in Minn. Rules part 7083.0700.
(Ord. 2014-01, passed 4-8-2014) Penalty, see § 10.99

§ 150.050 OCCUPANCY OR USE OF A BUILDING WITHOUT A COMPLIANT SSTS.

It is unlawful for any person to maintain, occupy or use any building intended for habitation that is not provided with a wastewater treatment system that disposes of wastewater in a manner that does not comply with the provisions of this chapter.
(Ord. 2014-01, passed 4-8-2014) Penalty, see § 10.99

§ 150.051 SEWAGE DISCHARGE TO GROUND SURFACE OR SURFACE WATER.

(A) It is unlawful for any person to construct, maintain or use any SSTS system regulated under this chapter that results in raw or partially treated wastewater seeping to the ground surface or flowing into any surface water.

(B) Any surface discharging system must be permitted under the National Pollutant Discharge Elimination System program by the MPCA.
(Ord. 2014-01, passed 4-8-2014) Penalty, see § 10.99

§ 150.052 DISCHARGE TO A WELL OR BORING.

It is unlawful for any person to discharge raw or treated wastewater into any well or boring as described in Minn. Rules part 4725.2050, or any other excavation in the ground that is not in compliance with this chapter.
(Ord. 2014-01, passed 4-8-2014) Penalty, see § 10.99

§ 150.053 DISCHARGE OF HAZARDOUS OR DELETERIOUS MATERIALS.

It is unlawful for any person to discharge into any treatment system regulated under this chapter any hazardous or deleterious material that adversely affects the treatment or dispersal performance of the system or ground water quality.

(Ord. 2014-01, passed 4-8-2014) Penalty, see § 10.99

SSTS STANDARDS**§ 150.065 STANDARDS ADOPTED BY REFERENCE.**

The county hereby adopts by reference Minn. Rules Ch. 7080 and 7081 in their entirety as now constituted and from time to time amended. This adoption does not supersede the county's right or ability to adopt local standards that are in compliance with M.S. § 115.55, as it may be amended from time to time.

(Ord. 2014-01, passed 4-8-2014)

§ 150.066 EXCEPTIONS TO THE ADOPTED STANDARDS.

(A) *Compliance criteria for existing SSTS.* SSTS built before 4-1-1996 outside of areas designated as shoreland areas, wellhead protection areas, or SSTS providing sewage treatment for food, beverage, or lodging establishments must have at least two feet of vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock.

(B) *Amendments to the adopted standards.*

Determination of Hydraulic Loading Rate and SSTS Sizing

1. Tables IX from Minnesota Rules, Chapter 7080.2150, Subpart 3(E) entitled "Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas using Detail Soil Description" and herein adopted by reference shall be used to determine the hydraulic loading rate and infiltration area for all SSTS permitted under this section.

2. The Department will make the determination whether a pit will be required for soil verification for ISTS. A pit will be required for all systems with 5, 000 gallons or more design flow, MSTs or LSTS.

(C) *Holding tanks.*

(1) *Restrictive provision.* Holding tanks may be allowed for the following applications; as replacements for existing failing SSTS, SSTS that pose an imminent threat to public health or safety, or for new construction on lots existing as of the date of the enactment of this chapter and only where it can

be shown conclusively that a SSTS permitted under this chapter cannot be feasibly installed. Holding tanks shall not be allowed for all other wastewater applications, except for the exempted uses listed here. (List of exemptions to be allowed.)

(2) *Conditional provision.* Holding tanks may be used for single-family homes and other buildings with limited water use under the following conditions.

(a) The owner shall install a holding tank in accordance with Minn. Rules part 7080.2290.

(b) The owner shall maintain a valid contract with a licensed SSTS maintainer to pump and haul the holding tank to a licensed treatment facility, except for a farmer who pumps septage form an ISTS that serves dwellings or other establishments that are owned or leased by the farmer and applies septage on land owned or leased by the farmer as exempted in Minn. Rules part 7083.0700.

(c) The holding tank shall be regularly pumped, no less frequently than bi-weekly or other regular schedule agreed upon with the Department.

(d) The maintainer shall certify each date the tank is pumped, the volume of the liquid waste removed, the treatment facility to which the waste was discharged, and the water meter reading at the time of pumping and report to the Department that the holding tank is pumped less frequently than bi-weekly or other schedule agreed upon with the Department.

(D) *Compliance.* Failure to meet these requirements will result in revocation of the holding tank owners' operating permit, and/or imposition of an administrative penalty as provided in this chapter. (Ord. 2014-01, passed 4-8-2014)

VARIANCES

§ 150.080 VARIANCE REQUEST.

A property owner may request a variance from the standards as specified in this chapter pursuant to county policies and procedures. (Ord. 2014-01, passed 4-8-2014)

§ 150.081 AFFECTED AGENCY.

Variances that pertain to the standards and requirements of the state must be approved by the affected state agency pursuant to the requirements of the state agency. (Ord. 2014-01, passed 4-8-2014)

§ 150.082 BOARD OF ADJUSTMENT.

(A) The Board of Adjustment shall have the authority only to consider variances to horizontal setbacks from property lines, rights-of-way, structures or buildings. Variances shall only be permitted when they are in harmony with the general purposes and intent of this chapter where there are practical difficulties or particular hardship in meeting the strict letter of this chapter. Variance requests to deviate from the design flow determination procedures in Minn. Rules part 7081.0110 if the deviation reduces the average daily estimated flow from greater than 10,000 gallons per day to less than 10,000 gallons per day, or to provisions in Minn. Rules part 7080.2150, subpart 2, and part 7081.0080, subparts 2 through 5, regarding the vertical separation required beneath the treatment and dispersal soil system and saturated soil or bedrock from the required three feet of unsaturated soil material (except as provided in Minn. Rules part 7082.1700, subpart 4D) must be approved by MPCA. Variances to wells and water supply lines must be approved by the state's Department of Health.

(B) Any property owner requesting relief from the strict application of the provisions in this chapter must complete and submit an application for variance to the Department on a form provided by the Department. The variance request must include, as applicable:

(1) A statement identifying the specific provision or provisions in the ordinance from which the variance is requested;

(2) A description of the hardship that prevents compliance with the rule;

(3) The alternative measures that will be taken to achieve a comparable degree of compliance with the purposes and intent of the applicable provisions;

(4) The length of time for which the variance is requested;

(5) Cost considerations only if a reasonable use of the property does not exist under the term of this chapter; and

(6) Other relevant information requested by the Department as necessary to properly evaluate the variance request.

(C) The appropriate fee shall be paid at the time of submittal of the application to receive consideration by the Board of Adjustment.

(D) (1) Upon receipt of the variance application, the Department shall decide if a site investigation conducted by the Department will be necessary.

(2) After the necessary information has been gathered, the Department shall make a written recommendation to approve or deny the variance to the Board of Adjustment.

(E) The Board of Adjustment shall make the final decision after conducting a public hearing. The variance may be granted; provided that:

(1) The condition causing the demonstrated hardship is unique to the property and was not caused by the actions of applicant;

(2) The granting of the variance will not be contrary to the public interest or damaging to the rights of other persons or to property values in the vicinity;

(3) The property owner would have no reasonable use of the land without the variance;

(4) The granting of the variance would not allow a prohibited use; and

(5) The granting of the variance would be in accordance with Minn. Rules Ch. 7080, 7081 and 7082.

(F) In granting a request for a variance, the Board of Adjustment may attach such conditions as it deems necessary to conform to the purpose and intent of this chapter.

(G) Any violation of the terms and conditions of a variance issued pursuant to this chapter, or any violation of any provision of this chapter relating to the specific issue of the variance, shall result in immediate revocation of the variance.

(H) Any variance granted shall automatically expire if the system is not installed within one year of the grant of the variance.

(I) An appeal from any order, requirement, decision or determination of the Board of Adjustment in accordance with its policies and procedures.
(Ord. 2014-01, passed 4-8-2014)

SSTS PERMITTING, CERTIFICATIONS AND MAINTENANCE

§ 150.095 PERMITS REQUIRED.

It is unlawful for any person to construct, install, modify, replace or operate a SSTS without the appropriate permit from the county's Land Management Office. The issuing of any permit, variance or conditional use under the provisions of this chapter shall not absolve the applicant of responsibility to obtain any other required permit.

(Ord. 2014-01, passed 4-8-2014) Penalty, see § 10.99

§ 150.096 CONSTRUCTION PERMIT.

A construction permit shall be obtained by the property owner or an agent of the property owner from the county prior to the installation, construction, replacement, modification, alteration, repair or capacity expansion of a SSTS. The purpose of this permit is to ensure that the proposed construction activity is sited, designed and constructed in accordance with the provisions of this chapter by appropriately certified and/or licensed practitioner(s).

(A) *Activities requiring a construction permit.* A construction permit is required for installation of a new SSTS, for replacement of an existing SSTS or for any repair or replacement of components that will alter the original function of the system, change the treatment capacity of the system, change the location of the system or otherwise change the original system's design, layout or function.

(B) *Activities not requiring a permit.* A construction 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's design, layout or function.

(C) *Permit application requirements.* Construction permit applications shall be made on forms provided by the Land Management Office and signed by the applicant and an appropriately certified practitioner including the practitioner's certification number and date of expiration. The applications shall include the documents listed in divisions (C)(1) through (C)(5) below.

- (1) Name, mailing address, telephone number and email address;
- (2) Property identification number and address or other description of property location;
- (3) Site evaluation report, as described in Minn. Rules part 7080.1730;
- (4) Design report, as described in Minn. Rules part 7080.2430; and
- (5) Management plan, as described in Minn. Rules part 7082.0600.

(D) *Application review and response.* The Department shall review a permit application and supporting documents. Upon satisfaction that the proposed work will conform to the provisions of this chapter, the Department shall issue a written permit authorizing construction of the SSTS as designed. In the event the applicant makes a significant change to the approved application, the applicant must file an amended application detailing the changed conditions for approval prior to initiating or continuing construction, modification or operation for approval or denial. The Department shall complete the review of the amended application within 15 working days of receipt of the amended application. If the permit application is incomplete or does not meet the requirements of this chapter, the Department shall deny the application. A notice of denial shall be provided to the applicant, which must state the reason for the denial.

(E) *Appeal*. The applicant may appeal the Departments decision to deny the construction permit in accordance with the county's established policies and appeal procedures.

(F) *Permit expiration*. The construction permit is valid for a period of no more than one year from its date of issue. Satisfactory completion of construction shall be determined by receipt of final record drawings and a signed certification that the construction or installation of the system was completed in reasonable conformance with the approved design documents by a qualified employee of the Department or a licensed inspection business, which is authorized by the Department and independent of the owner and the SSTS installer.

(G) *Transferability*. A construction permit shall not be transferred to a new owner. The new owner must apply for a new construction permit in accordance with this section.

(H) *Suspension or revocation*. The Department may suspend or revoke a construction permit issued under this section for any false statements, misrepresentations of facts on which the construction permit was issued, or unauthorized changes to the system design that alter the original function of the system, change the treatment capacity of the system, change the location of the system or otherwise change the original system's design, layout or function. A notice of suspension or revocation and the reasons for the suspension or revocation shall be conveyed in writing to the permit holder. If suspended or revoked, installation or modification of a treatment system may not commence or continue until a valid construction permit is obtained.

(I) *Posting*. The construction permit shall be posted on the property in such a location and manner so that the permit is visible and available for inspection until construction is completed and certified. (Ord. 2014-01, passed 4-8-2014)

§ 150.097 OPERATING PERMIT.

(A) *SSTS requiring an operating permit*. An operating permit shall be required of all owners of new MSTs, Type IV, Type V or any other system deemed by the Department to require operational oversight. Sewage shall not be discharged to a holding tank or MSTs until the Land Management Office certifies that the MSTs or holding tank was installed in substantial conformance with the approved plans, receives the final record drawings of the MSTs and a valid operating permit is issued to the owner.

(B) *Permit application requirements*.

(1) Application for an operating permit shall be made on a form provided by the Land Management Office including:

(a) Owner name, mailing address, telephone and email address;

(b) Construction permit reference number and date of issue;

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(c) Final record drawings of the treatment system; and

(d) Owners of holding tanks must submit a copy of a valid executed monitoring and disposal contract with a licensed maintenance business.

(2) Owners of holding tanks shall provide to the Land Management Office a copy of a valid monitoring and disposal contract executed between the owner and a licensed maintenance business, which guarantees the removal of the holding tank contents in a timely manner that prevents an illegal discharge in accordance with Minn. Rules part 7082.0100, subpart 3G. This requirement is waived if the owner is a farmer who is exempt from licensing under M.S. § 115.56, subd. 3, paragraph (b), clause (3), as it may be amended from time to time.

(C) *Department response.* The Department shall review the record drawings, operation and maintenance manual, management plan, maintenance and servicing contract and any other pertinent documents as appropriate for accuracy and completeness. If any deficiencies are identified, the operating permit shall be denied until the deficiencies are corrected to the satisfaction of the Department. If the submitted documents fulfill the requirements, the Department shall issue an operating permit within ten working days of receipt of the permit application.

(D) *Operating permit terms and conditions.* The operating permit shall include the following:

- (1) System performance requirements;
 - (2) System operating requirements;
 - (3) Monitoring locations, procedures and recording requirements;
 - (4) Maintenance requirements and schedules;
 - (5) Compliance limits and boundaries;
 - (6) Reporting requirements;
 - (7) Department notification requirements for non-compliant conditions;
 - (8) Valid contract between the owner and a licensed maintenance business;
 - (9) Disclosure, location and condition of acceptable soil treatment and dispersal system site;
- and
- (10) Descriptions of acceptable and prohibited discharges.

(E) *Permit expiration and renewal.*

(1) Operating permits shall be valid for the specific term stated on the permit as determined by the Department.

(2) 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 county may require that the system be abandoned in accordance with § 150.005 of this chapter.

(3) The Department shall notify the holder of an operating permit at least 90 calendar days prior to the expiration of the permit. The owner must apply for renewal at least 30 calendar days before the expiration date.

(4) Application shall be made on a form provided by the Department including:

(a) Applicant name, mailing address and phone number;

(b) Reference number of previous owner's operating permit;

(c) Any and all outstanding compliance monitoring reports as required by the operating permit;

(d) Certified treatment system inspection signed and/or sealed by a certified designer, maintenance contractor or operator at the discretion of the county;

(e) Any revisions made to the operation and maintenance manual; and

(f) Payment of application review fee as determined by the county.

(F) *Amendments to existing permits not allowed.* The county may not amend an existing permit to reflect changes in this chapter until the permit term has expired and is renewed, unless an amendment is necessary to eliminate an imminent threat to public health or safety.

(G) *Transfers.* The operating permit may not be transferred. A new owner shall apply for an operating permit in accordance with division (B) above. The Department shall not terminate the current permit until 60 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.

(H) *Suspension or revocation.*

(1) 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.

(2) Notice of suspension revocation and the reasons for revocation shall be conveyed in writing to the owner.

(3) If suspended or revoked, the Department may require that the treatment system be removed from service, operated as a holding tank or abandoned in accordance herewith.

(4) At the Department's discretion, the operating permit may be reinstated or renewed upon the owner taking appropriate corrective actions.

(I) *Compliance monitoring.*

(1) Performance monitoring of a SSTS shall be performed by a licensed inspection business or licensed service provider hired by the holder of the operating permit in accordance with the monitoring frequency and parameters stipulated in the permit.

(2) A monitoring report shall be prepared and certified by the licensed inspection business or licensed service provider. The report shall be submitted to the Department on a form provided by the Department on or before the compliance reporting date stipulated in the operating permit. The report shall contain a description of all maintenance and servicing activities performed since the last compliance monitoring report as described below:

(a) Owner name and address;

(b) Operating permit number;

(c) Average daily flow since last compliance monitoring report;

(d) Description of type of maintenance and date performed;

(e) Description of samples taken (if required), analytical laboratory used and results of analysis;

(f) Problems noted with the system and actions proposed or taken to correct them; and

(g) Name, signature, license and license number of the licensed professional who performed the work

(Ord. 2014-01, passed 4-8-2014)

§ 150.098 ABANDONMENT OF CERTIFICATION.

(A) *Purpose.* The purpose of the system abandonment certification is to ensure that a treatment system no longer in service is abandoned within a reasonable time following decommissioning and in

a manner that protects public health, safety and water quality. It also terminates all permits associated with the system.

(B) *Abandonment requirements.*

(1) Whenever the use of a SSTS or any system component is discontinued as the result of a system repair, modification, replacement or decommissioning following connection to a municipal or private sanitary sewer, or condemnation or demolition of a building served by the system, further use of the system or any system component for any purpose under this chapter shall be prohibited.

(2) Continued use of a treatment tank where the tank is to become an integral part of a replacement system or a sanitary sewer system requires the prior written approval of the Department.

(3) An owner of an SSTS must retain a licensed installation business to abandon all components of the treatment system within 60 calendar days of a system. Abandonment shall be completed in accordance with Minn. Rules part 7080.2500. No prior notification of the Department of an owner's intent to abandon a system is necessary.

(4) A report of abandonment certified by the licensed installation business shall be submitted to the Department. The report shall include:

- (a) Owner's name and contact information;
- (b) Property address;
- (c) System construction permit and operating permit;
- (d) The reason(s) for abandonment; and

(e) A brief description of the abandonment methods used, description of the system components removed or abandoned in place and disposition of any materials or residuals.

(C) *Abandonment certificate.* Upon receipt of an abandonment report and its determination that the SSTS has been abandoned according to the requirements of this chapter, the Department shall issue an abandonment certificate. If the abandonment is not completed according the requirements of this chapter the county shall notify the owner of the SSTS of the deficiencies, which shall be corrected within 30 calendar days of the notice.

(Ord. 2014-01, passed 4-8-2014)

§ 150.099 MANAGEMENT PLANS.

(A) The purpose of management plans is to describe how a particular SSTS is intended to be operated and maintained to sustain the performance required. The plan is to be provided by the certified designer to the system owner when the treatment system is commissioned.

(B) (1) *SSTS requiring management plans.* Management plans are required for all new or replacement SSTS. The management plan shall be submitted to the Department with the construction permit application for review and approval. The Department shall be notified of any system modifications made during construction and the management plan revised and resubmitted at the time of final construction certification.

(2) *Required contents of a management plan.* Management plans shall include:

(a) Operating requirements describing tasks that the owner can perform and tasks that a licensed service provider or maintainer must perform;

(b) Monitoring requirements;

(c) Maintenance requirements including maintenance procedures and a schedule for routine maintenance;

(d) Statement that the owner is required to notify the Department when the management plan requirements are not being met;

(e) Disclosure of the location and condition of the additional soil treatment and dispersal area on the owner's property or a property serving the owner's residence; and

(f) Other requirements as determined by the Department.

(3) *Requirements for systems not operated under a management plan.* SSTS that are not operated under a management plan or operating permit must have treatment tanks inspected and provide for the removal of solids if needed every three years. Solids must be removed when their accumulation meets the limit described in Minn. Rules part 7080.2450.

(Ord. 2014-01, passed 4-8-2014)

§ 150.100 PUBLIC EDUCATION OUTREACH.

Programs shall be provided by the Department and/or others to increase public awareness and knowledge of SSTS. Programs may include distribution of educational materials through various forms of media and SSTS workshops focusing on SSTS planning, construction, operation, maintenance and management.

(Ord. 2014-01, passed 4-8-2014)

§ 150.101 COMPLIANCE INSPECTION PROGRAM.

(A) *Department responsibility.* It is the responsibility of the Department, or its agent, to perform various SSTS compliance inspections periodically to assure that the requirements of this chapter are met.

(1) SSTS compliance inspections must be performed:

(a) To ensure compliance with applicable requirements;

(b) To ensure system compliance before issuance of a permit for addition of a bedroom unless the permit application is made during the period of November 1 to April 30, provided a compliance inspection is performed before the following June 1 and the applicant submits a certificate of compliance by the following September 30;

(c) For all new SSTS construction or replacement;

(d) For an evaluation, investigation, inspection, recommendation or other process used to prepare a disclosure statement if conducted by a party who is not the SSTS owner. Such an inspection constitutes a compliance inspection and shall be conducted in accordance with Minn. Rules part 7082.0700 using the SSTS inspection report forms provided by MPCA.

(2) All compliance inspections must be performed and signed by licensed inspection businesses or qualified employees certified as inspectors.

(3) 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 division (A)(3), **PROPERTY** does not include a residence or private building. The Department shall notify the owner of the Department's intent to inspect the SSTS least days in advance of the intended inspection.

(4) No person shall hinder or otherwise interfere with the Department's employees in the performance of their duties and responsibilities pursuant to this chapter. Refusal to allow reasonable access to the property by the Department shall be deemed a separate and distinct offense.

(B) *New construction or replacement.*

(1) Compliance inspections must be performed on new or replacement SSTS to determine compliance with Minn. Rules Ch. 7080 or 7081. SSTS found not to be in compliance with Minn. Rules part 7080.1500, subpart 4A, or part 7081.0080, subpart 3, must be repaired or replaced within ten months or as directed under M.S. Ch. 145A, as it may be amended from time to time. SSTS that are determined to have operation or monitoring deficiencies must immediately be maintained, monitored or otherwise managed according to the operating permit. SSTS found to be non-compliant with other applicable requirements must be repaired or replaced according to the Department's requirements.

(2) It is the responsibility of the SSTS owner or the owner's agent to notify the Department two calendar days prior to any permitted work on the SSTS.

(3) A certificate of compliance for new SSTS construction or replacement, which shall be valid for five years, shall be issued by the Department if the Department has reasonable assurance that the system was built in accordance with the applicable requirements as specified in the construction permit.

(4) The certificate of compliance must include a certified statement by the certified inspector or qualified employee who conducted the inspection that the SSTS is or is not in compliance with the ordinance requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of non-compliance must be issued to the owner which includes a statement specifying those ordinance provisions with which the SSTS does not comply.

(5) The certificate of compliance or notice of non-compliance must be submitted to the Department no later than 15 calendar days after the date the inspection was performed. The Department shall deliver the certificate of compliance or notice of non-compliance to the owner or the owner's agent within 15 calendar days of receipt from the certified inspector. No SSTS shall be placed into operation until a valid certificated of compliance has been issued.

(6) Certificates of compliance for new construction or replacement shall remain valid for five years from the date of issue unless the Department finds evidence of non-compliance.

(C) Existing systems.

(1) Compliance inspections shall be required when any of the following conditions occur:

(a) When a construction permit is required to repair, modify or upgrade an existing system;

(b) Any time there is an expansion of use of the building being served by an existing SSTS which may impact the performance of the system;

(c) 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; and

(d) At any time as required by this chapter or the Department deems appropriate such as upon receipt of a complaint or other notice of a system malfunction.

(2) Compliance inspections of existing SSTS shall be reported on the inspection report forms provided by MPCA. The following conditions must be assessed or verified:

(a) Water tightness assessment of all treatment tanks including a leakage report;

(b) Vertical separation distance between the bottom of the soil treatment and dispersal system and the periodically saturated soil or bedrock including a vertical separation verification report; and

(c) Sewage backup, surface seepage or surface discharge including a hydraulic function report.

(3) The certificate of compliance must include a certified statement by a qualified employee or licensed inspection business, indicating whether the SSTS is in compliance with the ordinance

requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of non-compliance must include a statement specifying those ordinance provisions with which the SSTS does not comply. A construction permit application must be submitted to the Department if the required corrective action is not a minor repair.

(4) The certificate of compliance or notice of non-compliance must be submitted to the Department no later than 15 calendar days after the date the inspection was performed. The Department shall deliver the certificate of compliance or notice of non-compliance to the owner or the owner's agent within 15 calendar days of receipt from the licensed inspection business.

(5) Certificates of compliance for existing SSTS shall remain valid for (three) years from the date of issue unless the Department finds evidence of non-compliance.

(D) *Dispute resolution.* Minn. Rules part 7082.0700, subpart 3(2), requires that a vertical separation report include verifications by two independent parties, which may be licensed in section businesses and/or qualified employee inspector with jurisdiction. If no local dispute resolution procedures exist, the dispute resolution procedure described in Minn. Rules part 7080.0700, subpart 5, must be followed. (Ord. 2014-01, passed 4-8-2014)

ENFORCEMENT

§ 150.115 CAUSE TO ISSUE A NOTICE OF VIOLATION.

Any person, firm, agent or corporation who violates any of the provisions of this chapter, or who fails, neglects or refuses to comply with the provisions of this chapter, including violations of conditions and safeguards, or who knowingly makes any material false statement or knowing omission in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable as defined by state statutes. Each day that a violation exists shall constitute a separate offense. (Ord. 2014-01, passed 4-8-2014)

§ 150.116 NOTICE OF VIOLATION.

(A) The Department shall serve, in person or by mail, a notice of violation to any person determined to be violating provisions of this chapter.

(B) The notice of violation shall contain:

(1) A statement documenting the findings of fact determined through observations, inspections or investigations;

(2) A list of specific violation(s) of this chapter;

(3) Specific requirements for correction or removal of the specified violation(s); and

(4) A mandatory time schedule for correction, removal and compliance with this chapter.

(Ord. 2014-01, passed 4-8-2014)

§ 150.117 ISSUE OF CITATIONS.

As specified herein, individuals occupying the designated county positions are authorized to issue citations in lieu of arrest or continued detention for a petty misdemeanor or misdemeanor violation of this chapter:

(A) Zoning Administrator;

(B) Building Inspector;

(C) Sanitarian;

(D) Code Enforcement Officer; and

(E) Qualified employee.

(Ord. 2014-01, passed 4-8-2014)

§ 150.118 CEASE AND DESIST ORDERS.

Cease and desist orders may be issued when the Department has probable cause that an activity regulated by this or any other county ordinance is being or has been conducted without a permit or in violation of a permit. When work has been stopped by a cease and desist order, the work shall not resume until the reason for the work stoppage has been completely satisfied, any administrative fees paid and the cease and desist order lifted.

(Ord. 2014-01, passed 4-8-2014)

§ 150.119 COSTS AND REIMBURSEMENTS.

If the Department is required to remove or abate an imminent threat to public health or safety, the Department may recover all costs incurred in removal or abatement in a civil action, including legal fees; at the discretion of the County Board, the cost of an enforcement action under this chapter may be assessed and charged against the real property on which the public health nuisance was located. The County Auditor shall extend the cost as assessed and charged on the tax roll against said real property.

(Ord. 2014-01, passed 4-8-2014)

§ 150.120 PROSECUTION.

In the event of a violation or threatened violation of this chapter, the county may, in addition to other remedies, initiate appropriate civil action or proceedings to prevent, prosecute, restrain, correct or abate such violations or threatened violations and the County Attorney shall have authority to commence such civil action. The Department and County Attorney may take such actions as may be necessary to enforce the provisions of this chapter.

(Ord. 2014-01, passed 4-8-2014)

§ 150.121 STATE NOTIFICATION OF VIOLATION.

In accordance with state law, the Department shall notify the MPCA of any inspection, installation, design, construction, alteration or repair of an SSTS by a licensed/certified person or any septage removal by a licensed pumper that is performed in violation of the provisions of this chapter.

(Ord. 2014-01, passed 4-8-2014)

CHAPTER 151: MANUFACTURED HOME PARKS; RECREATIONAL CAMPING AREAS

Section

- 151.01 Purpose
- 151.02 Authority
- 151.03 Definitions
- 151.04 Administration generally
- 151.05 Adoption, use of county and state standards
- 151.06 Licensing and compliance procedures
- 151.07 Inspections
- 151.08 Plan review of future construction
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- 151.99 Penalty

§ 151.01 PURPOSE.

(A) This chapter shall be applicable to all manufactured home parks and recreational camping areas, as defined in M.S. Ch. 327, as it may be amended from time to time.

(B) The purpose of this chapter is to establish standards for all manufactured home parks and recreational camping areas, and to protect the health, safety and general welfare of the residents of the county, including the following general objectives:

- (1) Correct and prevent conditions that may adversely affect persons utilizing manufactured home parks or recreational camping areas;
- (2) Provide minimum standards for the design, construction, operation and maintenance of manufactured home parks and recreational camping areas;
- (3) Meet consumer expectations of the quality and safety of manufactured home parks and recreational camping areas;
- (4) Establish inspection requirements and associated procedures involved with administering and enforcing this chapter; and

(5) Comply with the delegation agreement that Southwest Health and Human Services has entered into with the state's Department of Health.

(Ord. passed - -2022)

§ 151.02 AUTHORITY.

This chapter is enacted pursuant to M.S. Ch. 145A, § 145A.07, as it may be amended from time to time, which authorizes the Commissioner of Health to enter into an agreement with counties or cities organized under the provisions of M.S. § 145A.03, as it may be amended from time to time, to perform all or part of the licensing, inspection and enforcement duties authorized under the provisions of these sections.

(Ord. passed - -2022)

§ 151.03 DEFINITIONS.

Unless specifically defined in this section, words or phrases used in this chapter shall have the meaning given in Minn. Rules Ch. 4630, or successor rules, and M.S. § 327.14, as it may be amended from time to time, or successor statutes.

COMMUNITY HEALTH BOARD. The Southwest Health and Human Services Board of Health or designee authorized by the County Board to carry out or enforce any provision of a county public health ordinance; acting under the provisions of M.S. Ch. 145A, as it may be amended from time to time, as the Board of Health.

COUNTY. The County of Rock.

COUNTY BOARD. The Rock County Board of Commissioners and its authorized representatives.

DEPARTMENT. The Southwest Health and Human Services and its Environmental Health Services staff.

DEPENDENT SITE. Recreational camping area sites which do not have sewer connections and are dependent upon a central facility for this utility.

ENVIRONMENTAL HEALTH SPECIALIST. The Southwest Health and Human Services Community Health Board's Environmental Health Specialist and any related staff acting under the Community Health Board's authority.

INDEPENDENT SITE. Recreational camping area sites which are provided with individual sewer connections.

LICENSE. Includes the whole or part of any permit, certificate, approval, registration or similar form of permission or renewal required by county public health ordinance or state law administered by the county for the operation of any business, service or facility.

LICENSEE. The person who has been given the authority by the issuance of a license by the county to establish, operate and/or maintain a facility or activity regulated by county public health ordinances.

MANUFACTURED HOME PARK. Any site, lot, field or tract of land upon which two or more occupied manufactured homes are located, either free of charge or for compensation and includes any building, structure, tent vehicle or enclosure used or intended for use as part of the equipment of the manufactured home park.

MUNICIPALITY. Any city, town or township, village in Rock County, however organized.

PRIMARY LICENSE. The initial license issued to the first person, firm or corporation to establish and maintain, conduct or operate a manufactured home park or recreational camping area at any one location.

RECREATIONAL CAMPING AREA. Any area, whether privately or publicly owned, used on a daily, nightly, weekly or longer basis for the accommodation of five or more tents, or recreational camping vehicles free of charge or for compensation.

(Ord. passed - -2022)

§ 151.04 ADMINISTRATION GENERALLY.

(A) The Department shall administer and interpret the provisions of this chapter. In addition to the duties set forth herein, the Department shall maintain adequate files and records relating to all licenses or permits issued, inspections made, work approved and other official actions.

(B) The Department shall have all powers necessary to administer and enforce the provisions of this chapter. In addition to the other powers set forth herein, and without limitation, the Department shall be empowered to do the following:

(1) Prepare reports and recommendations regarding any additional measures that he or she deems necessary to affect the purpose of this chapter;

(2) Obtain assistance and cooperation from other state and local health, legal and law enforcement officials in the administration and enforcement of this chapter;

(3) Cooperate with local and state personnel in the enforcement of this chapter and state regulations, rules and requirements relating to manufactured home parks and recreational camping areas;

(4) Arrange for the enforcement of any and all rules, orders, permits and other requirements established herein or issued pursuant to this chapter;

(5) Enter upon the premises of any manufactured home park and/or recreational camping area at any reasonable time for the purpose of administrating and enforcing this chapter;

(6) The Department may impose additional requirements to protect against health hazards related to the conduct of their operation; and

(7) Interpret the provisions and intent of this chapter as may be necessary from time to time.
(Ord. passed - -2022)

§ 151.05 ADOPTION, USE OF COUNTY AND STATE STANDARDS.

(A) *Adoption of camps and mobile home parks standards.* The standards for manufactured home parks and recreational camping areas outlined in Minn. Rules Ch. 4630 are hereby incorporated in and made part of this chapter. Wherein Minn. Rules Ch. 4630 refers to the Commissioner, **COMMISSIONER** shall mean the Southwest Health and Human Services Community Health Board and its designated agents.

(B) *Public swimming pool ordinance.* The guidelines related to swimming pools and other artificial recreational bathing facilities of Ch. 115 of this code of ordinances, as amended from time to time, are hereby incorporated in and made part of this chapter.

(C) *Adoption of the Safe Drinking Water Act and standards of the public water supplies.*

(1) The requirements of the Safe Drinking Water Act as outlined in M.S. Ch. 144, §§ 144.381 to 144.387, as they may be amended from time to time, and the standards for public water supplies as outlined in Minn. Rules Ch. 4720 for carrying out the authority to regulate transient water systems and for carrying out the authority related to wellhead protection are hereby incorporated in and made part of this chapter. Wherein Minn. Rules Ch. 4720 refers to the Commissioner, **COMMISSIONER** shall mean the Southwest Health and Human Services Community Health Board and its designated Environmental Health Services staff.

(2) Every manufactured home park and recreational camping area shall obtain a safe, adequate supply of water from a public community water supply system, a public non-community water supply system or a source of supply and system which is located, constructed and operated in accordance with the provisions of Minn. Rules Ch. 4725.

(D) *Manufactured home park and recreational camping areas rule and statute.* The manufactured home parks and recreational camping areas rule and statutes, found in Minn. Rules Ch. 4630, as amended from time to time, contains regulations for the following that must be adhered to:

- (1) Location;
- (2) Spacing;
- (3) Lot size;
- (4) Water supply;
- (5) Toilet, bathing and laundry facilities;
- (6) Plumbing;
- (7) Sewage treatment and disposal;
- (8) Insect and rodent harborage, infestation control;
- (9) Garbage and refuse, handling and disposal;
- (10) Night lighting;
- (11) Community kitchen and dining rooms;
- (12) Barbeque pits, fireplaces, stoves and incinerators;
- (13) Domestic animals;
- (14) Prohibited practices;
- (15) Fire protection and fire extinguishers;
- (16) Bottled gas;
- (17) Fuel oil supply systems;
- (18) Skirting;
- (19) Speed limit;
- (20) Park shelter; and
- (21) Caretaker.

(E) *Administrative ordinance.* The guidelines related to licensing, fees and enforcement of licensed establishments of Ch. 110 of this code of ordinances, as amended from time to time, are hereby incorporated in and made part of this chapter.

(F) *State Department of Health.* The requirements contained in this chapter are intended to be comparable to the State Department of Health rules, and are intended to meet the minimum requirements set forth by the state's Department of Health. Whenever the state's Department of Health amends rules or adopts new rules setting more restrictive sanitary standards than the ones established in this chapter, the rules set by the state's Department of Health shall govern and will be considered in the enforcement procedure as part of this chapter.

(Ord. passed - -2022)

§ 151.06 LICENSING AND COMPLIANCE PROCEDURES.

(A) *Licenses needed.*

(1) *General.* It shall be unlawful for any person, firm or corporation to operate a manufactured home park and/or recreational camping area within the county without possessing a valid license issued to them by the Department, as required by this chapter. Only those who comply with the requirements of this chapter shall be entitled to receive and retain such a license.

(2) *License requirements.*

(a) Any person, firm or corporation desiring to operate either a manufactured home park or recreational camping area on the same site in connection with the other, need only obtain one license.

(b) The license shall state the number of manufactured home sites, independent recreational camping sites and dependent recreational camping sites allowed according to the Department's approval.

(c) No renewal license shall be issued if the number of sites specified in the application exceeds those of the original application unless the plans for expansion or the construction for expansion are first approved by the Department.

(d) The license shall be conspicuously displayed in the office of the manufactured home park or recreational camping area.

(e) Licenses shall not be transferable from one establishment, person or location to another establishment, person or location.

(f) Each primary license or renewal license for year-round establishments shall expire on December 31 each year.

(B) *Other parks.*

(1) *State parks.* Nothing in this chapter shall be construed to include any of the state-operated facilities within parks.

(2) *Manufactured home park.* The term “manufactured home park” shall not be construed to include manufactured homes, buildings, tents or other structures temporarily maintained by any individual or company on premises associated with a work project and used exclusively to house labor or other personnel occupied in such work project.

(3) *Special parks.* Recreational camping area does not include youth camps, industrial camps, migrant labor camps, as defined in state statutes and State Commissioner of Health Rules, United States Forest Service Camps, State Forest Service Camps, State Wildlife Management Areas or state-owned public access areas which are restricted in use to picnicking and boat landing.

(4) *Municipal/county parks.* Any manufactured home park or recreational camping area owned or operated by any municipality or political subdivision of the state shall meet all sanitary and safety provisions of this chapter, shall be inspected as herein provided, and make all reports, as herein required of a licensee.

(C) *Application for license.*

(1) Any person desiring to operate a manufactured home park or recreational camping area shall make written application for a license on forms provided by the Department. Each application for a license shall be completed in full, and together with the appropriate license fee, as described herein, shall be submitted to the Department not later than January 31 each year, following expiration of the previous year’s license, or in the case of a new manufactured home park or recreational camping area, prior to the opening date of such manufactured home park or recreational camping area. Any person who operates a manufactured home park or recreational camping area without submitting a license application and appropriate fee shall be deemed to have violated this chapter and shall be subject to prosecution as provided for in this chapter.

(2) License renewals shall be obtained on an annual basis. License renewal applications shall be submitted on forms provided by the Department no later than December 31 of the year preceding the year for which application is made.

(3) Proprietors of any manufactured home park or recreational camping area shall pay an annual license fee, at a rate specified by action of the Community Health Board. This annual license fee may be adjusted from time to time as the Community Health Board shall deem appropriate. A penalty fee, at a rate specified by Community Health Board action, shall be added to the amount of the license fee and paid by the proprietor if the annual license fee has not reached the Department by the dates specified division (A) above.

(4) From and after October 1 of each year, the license fee for new manufactured home parks or recreational camping areas, or new operators, shall be one-half of the appropriate annual license fees plus any penalty which may be required.

(5) The fees prescribed by the Community Health Board shall apply to all licenses which become effective on or after January 1 of the licensing year.
(Ord. passed - -2022)

§ 151.07 INSPECTIONS.

(A) The Department shall inspect manufactured home parks and recreational camping areas according to Minn. Rules Ch. 4630.

(B) It shall be the duty of the Department to inspect each licensed or permitted manufactured home park and recreational camping area in accordance with State Department of Health requirements. Re-inspections required due to non-compliance with correction orders may be charged an additional fee. The Department shall maintain a written policy for charging re-inspection fees.

(C) The Department, after proper identification, shall be permitted, at any reasonable time, to enter any manufactured home park and recreational camping area for the purpose of making inspections to determine compliance with this chapter. The Department shall be permitted to examine the records of the manufactured home parks and recreational camping areas, to obtain information pertaining to persons employed and to obtain any other information that may be necessary to determine whether the manufactured home park and recreational camping area is in compliance with this chapter. Any interference with the Department in performance of his or her duties shall be grounds for immediate suspension of the license.

(D) Whenever an inspection of a manufactured home park and recreational camping area is made, the findings shall be recorded on the inspection report form. One copy of the inspection report form shall be furnished to the person in charge of the establishment. The completed inspection report form is a public document that shall be made available for public disclosure to any person who requests it, except when report forms are a part of pending litigations.

(E) The inspection report form shall specify a specific and reasonable period of time for the correction of the violation(s). Correction of the violation(s) shall be accomplished within the period specified.

(F) The frequency of inspections shall be based on the degree of hazard to the public and to comply with the time frames established in Minn. Rules part 4630.2210.

(G) Whenever the Department finds that an emergency exists which requires immediate action to protect the public health, it may, without notice or hearings, issue an order reciting the existence of such

an emergency and require that such action be taken as it deems necessary to meet the emergency. Notwithstanding the other provisions of this chapter, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but upon petition to the Department, shall be afforded a hearing before the Appeals Board.

(Ord. passed - -2022)

§ 151.08 PLAN REVIEW OF FUTURE CONSTRUCTION.

(A) Whenever a mobile home park or recreational camping area is constructed or expanded, or whenever an existing area is converted for use as a mobile home park or recreational camping area, properly prepared plans and specifications for such construction, expansion or conversion shall be submitted to the Department with applicable fees for review and approval before construction, expansion or conversion is begun. The plans and specifications shall include a land use permit or statement from the local unit of government granting zoning approval for the use of the land as a mobile home park or recreational camping area, a plot plan showing the boundaries of the entire tract of land upon which the mobile home park or recreational camping area is to be located and showing land area/acreage, locations of proposed and existing facilities on the site for sanitary community buildings or laundry facilities, location of landforms on the property (lakes, streams, ponds, wetlands and the like), the location of all water and sewer lines and electrical hook-ups, the location of all wells, the location of all on site sewage treatment facilities and distances from all wells and water lines, location and dimensions of all roads and driveways, location of vehicle parking areas, location and type of night lights and any other pertinent information. The plans and specifications shall be drawn to scale and shall be legible and complete in all details, and must be submitted to the Department for review and approval prior to the start of construction.

(B) The Department shall approve the plans and specifications only if they meet the requirements of this chapter, Minn. Rules Ch. 4630 and any other applicable federal, state or local laws and regulations.

(C) The establishment shall be constructed and finished in conformance with the approved plans.

(D) Sewage treatment systems must comply with applicable state rules and be designed by a licensed sewage system designer and installed by a licensed installer.

(E) The licensee must obtain an inspection from the Department prior to the start of the operation. Construction must be completed and approved before operation can begin.

(F) The licensee is responsible for obtaining written approval for the proposed construction from any other agency or official that may have authority over elements of such proposed construction, including, but not limited to, the State Fire Marshal, the State Department of Labor and Industry, Plumbing Division, or the appropriate county, city or township officials.

(Ord. passed - -2022)

§ 151.09 LOCAL LICENSES.

(A) *Local licenses prohibited.* No municipality may impose any license:

(1) Upon any licensed manufactured home park or recreational camping area complying with the provisions of this chapter; or

(2) Upon any occupant of a licensed manufactured home park or recreational camping area.

(B) *Local law enforcement.* Any municipality which enacts or has enacted laws or ordinances relating to the safety and protection of persons and property is empowered to enforce the laws or ordinances within any manufactured home park or recreational camping area located in the municipality, notwithstanding the fact that the park or area may constitute private property.

(Ord. passed - -2022)

§ 151.99 PENALTY.

(A) Any person, firm or corporation who shall violate any of the provisions hereof, or who shall fail to comply with any of the provisions hereof, or who shall make any false statement in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed \$1,000 or by imprisonment not to exceed 90 days, or both. Each day that a violation continues shall constitute a separate offense. Such persons may be enjoined from continuing such violations.

(B) In the event of a violation or a threat of violation of this chapter, the County Attorney may take appropriate action to enforce this chapter, including application of injunctive relief, action to compel performance, or other appropriate action in court, if necessary, to prevent, restrain, correct or abate such violations or threatened violations.

(Ord. passed - -2022)

CHAPTER 152: RIPARIAN BUFFERS

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§ 152.01 STATUTORY AUTHORIZATION.

This chapter is adopted pursuant to the authorization and policies contained in M.S. § 103F.48, as it may be amended from time to time, the Buffer Law, and the county planning and zoning enabling legislation in M.S. Ch. 394, as it may be amended from time to time.
(Ord. 2017-01, passed - -2017)

§ 152.02 PURPOSE AND INTENT.

It is the purpose and intent of the county to:

(A) Provide for riparian vegetated buffers and water quality practices to achieve the following purposes:

- (1) Protect state water resources from erosion and runoff pollution;
- (2) Stabilize soils, shores and banks; and

(3) Protect or provide riparian corridors.

(B) Coordinate the implementation and enforcement of the water resources riparian protection requirements of M.S. § 103F.48, as it may be amended from time to time, with the shoreland management rules and ordinances adopted under the authority of M.S. §§ 103F.201 to 103F.227, as they may be amended from time to time, and the management of public drainage systems established under M.S. Ch. 103E, as it may be amended from time to time, where applicable; and

(C) Provide efficient and effective direction to landowners and protection of surface water quality and related land resources.

(Ord. 2017-01, passed - -2017)

§ 152.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. For the purpose of this chapter, the words “must” and “shall” are mandatory and not permissive. All distances, unless otherwise specified, are measured horizontally.

APO. The administrative penalty order issued pursuant to M.S. § 103F.48, subd. 7, and M.S. § 103B.101, subd. 12a, as they may be amended from time to time.

BUFFER. The meaning provided in M.S. § 103F.48, subd. 1(c), as it may be amended from time to time.

BUFFER PROTECTION MAP. The meaning provided in M.S. § 103F.48, subd. 1(d), as it may be amended from time to time, and which are available on the Department of Natural Resources website.

BWSR. The Board of Water and Soil Resources.

CULTIVATION FARMING. Farming practices that disturb root or soil structure or that impair the viability of perennial vegetation due to cutting or harvesting near the soil surface.

DRAINAGE AUTHORITY. The meaning provided in M.S. § 103E.005, subd. 9, as it may be amended from time to time.

LANDOWNER. The holder of the fee title, the holder’s agents or assigns, any lessee, licensee or operator of the real property and includes all land occupiers as defined by M.S. § 103F.401, subd. 7, as it may be amended from time to time, or any other party conducting farming activities on or exercising control over the real property.

PARCEL. A unit of real property that has been given a tax identification number maintained by the county.

PUBLIC DRAINAGE SYSTEM. The meaning given to “drainage system” in M.S. § 103E.005, subd. 12, as it may be amended from time to time.

LOCAL WATER MANAGEMENT AUTHORITY. The meaning provided in M.S. § 103F.48, subd. 1(g), as it may be amended from time to time.

NORMAL WATER LEVEL. The level evidenced by the long-term presence of surface water as indicated directly by hydrophytic plants or hydric soils or indirectly determined via hydrological models or analysis.

SWCD. The Soil and Water Conservation District.

COUNTY. Rock County and its employees, designees or representatives.

VALIDATION OF COMPLIANCE.

(1) A notice issued by SWCD that validates a site(s) compliance and indicates that the validation is good as long as all practices identified/documented continue to be in place and are substantially in the same condition as identified at the time of issuance.

(2) Said notice shall be in recordable form and may be issued at the landowner’s request.
(Ord. 2017-01, passed - -2017)

§ 152.04 DATA SHARING; MANAGEMENT.

(A) The county may enter into arrangements with an SWCD, a watershed district if applicable, BWSR and other parties with respect to the creation and maintenance of, and access to, data concerning buffers and alternative practices under this chapter.

(B) The county will manage all such data in accordance with the state’s Data Practices Act and any other applicable laws.
(Ord. 2017-01, passed - -2017)

§ 152.05 DELEGATION OF ENFORCEMENT.

Nothing herein shall prevent the county from entering into an agreement with any other entity authorized under M.S. § 103F.48, as it may be amended from time to time, to enforce buffer requirements, including the enforcement of buffer requirements within its jurisdiction according to this chapter or other properly adopted enforcement rule.
(Ord. 2017-01, passed - -2017)

§ 152.06 DRAINAGE SYSTEM ACQUISITION AND COMPENSATION FOR BUFFER.

Nothing in this chapter shall prevent the acquisition and compensation of grass buffers on public drainage systems pursuant to M.S. Ch. 103E, as it may be amended from time to time.

(Ord. 2017-01, passed - -2017)

§ 152.07 NOTICE.

Any notice or other communication to be provided herein shall be directed to the landowner whose name and address appears on the county's property tax records and listed as the taxpayer. Notice on said landowner shall be considered sufficient notice to all those who may be considered a landowner as defined in § 152.03 of this chapter.

(Ord. 2017-01, passed - -2017)

§ 152.08 JURISDICTION.

The provisions of this chapter apply to all waters shown on the buffer protection map, excluding public drainage systems for which the county is not the drainage authority under M.S. Ch. 103E, as it may be amended from time to time, where another enforcement authority has elected enforcement jurisdiction.

(Ord. 2017-01, passed - -2017)

§ 152.09 BUFFER REQUIREMENTS.

(A) *Buffer width.* Except as provided in divisions (D) and (E) below, a landowner owning property adjacent to a waterbody identified on the buffer protection map must establish and maintain a buffer area as follows.

(1) For waters shown on the buffer protection map requiring a 50-foot width buffer, the buffer width will be 50-foot average and 30-foot minimum width as provided in M.S. § 103F.48, subd. 3, as it may be amended from time to time, and as measured according to division (B) below; and

(2) For waters shown on the buffer protection map requiring a 16.5-foot minimum width buffer, the buffer width will be 16.5 feet as provided in M.S. § 103F.48, subd. 3, as it may be amended from time to time, and as measured according to division (B) below. This division (A)(2) applies only if the county is the drainage authority.

(B) *Measurement.*

(1) The width of any required buffer on land adjacent to a water requiring a 50-foot average width and a 30-foot minimum width buffer shall be measured from the top or crown of the bank. Where

there is no defined bank, measurement must be from the edge of the normal water level as provided in M.S. § 103F.48, subd. 3(c), as it may be amended from time to time.

(2) The width of any required buffer on land adjacent to a water requiring a 16.5-foot minimum width buffer shall be measured in the same manner as for measuring the vegetated grass strip under M.S. § 103E.021, subd. 1, as it may be amended from time to time, as provided in M.S. § 103F.48, subd. 3(c), as it may be amended from time to time.

(C) *Use of buffer area.* Except as provided in divisions (D) and (E) below, a buffer as defined in this chapter may not be put to any use, included, but not limited to, cultivation farming, which would remove or prevent the permanent growth of perennial vegetation.

(D) *Exemptions.* The requirement of division (A) above does not apply to land that is exempted from the water resources riparian protection requirements under M.S. § 103F.48, subd. 5, as it may be amended from time to time.

(E) *Alternative practices.* As provided in M.S. § 103F.48, subd. 3(b), as it may be amended from time to time, an owner of land that is used for cultivation farming may demonstrate compliance with division (A) above by establishing and maintaining an alternative riparian water quality practice(s), or combination of structural, vegetative and management practice(s) which provide water quality protection comparable to the water quality protection provided by a required buffer as defined in division (A) to (C) above. The adequacy of any alternative practice allowed under this section shall be based on:

(1) The Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG);

(2) Common alternative practices adopted and published by BWSR;

(3) Practices based on local conditions approved by the SWCD that are consistent with the Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG); or

(4) Other practices adopted by BWSR.

(F) *Compliance with other statute, ordinance or regulation.*

(1) Where the provisions of any statute, other ordinance or regulation imposes greater restrictions than this chapter, the provisions of such statute, other ordinance or regulation shall be controlling.

(2) Parcels grandfathered in for other preexisting land uses shall not be grandfathered in with respect to these provisions and with respect to compliance with the Buffer Law, M.S. § 103F.48, as it may be amended from time to time.

(Ord. 2017-01, passed - -2017)

§ 152.10 COMPLIANCE DETERMINATIONS.

(A) *Compliance determinations.* Compliance with the buffer requirements set forth in § 152.09 of this chapter will be determined by the SWCD on a parcel by parcel basis. The compliance status of each bank or edge of a waterbody on an individual parcel will be determined independently.

(B) *Investigation and notification of non-compliance.*

(1) When SWCD identifies a potential non-compliance with the buffer requirements or receives a third party complaint from a private individual or entity, or from another public agency, it will consult with the county to determine the appropriate course of action to document compliance status. This may include communication with the landowner, inspection or other appropriate steps necessary to verify the compliance status of the parcel. On the basis of the evidence gathered in this process, the SWCD may issue a notification of non-compliance to the county. If the SWCD does not issue such a notification, the county will not pursue a compliance or enforcement action under M.S. § 103F.48, as it may be amended from time to time, and § 152.99(A) of this chapter. If the SWCD does issue such a notification, the SWCD must include, for consideration by the county, a list of corrective actions needed to come into compliance with the requirements of M.S. § 103F.48, as it may be amended from time to time; a recommended timeline for completing the corrective actions; and a standard by which the SWCD will judge compliance with the requirements of M.S. § 103F.48, as it may be amended from time to time, after the corrective actions are taken.

(2) At any time during process set forth herein, the landowner may provide documentation of compliance to the SWCD.

(3) The SWCD will evaluate the available documentation, and/or evaluate and/or inspect the buffer and/or alternative practices to determine if the parcel is in compliance. Upon completion of the evaluation and/or inspection the SWCD shall issue a written compliance determination to the landowner, the county and BWSR. The SWCD may also issue a validation of compliance if applicable and requested by the landowner.

(C) *Corrective action notice.*

(1) On receipt of a SWCD notification of non-compliance, the county will issue the landowner a corrective action notice that will:

(a) Include a list of corrective actions needed to come into compliance with the requirements of M.S. § 103F.48, as it may be amended from time to time;

(b) Provide a timeline for completing the corrective actions;

(c) Provide the standard by which compliance will be evaluated after the corrective actions are taken; and

(d) Include a statement that failure to complete corrective actions and achieve compliance with the timeline provided may result in civil or administrative enforcement actions and the assessment of criminal, civil or administrative penalties.

(2) The county may send the landowner a combined corrective action notice and APO as provided herein so long as the combined notice/APO includes all the required elements of both.

(3) The county shall transmit the corrective action notice by either personal service to the landowner or by depositing the same in the U.S. mail. If service is made by U.S. mail, the document is deemed received five business days after the notice was placed in the U.S. mail. Failure of actual receipt of a corrective action notice that has either been personally served or served by depositing the same in the U.S. mail shall not be deemed a defense in an enforcement proceeding hereunder. The county shall also send a copy of the notice to the SWCD and BWSR.

(4) At any time after receipt of a corrective action notice, the landowner may provide documentation of compliance to the county. In addition, the landowner may supply information to the county or the SWCD in support of a request to modify a corrective action or the timeline for compliance. On the basis of any such submittal or at its own discretion, the county may make a written modification to the corrective action notice or timeline for compliance. The county, upon review and notification by the SWCD, should also make a written determination documenting whether the non-compliance has been fully corrected. Any such modification of a compliance determination will be served on the landowner in the manner provided for herein. The county shall provide the SWCD and BWSR a written copy of any modification made pursuant to this provision.

(5) The SWCD may, after an evaluation of the evidence documenting compliance submitted by the landowner, issue a written validation of compliance if requested by the landowner. Upon receipt by the county of a written compliance determination issued by the SWCD, the corrective action notice will be deemed withdrawn for the purpose hereof and the subject property will not be subject to enforcement under that section.

(Ord. 2017-01, passed - -2017)

§ 152.11 ENFORCEMENT.

The county may, at its own discretion, elect to pursue the failure to comply with a corrective action notice either criminally or through an administrative penalty order as set forth herein.

(A) Failure to comply with a corrective action notice issued under § 152.10 of this chapter constitutes a misdemeanor and shall be punishable as defined by law.

(B) The county may issue an APO as provided for in M.S. §§ 103F.48, subd. 7(b), and 103B.101, subd. 12a, as they may be amended from time to time, to a landowner who has failed to take the corrective action set forth in the corrective action notice. For the APO to be effective, it must be served

on the landowner together with a copy of the corrective action notice or alternatively the county may serve the landowner with a combined corrective action notice and APO so long as the combined notice/APO includes all the elements of both. Service is effective either by personal service or by depositing the documents set forth herein in the U.S. mail. Any penalty assessed in the APO shall continue to accrue until the violation is corrected as provided in the corrective action notice and APO. (Ord. 2017-01, passed - -2017)

§ 152.99 PENALTY.

(A) *Administrative penalty order (APO).*

(1) *Initial violation.* The penalty for a landowner on a single parcel that has not previously been issued a corrective action notice by the county shall be:

(a) Zero dollars for 11 months after issuance of the corrective action notice or during the schedule issued for taking correction actions;

(b) Fifty dollars per parcel per month for the first six months (180 days) following the time period in division (A)(1)(a) above; and

(c) Two hundred dollars per parcel per month after six months (180 days) following the time period in division (A)(1)(b) above.

(2) *Repeat violation.* The penalty for a landowner on a single parcel that has previously been issued a corrective action notice by the county shall be:

(a) Fifty dollars per parcel per day for 180 days after issuance of the corrective action notice; and

(b) Two hundred dollars per parcel per day for after 180 days following the time period in division (A)(2)(a) above.

(3) *Ongoing penalty assessment.* Any penalty assessed under this section shall continue until the corrective action notice has been satisfied.

(4) *Validity.*

(a) To be valid the APO shall include, at a minimum:

1. The facts constituting the violation of the riparian protection and water quality practices requirements set forth in this section or M.S. § 103F.48, as it may be amended from time to time;

2. The specific statute and/or ordinance section(s) that has/have been violated;
3. A written description of prior efforts to work with the landowner to resolve the violation;
4. The amount of the penalty to be imposed;
5. The facts supporting the amount of the penalty;
6. The date the penalty will begin to accrue;
7. The date that payment of the penalty is due;
8. The date by which all or part of the penalty may be forgiven if the landowner has/have complied with the corrective action notice; and
9. A statement of the landowner's right to appeal the APO.

(b) All or part of the penalty may be forgiven based on the correction of the non-compliance by the date specified in the APO by the landowner as provided in M.S. § 103F.48, subd. 7(d), as it may be amended from time to time.

(c) A copy of the APO must be sent to the SWCD and BWSR.

(d) An APO issued under this section may be appealed to the BWSR within 30 days of receipt by the landowner in accordance with the requirements set for the in M.S. § 103F.48, subd. 9, as it may be amended from time to time. Any APO that is not appealed within the 30-day period shall be deemed final.

(B) *Administrative penalty order procedures.*

(1) *Statute of limitations.* Any criminal enforcement action undertaken pursuant to division (A) above must be undertaken within two years after the alleged violation was discovered or reasonably should have been discovered by the county. According to M.S. § 541.07, as it may be amended from time to time, the county has two years in which to commence an APO action after the date the violation is discovered. The goal is to complete the action as soon as reasonably practical, recognizing that situations for which data must be gathered, field investigations must be completed and/or modeling must be performed will require adequate time to complete the work and communicate with the landowner involved.

(2) *Compliance verification.*

(a) Once a landowner has provided notice and submitted written evidence of correction of the violation set forth in the notice of compliance, compliance must be verified. The county will refer the landowner's evidence and notice to the SWCD to:

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1. Review and evaluate all information related to the corrective action notice or APO to determine if the violation has been corrected;
2. Verify compliance by site visit, re-inspection, examination of documentation or other means as may be reasonable under the facts of the case; and
3. Document compliance verification.

(b) The SWCD may consult with the county when conducting a compliance verification.

(3) *Right to appeal.* Within 30 days after receipt of the APO, a landowner may appeal the terms and conditions of an APO issued by a county to BWSR as provided in M.S. § 103F.48, subd. 9, as it may be amended from time to time. The appeal must be in writing and must include a copy of the APO that is being appealed, the basis for the appeal and any supporting evidence. The appeal may be submitted personally, by U.S. mail or electronically to the Executive Director of BWSR.

(4) *Penalty due.*

(a) Unless the landowner appeals the APO as provided herein, the penalty specified in the APO becomes immediately due and payable to the county as set forth in the APO. If, however, the landowner submits written documentation that the violations has been corrected prior to the time the penalty becomes due and payable the county shall verify compliance and adjust the penalty to an amount the landowner would have owed had the penalty been paid on the date the landowner submitted written documentation of compliance. Written documentation of compliance may include a written validation of compliance issued by the SWCD.

(b) However, if the county determines the violation was not fully corrected, the county shall notify the landowner by issuing a written letter of determination and depositing it in the U.S. mail. Any determination sent by U.S. mail shall be deemed received three business days after the letter of determination has been deposited in the U.S. mail. The landowner shall have an additional 20 days after receipt of the letter of determination to pay the penalty or the time period specified in the APO as issued, whichever is later. The penalty will continue to accrue until the violation is corrected as provided in the corrective action notice and APO.

(5) *Referral for collection of penalty.* All penalties and interest assessed under an APO must be paid by the landowner within the time specified in this section. All payments shall be made payable to the county. Any penalty or interest not received in the specified time may be collected by the county using any lawful means, including recovery by additional property tax.

(6) *Reporting and documentation.* The SWCD shall maintain the following records for any potential violation of the riparian protection and water quality practices requirements. Said records shall include, but are not limited to, the following:

- (a) The cause of the violation;

(b) The magnitude and duration of the violation;

(c) Documentation showing whether the violation presents an actual or imminent risk to public health and safety;

(d) Documentation showing whether the violation has the potential to harm to the natural resources of the state;

(e) A record of past violations;

(f) Efforts by the SWCD, county, Watershed District or BWSR to assist the responsible party or parties to become compliant, including written and oral communications with the responsible party or parties; and

(g) Past and present corrective action efforts by the responsible party or parties.
(Ord. 2017-01, passed - -2017)

CHAPTER 153: PLANNING AND ZONING

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GENERAL PROVISIONS

§ 153.001 INTRODUCTION.

(A) General.

(1) Zoning is the use of the police power to regulate land use to promote the public health, safety and welfare. Originally, zoning grew out of the laws dealing with nuisance. Typically, a zoning ordinance divides a jurisdictional area into districts such as residential, commercial, industrial and institutional districts. While the regulations may differ from district to district, they must be applied uniformly to all land within each district.

(2) Zoning is primarily concerned with the following three major types of regulations:

(a) *Use regulations.* The use to which the buildings and land can be made;

(b) *Height regulations.* The maximum height to which buildings may be erected; and

(c) *Area regulations.* The area of open space that must be provided around structures in the form of front, side and rear yards, as well as the minimum lot area, lot coverage and density.

(3) Since zoning involves the use of the police power, no compensation is paid to the property owner whose land is subject to the zoning ordinance. A number of legal restraints on authority to

regulate land use have been developed by the courts which have come from “due process” and “equal protection” clauses of the 14th Amendment. For example, some of the usual restraints imposed by the courts have been that the regulations must be “reasonable” and must not amount to “taking” of property without just compensation. Furthermore, the regulations must be related to the “public health, safety and welfare”. While some courts have become more liberal in their interpretation of the “public welfare” (as witnessed in the upholding of aesthetic zoning by some courts), nevertheless, the legal restraints indicated above must be taken into account in considering the use of zoning to control development.

(4) Zoning ordinances are not retroactive in effect; thus, existing incompatible uses (land uses existing at the time that the ordinance is adopted) are usually allowed to continue as non-conforming uses, either for a certain specified time period, until the structures have been destroyed, or until the use is discontinued. Most ordinances do not allow the non-conforming use to be expanded or enlarged; and if the use is discontinued for more than one year, it must be made to conform to the ordinance.

(5) (a) Zoning is primarily concerned with guiding future development to carry out the goals and policies established and adopted by the local community. The goals and policies are usually stated in a comprehensive plan, or policies plan which represents the best legal defense of zoning.

(b) The policies plan need not be an elaborate document, especially for a rural community, but a clear statement of the goals and policies for future development of the community based on a study of resources, problems, needs and potentials. For example, the major goal of a rural community may be to encourage agricultural or large-lot zoning.

(B) *Statutory authorization.* This chapter is adopted pursuant to the authorization and policies contained in M.S. Ch. 103G, Minn. Regs. parts 6120.2500 through 6120.3900 and the planning and zoning enabling legislation in M.S. Ch. 394, as they may be amended from time to time.

(C) *Administration.* The goals of a zoning ordinance will only be achieved if the ordinance is properly administered. The following divisions provide some guidelines for the administration of the ordinance.

(D) *Zoning amendments.* The governing body may adopt amendments to the zoning ordinance and zoning map in relation both to land uses within a particular district or to the location of the district lines. Such amendments shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals and policies of the community as reflected in the policies plan or changes in conditions in the county.

(E) *Conditional use permits.*

(1) A use classified as conditional may be appropriate and desirable in a specified zone, but require special approval because if not carefully located or designed it may create special problems such as excessive height or bulk or abnormal traffic congestion. Schools, churches and public utilities are examples of uses which are often in the conditional use category. Planned unit development can also be handled as conditional uses.

(2) Conditions may be applied to issuance of the permit and a periodic review of the permit may be required. The permit shall be granted for a particular use and not for a particular person or firm.

(3) In granting a conditional use permit, the County Board shall consider the advice and recommendations of the Planning Commission and the effect of the proposed use upon the health, safety, morals and general welfare of occupants of surrounding lands, existing and anticipated traffic conditions including parking facilities on adjacent streets and land and the effect of the proposed use on the policies plan. In permitting a new conditional use or the alteration of an existing conditional use, the Planning Commission may impose, in addition to these standards and requirements expressly specified by this chapter, additional conditions which the Planning Commission considers necessary to protect the best interest of the surrounding area or the county as a whole.

(4) Any change involving structural alterations, 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, conditions imposed by the governing body, time limits, review dates and such other information as may be deemed appropriate.

(F) *Variances.* The Board of Adjustment may authorize a variance from the requirements of this chapter where it can be shown that special and unusual circumstances are related to a specific lot and that strict application of the ordinance would cause an undue or unnecessary hardship. No variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located. In granting a variance, the Board of Adjustment may attach conditions which it finds necessary to protect the best interests of the surrounding property or vicinity and otherwise achieve the purposes of this chapter.

(G) *Land use permits.*

(1) A zoning ordinance is enforced through the process of granting land use permits. The goals of a zoning ordinance will be attained only if the ordinances, provisions and standards are followed as land use permits are granted.

(2) If the standards of the ordinance are excessively circumvented by the liberal issuance of variances, zoning amendments and conditional use permits, then the ordinance becomes arbitrary in its enforcement and is useless in its effect. For the purposes of enforcing this chapter, a land use permit shall be required of all persons intending to erect, alter or move any building.

(Ord. passed - -2022)

§ 153.002 TITLE.

This chapter shall be known, cited and referred to as the “Rock County Zoning Ordinance”; when referred to herein, it shall be known as “this chapter”.

(Ord. passed - -2022)

§ 153.003 PURPOSES AND INTENT.

This chapter is adopted for the purpose of:

- (A) Protecting the public health, safety, morals, comfort, convenience and general welfare;
 - (B) Promoting orderly development of agricultural, residential, commercial, recreational and public areas;
 - (C) Conserving the natural and scenic beauty and attractiveness of the county;
 - (D) Conserving and developing natural resources; and
 - (E) Providing for the compatibility of different land uses and the most appropriate use of the land throughout the county.
- (Ord. passed - -2022)

§ 153.004 JURISDICTION.

The jurisdiction of this chapter shall apply to all the area of the county outside the incorporated limits of municipalities excluding those areas designated for orderly annexation.

(Ord. passed - -2022)

§ 153.005 SCOPE.

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

(Ord. passed - -2022)

§ 153.006 INTERPRETATION.

(A) In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare. Where the provisions of this chapter impose greater restrictions than those of any statute, other ordinance or regulation, the provisions of this chapter shall be controlling.

(B) Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this chapter, the provisions of such statute, other ordinance or regulation shall be controlling. (Ord. passed - -2022)

§ 153.007 RULES AND DEFINITIONS.

(A) *Rules.*

(1) *Word usage.* For the purpose of this chapter, words used in the present tense shall include the future; words in the singular shall include the plural, and the plural the singular; the word “building” shall include the word “structure”; the word “lot” shall include the word “plot”; and the word “shall” is mandatory and not discretionary.

(2) *Permitted uses.* Permitted uses of land or buildings, as hereinafter listed, shall be permitted in the district indicated under the conditions specified. No building or land shall be devoted to any use other than as permitted hereinafter in the zoning district in which such building, structure or land shall be located, except for the following exceptions:

(a) Uses lawfully established prior to the effective date of this chapter;

(b) Conditional uses allowed in accordance with division (A)(3) below; and

(c) Essential services are permitted uses in all zoning districts and are not subject to height, yard or setback requirements or permits, except as specifically provided herein.

(3) *Conditional uses.* Conditional uses of land or buildings, as hereinafter listed may be allowed in the districts indicated, subject to the issuance of conditional use permits, in accordance with the provisions of §§ 153.080 through 153.089 of this chapter. Whenever a conditional use is named as a major category, it shall be deemed to include all and only those itemized uses listed.

(4) *Other regulations.* For permitted or conditionally permitted uses, there are also standards herein that further regulate use activities, placement of structures and design of certain structures.

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

ACCESSORY STRUCTURE. A subordinate building or portion of the main building which is located on the same lot as the main building and the use of which is clearly incidental to the use of the main building.

ACCESSORY USE. A use is subordinate and incidental to the principal use of the lot or a building located on the same lot.

AGRICULTURE. The art or science of cultivating the soil and activities incidental thereto: the growing of soil crops in the customary manner on open tracts of land; the accessory raising of livestock and poultry; farming; the raising of nursery plants and tree farming.

AGRICULTURAL-ORIENTATED BUSINESS. A business including, but not limited to: commercial storage and blending of liquid and dry fertilizers; grain and feed sales; general repair and installation services for agricultural equipment; custom meat processing; agricultural supplies and products sales or warehousing; livestock sales barns and accessory facilities; greenhouse and nursery sales; ethanol and bio-diesel production.

ANIMAL UNIT.

(a) A unit of measure used to compare differences in production of animal manures that employs as a standard the amount of manure produced on a regular basis by a slaughter steer or heifer unless otherwise provided in Minn. Rules part 7020.03, subpart 5, as amended. The following equivalents shall apply:

1. Dairy cattle:
 - a. One mature cow (whether milked or dry):
 - i. Over 1,000 pounds: 1.4 animal unit; or
 - ii. Under 1,000 pounds: 1.0 animal unit.
 - b. One heifer: 0.7 animal unit; and
 - c. One calf: 0.2 animal unit.
2. Beef cattle:
 - a. One slaughter steer or stock cow: 1.0 animal unit;
 - b. One feeder cattle (stocker or backgrounding) or heifer: 0.7 animal units;
 - c. One cow and calf pair: 1.2 animal unit; and
 - d. One calf: 0.2 animal unit.
3. One head of swine:
 - a. Over 300 pounds: 0.4 animal unit;
 - b. Between 55 pounds and 300 pounds: 0.3 animal unit; and

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4. Under 55 pounds: 0.05 animal unit;
5. One horse: 1.0 animal unit;
6. One sheep or lamb: 0.1 animal unit;
7. Chickens:
 - a. One laying hen or broiler, if the facility has a liquid manure system: 0.033 animal unit; or
 - b. One chicken if the facility has a dry manure system:
 - i. Over five pounds: 0.005 animal unit; or
 - ii. Under five pounds: 0.003 animal unit.
8. One turkey:
 - a. Over five pounds: 0.018 animal unit; or
 - b. Under five pounds: 0.005 animal unit.
9. One duck: 0.01 animal unit; and
10. For animals not listed in divisions (a)1. through (a)9. above, the number of animal units is the average weight of the animal in pounds divided by 1,000 pounds.

(b) For animals not listed, the number of **ANIMAL UNITS** shall be defined as the average weight of the animal divided by 1,000 pounds.

AUTOMOBILE WRECKING. Any activity wherein salvage materials are generated as the result of the wrecking of automobiles or other vehicles.

BASEMENT. Any area of structure, including crawl spaces having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

BED AND BREAKFAST FACILITY. A dwelling in which the owner or manager resides, which contains ten or less guest rooms, in which lodging is provided for compensation with or without meals being provided to the guest by the owner, which is open for transient or permanent guests or both, and in which no provision is made for cooking in the guest rooms.

BLOCK. An area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a river or lake.

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

- (a) Part or all of the feature is located in a shoreland area;
- (b) The slope rises at least 25 feet above the ordinary high water level of the waterbody;
- (c) The grade of slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30% or greater; and
- (d) The slope must drain toward the waterbody.

BLUFF IMPACT ZONE. A bluff and land located within the 20 feet from the top of a bluff.

BOARD OF COUNTY COMMISSIONERS. Rock County Board of Commissioners.

BOARDING. [*Reserved*].

BUILDING. Any structure for the shelter, support or enclosure of persons, animals, chattel or property of any kind; and when separated by party walls without openings, each portion of such building so separated shall be deemed a separate **BUILDING**.

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

BUILDING SETBACK LINE. A line within a lot or other parcel of land parallel to a public road, street, highway right-of-way line or normal high water level defining a portion of the lot between said setback line and said right-of-way line or water level on which buildings or structures may not be placed.

CAMPGROUND. Any area or property, whether privately or publicly owned, used on a daily, nightly, weekly or longer basis for the accommodation of five or more tents, pickup campers, motor homes, pop-up campers, trailer or recreational camping vehicle as defined by the state’s Department of Health.

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

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

COMMISSIONER. Minnesota Commissioner of Natural Resources.

COMMUNITY WATER AND SEWER SYSTEMS. Utilities systems serving a group of buildings, lot or an area of the county, with the design and construction of such utility systems as approved by the county and the state.

CONDITIONAL USE. A use which, because of unique characteristics, cannot be classified as a permitted use in a particular district which, after due consideration in each case, of the impact of such use upon neighboring land and of the public desirability for the particular use at the particular location, a conditional use permit may or may not be granted. If granted, the County Commissioners and/or the County Board may attach conditions and guarantees upon the proposed use deemed necessary for the protection of the public interest.

CORNER LOT. A lot situated at the junction of and fronting on two or more roads or highway.

COUNTY. Rock County, Minnesota.

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

DEPTH OF LOT. The mean horizontal distance between the mean front and the mean rear lot line. The greater frontage of a corner is its depth, and its lesser frontage is its width.

DEPTH OF REAR YARD. The mean horizontal distance between rear line of the building and the centerline of an alley, where an alley exists, otherwise a rear lot line.

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

DWELLING. Any building or part thereof which is designed or used exclusively for residential purposes by one or more human beings, either permanently, or transiently.

DWELLING, ONE-FAMILY. A dwelling designed for or occupied exclusively by one family.

DWELLING SITE. A designated location for residential use by one or more persons.

DWELLING, TEMPORARY. A dwelling that is to be used for the duration of a certain situation such as for farm workers, during construction of something else, or other that can reasonably be removed when situation ends. It does not require a separate lot.

DWELLING, TWO-FAMILY. A dwelling that incorporates two one-family dwelling units into one structure with a common wall.

EASEMENT. A right of use over the property of another.

ESSENTIAL SERVICES. Overhead or underground electrical, gas, steam or water transmission or distribution systems and structures, or collection, communication, supply or disposal systems and structures, used by public utilities, rural electric cooperatives or governmental departments or commissions or as are required for protection of the public health, safety or general welfare, including towers, poles, wires, mains, drains, sewers, pipes conduits, cables, fire alarm boxes, police call boxes and accessories in connection therewith, or road and rail systems, but not including buildings. For the purpose of this chapter, the word “building” does not include “structure” for **ESSENTIAL SERVICES**.

EXISTING SITE. A site where a dwelling formerly stood that still has an area at least an acre in size that is distinguishable as being separate from the adjacent land by the existence of physical evidence such as vegetation, fences, yard lines, structures and driveways.

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

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

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

FEEDLOT. A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. Open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered **FEEDLOTS**. Pastures shall not be considered **FEEDLOTS**. Manure storage areas off the site of the **FEEDLOT** will be considered as a separate **FEEDLOT**. Notwithstanding the above definition, **FEEDLOT** shall be defined under this chapter, as the same as defined by Minn. Rules Ch. 7020, as amended.

FINAL PLAT. A drawing or map of a subdivision, meeting all the requirements of the county and in such form as required by the county for purposes of recording.

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.

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

FLOOD FREQUENCY. The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

FLOOD FRINGE. The portion of the floodplain outside of the floodway. **FLOOD FRINGE** is synonymous with the term **FLOODWAY FRINGE** used in the Flood Insurance Study for the county.

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

FLOOD-PROOFING. A combination of structural provisions, changes or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood discharge.

FLOOR AREA. The sum of the gross horizontal area of the several floors of a building measured from the exterior walls, including basements and attached accessory buildings.

FUR FARM. An area used for keeping and/or raising fur-bearing animals; the same shall constitute a "feedlot".

GARAGE, PRIVATE. A garage which is erected as an accessory building.

GARAGE, PUBLIC. Any premises, except those described as a private garage used for the storage or care of power-driven vehicles, or where any such vehicles are equipped for operation, repair or are kept for remuneration, hire or sale.

HARDSHIP. The same as that term is defined in M.S. Ch. 394, as it may be amended from time to time.

HEIGHT OF STRUCTURE. The distance from the highest part of the structure to the highest ground level adjoining the structure base.

HIGHWAY. Any public thoroughfare or vehicular right-of-way with a federal or state numerical route designation; any public thoroughfare or vehicular right-of-way with a county numerical route designation.

HOME OCCUPATION. Any occupation taking place as an accessory use to a dwelling's principal use as a residence.

INDUSTRIAL USE. 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. The complete removal of trees or shrubs in a contiguous patch, strip, row or block.

KENNEL. The commercial boarding, breeding or selling of dogs or cats that involves over three adult dogs or four adults cats.

LOT. A parcel of land designated by plat, metes and bounds, registered land survey, auditors plat or other accepted means and separated from other parcels or portions by said description and recorded with the office of the County Recorder.

LOT AREA. The lot area is the land area within the lot lines.

LOT AREA PER FAMILY. The lot area per family is the lot area required by this chapter to be provided for each family in a dwelling.

LOT, DOUBLE FRONTAGE. An interior lot having frontage on two streets.

LOT, INTERIOR. A lot other than a corner lot.

LOT LINES. The lines bounding a lot, as defined herein. When a lot abuts road, street, avenue, park or other public property, except an alley such line shall be known as a **STREET LINE**, and when a lot abuts on an alley, it shall be known as an **ALLEY LINE**.

LOT WIDTH. The width of a lot is its own mean width measured at the building setback line.

LOT DEPTH. The mean horizontal distance between the mean front road and the mean rear lot line. The greater frontage of a corner lot is its depth, and its lesser frontage is its width.

MANUFACTURED HOME. A structure transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling for one family, with or without a permanent foundation when connected to the required facilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; except that, the term includes any structure to which the manufacturer voluntarily files a certification required by the Secretary (U.S. - HUD) and complies with the Building Code as evidenced by a seal displayed on the **MANUFACTURED HOME**.

MANUFACTURED HOME PARK. Any lot or part thereof, or any parcel of land which is used or offered as a location for two or more manufactured homes.

METES AND BOUNDS. A method of property description by means of their direction and distance from an identified section survey.

MOTEL. A building or group of buildings used primarily for the temporary residence of motorists or travelers.

NON-CONFORMING USES. A use lawfully in existence on the effective date of this chapter and not conforming to the regulations for the district in which it is situated.

NORMAL OR ORDINARY HIGH WATER MARK. A mark delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The

NORMAL OR ORDINARY HIGH WATER MARK is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourse, the ***NORMAL OR ORDINARY HIGH WATER LEVEL*** is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ***NORMAL OR ORDINARY HIGH WATER LEVEL*** is the operating elevation of the normal summer pool.

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

ORGANIZED FARM COLONIES. A group of families, farming land owned by the group as a community and not individually; and which group lives within the boundaries of the land owned by the group.

ORGANIZED GROUP CAMPS. Campgrounds or buildings used by public or semi-public organizations (such as scouts, churches, wildlife groups) for retreat, interpretative, educational and other activities that do not amount to activities that would be in conflict with the district's uses. If use is by the general public, then it would be defined as a campground or resort, except for primitive tent type camping on wild undeveloped land.

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

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

PLAT. A land subdivision that creates new lots and/or public road rights-of-way, thereby replacing the former land records for the area plat.

PRELIMINARY PLAT. A tentative drawing or map for a proposed subdivision plat.

PREMISES. A lot or plot with the required front, side and rear yards for a dwelling or other use allowed under this chapter.

PRINCIPAL USE OR STRUCTURE. All uses or structures that are not accessory uses or structures.

PUBLIC WATER. A body of water as depicted on the Public Water Inventory Map for the county.

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

REGIONAL FLOOD. A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. **REGIONAL FLOOD** is synonymous with the term **BASE FLOOD**, used in the Flood Insurance Study.

REGULATORY FLOOD PROTECTION ELEVATION. 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 floodplain that results from designation of a floodway.

ROAD. A public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land, place or however otherwise designated.

SALVAGE YARD. Land or buildings where waste, discarded or salvaged materials are brought, sold, exchanged, stored, cleaned, packed, disassembled or handled, including, but not limited to, scrap metal, rags, paper, rubber products, glass products, lumber products and products resulting from the wrecking of automobiles or other vehicles. Any premises with more than ten unlicensed vehicles of any kind or type shall be declared a **SALVAGE YARD**.

SANITARY LANDFILL. A method of disposing of solid wastes on land without creating nuisances or hazards to public health or safety, by utilizing the principles of engineering to confine the solid waste to the smallest practical area, to reduce it to the smallest practical volume, and to cover it with a layer of earth at the conclusion of each day's operation, or at such more frequent intervals as may be necessary.

SETBACK. The minimum horizontal distance between a structure, sewage treatment system or other facility and a normal high water level, sewage treatment system, top of a bluff, road, (the center point thereof) highway, property line or other facility.

SELF-STORAGE FACILITY. A building or group of buildings containing separate, individual and private storage spaces of varying sizes for lease or rent for varying periods of time.

SEWAGE TREATMENT SYSTEM. A septic tank and soil absorption system or other individual or cluster type sewage treatment system.

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

SHORE IMPACT ZONE. Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50% of the structure setback.

SHORELAND.

(a) Land located within the following distances from public waters:

1. One thousand feet from the normal high water mark of a lake, pond or flowage;
and
2. Three hundred feet from a river or stream, or the landward extent of a floodplain designated by ordinance on such a river or stream, whichever is greater.

(b) 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.

SHORELAND AREAS. All shorelands of public waters as designated on the Protected Waters Inventory Map for the county, lying within the floodway, flood fringe or general floodplain districts are subject to the regulations set forth herein.

SHORELAND SETBACK. The minimum horizontal distance between a structure and the normal high water mark.

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

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

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

SIGN, FLASHING. Any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use.

SIGN, ILLUMINATED. Any sign which has characters, letters, figures, designs or outlines illuminated by electric lights or luminous tubes as a part of the sign.

SIGN, ROTATING. A sign which revolves or rotates on its axis by mechanical means.

SIGN, SURFACE AREA OF. The entire area within a single, continuous perimeter enclosing the extreme limits of the actual sign surface. It does not include any structural elements outside the limits

of such sign and not forming an integral part of the display. Only one side of a double-face or V-type sign structure shall be used in computing total *SURFACE AREA*.

SIGN, WARNING. A sign which warns of a danger or hazard in the immediate vicinity and is obviously not serving any advertising purpose.

SMALL BUSINESS. A business or other commercial operation that:

- (a) Has five or fewer full time equivalent employees, including any owner, operator(s);
- (b) Does not generate more than 20 vehicle trips per day; and
- (c) Does not produce noise, vibration, glare, fumes, odor or electrical interferences detectable off the premises; and
- (d) Does not manufacture, produce, use, involve hazardous substances as defined by rule, regulation or statute.

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

STORY. The portion of a building included between the surface of any floor and the surface of the next floor above it or, if there is not a floor above it, the space between the floor and the ceiling next above it.

STORY, HALF. The portion of a building under a gable, hip or gambrel roof, the wall plates of which, on at least two opposite exterior walls are not more than two feet above the floor of such story.

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, travel trailers/vehicles not meeting the exemption criteria specified herein and other similar items.

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

SUBDIVISION. Land that is divided into smaller lots.

SUBSTANDARD SHORELAND USE. Any use of shorelands existing prior to the date of any county ordinance which is permitted within the applicable zoning district but does not meet the minimum lot area and length of water frontage, structure setbacks or other dimensional standards of the ordinance.

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

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

TOP OF THE BLUFF. The point on a bluff where there is visually observed, a clearly identifiable break in the slope, from steeper to gentler slope above. If no break in the slope is apparent, the ***TOP OF BLUFF*** shall be determined to be the upper end of a 50-foot segment, measured on the ground, with an average slope exceeding 18%.

UNINCORPORATED AREA. The area outside a city, village or borough.

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

VARIANCE. A modification or variation of the provisions of this chapter, as applied to a specific piece of property; except that, modification in the allowable uses within a district shall not be considered a ***VARIANCE***.

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

WATER SUPPLY PURPOSE. Includes any uses of water for domestic, commercial, industrial or agricultural purposes.

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

YARD. Any space in the same lot with a building open and unobstructed from the ground to the sky.

YARD, FRONT. A yard extending across the front of the lot between the side lot lines and lying between the front right-of-way and the nearest point of the building.

YARD, REAR. A yard extending across the rear of the lot between the side lot lines and lying between the rear property line and the nearest point of the building.

YARD, SIDE. A yard extending along the side of a lot between the front and rear lot lines and lying between the side property line and the nearest point of the building.
(Res. 23-21, passed 10-5-2021; Ord. passed - -2022)

ENFORCING OFFICER

§ 153.020 ZONING ADMINISTRATOR.

(A) The office of the Zoning Administrator is hereby established, for which the Board of County Commissioners may appoint such employee or employees of the county as it may deem proper. The term of office of the Zoning Administrator shall be indefinite and shall terminate at the pleasure of the Board of County Commissioners.

(B) The duties of Zoning Administrator shall include the following:

(1) Enforce and administer this chapter;

(2) Issue building permits, land use permits, zoning permits and other permits/certificates as provided herein and maintain records thereof;

(3) Receive and forward to the Board of County Commissioners and the County Planning Commission all applications for conditional use permits;

(4) Receive and forward all applications and petitions for matters to come before the Board of Adjustment;

(5) Receive and forward to the Board of County Commissioners and the County Planning Commission all applications for amendments to this chapter;

(6) Provide and maintain a public information bureau relative to matters arising out of this chapter; and

(7) Maintain the county zoning map.

(Ord. passed - -2022)

§ 153.021 ENFORCEMENT GENERALLY.

It shall be the duty of the Zoning Administrator to enforce this chapter through the proper legal channels. When any work shall have been stopped by the Zoning Administrator whatsoever, it shall not again be resumed until the reason for the work stoppage has been completely removed. It shall be the duty of the County Attorney and the Sheriff of the county when called upon by the Zoning Administrator

or Board of County Commissioners, to perform such duties as may be necessary to enforce the provisions of this chapter.

(Ord. passed - -2022)

§ 153.022 FEES.

The Board of County Commissioners shall establish fee schedules for permits or requests as it deems fit.

(Ord. passed - -2022)

§ 153.023 SUBMISSIONS TO BOARD.

(A) Any written documentation (letters, petitions and the like) submitted by a non-applicant relating to a zoning matter must meet the following standards:

(1) Must state specific facts;

(2) Must identify the draftsman;

(3) All signatures to a document must include the printed or typed name, address, phone number and county of residence; and

(4) Strict compliance with these standards may be waived by the board as it deems appropriate.

(B) Any written documentation must be presented to the Zoning Administrator at least five days before the scheduled meeting. The Zoning Administrator may, but is not obligated to accept any document which is not timely presented. The Zoning Administrator will inform the Board of the written documentation and make it available to the Board.

(C) The Zoning Administrator shall determine if the written documentation complies with the requirements of this subchapter.

(Ord. passed - -2022)

APPEALS AND BOARD OF ADJUSTMENT

§ 153.035 CREATION AND MEMBERSHIP.

(A) A Board of Adjustment is hereby established and vested with such authority as is hereinafter provided and as provided by M.S. Ch. 559, Laws of 1959, as it may be amended from time to time. The

Board of Adjustment shall consist of three, but not more than seven, members, including at least one member from the unincorporated area of the county; provided that, no elected officer of the county, nor any employee of the Board of Commissioners shall serve as a member of the Board of Adjustment and that one member of such Board of Adjustment shall also be a member of the Planning Commission. Board members shall be appointed by the Board of County Commissioners, shall serve for three-year terms, and may be removed by the County Board for non-performance of duty or misconduct in office. Members shall not be compensated, but shall be paid their necessary expenses in attending meetings of the Board in the conduct of the business of the Board.

(B) The Board of Adjustment shall elect a chair and vice chair from among its members and shall appoint a secretary who need not be a member of the Board. It shall adopt rules for the transaction of its business and shall keep a public record of its transactions, findings and determinations.

(C) The meetings of the Board of Adjustment shall be held at the call of the Chairperson and at such other times as the Board in its rules of procedure may specify.

(Ord. passed - -2022)

§ 153.036 POWERS.

(A) The Board of Adjustments 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 M.S. §§ 394.21 to 394.37, as they may be amended from time to time. Requests for determinations of the Board of Adjustments may be made by any person aggrieved or by any officer, department, board or bureau of a town, municipality, county or state. In exercising its powers under this subchapter, the Board of Adjustment shall take into consideration the Town Board’s recommendation when the Board of Adjustment’s decision directly affects land within the town.

(B) (1) The Board of Adjustment shall have the exclusive power to order the issuance of variances from the terms of any official control including restrictions placed on non-conformities. Variances shall only be permitted when they are in harmony with the general purpose and intent of the official control in cases when there are practical difficulties or particular hardship in the way of carrying out the strict letter of any official control, and when the terms of the variance are consistent with the comprehensive plan. **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 land owner is due to circumstances unique to the property not created by the land owner; and the variance, if granted, will not alter the essential character of the locality.

(2) Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of the ordinance. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. The Board of Adjustment may impose conditions in the granting of variances to ensure compliance and to protect adjacent property and the public interest.

(Ord. passed - -2022)

§ 153.037 APPEALS.

(A) Any aggrieved person, firm or corporation objecting to the ruling of any administrative official on the administering of the provisions of this chapter or other ordinance adopted pursuant to the provisions of M.S. §§ 394.21 to 394.37, M.S. Ch. 559, Laws of 1959, as they may be amended from time to time, shall have the right to appeal to the Board of Adjustment. Such appeal may be taken by any person aggrieved or by an officer, department, board or bureau of a town, municipality, county or state.

(B) The decision of the Board shall not be final, and any person having an interest affected by such ordinance shall have the right to appeal to the District Court.
(Ord. passed - -2022)

§ 153.038 FINDINGS.

The Board of Adjustment shall not grant an appeal unless it finds the following facts at the hearing where the applicant shall present a statement and evidence in such form as the Board of Adjustment may require:

(A) The there are special circumstances or conditions affecting the land, building or use referred to in the appeal that do not apply generally to the property in the same vicinity; and

(B) That the granting of the application will not materially adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property of the applicant.
(Ord. passed - -2022)

§ 153.039 PROCEDURE.

(A) Application for any appeal permissible under the provisions of this subchapter shall be made to the Board of Adjustment by filing with the Zoning Administrator a notice of appeal specifying the grounds thereof. Said notice shall be filed within ten days of the applicant's receipt of notice of the adverse decision or action appealed from. Upon receipt of any application, the Zoning Administrator shall set a time and place for a public hearing before the Board on such application. At least ten days before the date of the hearing, a notice of the hearing shall be published once in the official newspaper. Written notice shall be sent to all property owners of record within 500 feet of the affected property in incorporated areas. In unincorporated areas written notice shall be sent to owners of record within one-half mile of the affected property or to the ten properties nearest to the affected property, whichever would provide notice to the greatest number of owners. Written notice shall also be given to the affected board of town supervisors, and the municipal council of any municipality within two miles of the affected property.

(B) When any proposed variance is considered in a floodplain district, the board shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the commissioner will receive at least ten days' notice of the hearing.

(C) The Board shall arrive at a decision on such appeal or variance within 15 days from the date of hearing. In passing upon an appeal, the Board may, so long as such action is in conformity with the provisions of this chapter, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination appealed from. It shall make its decision in writing, setting forth the finding of fact and the reasons for its decision. In granting a variance, the Board may prescribe appropriate conditions and safeguards which are in conformity with the purposes of this chapter. 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 chapter.

(D) No variance shall have the effect of allowing in any district uses prohibited in the 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.

(E) A copy of all decisions granting variances in floodplains shall be forwarded by mail to the Commissioner of Natural Resources within ten days of such action.

(F) (1) The Zoning Administrator shall notify the applicant for a variance that:

(a) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and

(b) Such construction below the 100-year or regional flood level increases risks to life and property.

(2) 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 insured in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

(Ord. passed - -2022)

PLANNING COMMISSION

§ 153.050 CREATION AND MEMBERSHIP.

(A) A Planning Commission is hereby established. The Planning Commission shall be composed of not less than five, nor more than 11, members appointed by the Chair of the County Board. At least two members shall be residents of the portion of the county outside the corporate limits of municipalities.

Members shall serve four-year terms and may be reappointed at the leisure of the County Board Chair. No more than one voting member of the Planning Commission shall be an officer or employee of the county.

(B) No voting member of the Planning Commission shall have received, during the two 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. Upon resolution by the County Board, a County Board member may serve as an ex officio member of the Planning Commission. Any member may be removed from the County Board for non-performance of duty or misconduct in office upon a majority vote of the Board of County Commissioners.

(Ord. passed - -2022)

§ 153.051 PAY, EXPENSES.

Members of the Planning Commission may be compensated in an amount determined by the County Board. All Commission members, including County Commissioners, may be paid their necessary expenses in attending meetings of the Commission and in the conduct of business of the Commission.

(Ord. passed - -2022)

§ 153.052 OFFICERS, PLAN PREPARATION, USE, PERMIT REVIEW.

The Planning Commission shall elect a chair and secretary from among its members and cooperate with the Zoning Administrator and other employees of the county in preparing and recommending to the Board for adoption a comprehensive plan and recommendations for plan execution in the form of official controls and other measures, and amendments thereto. The Commission shall review all applications for conditional use permits and plans for subdivisions of land and report thereon to the Board of County Commissioners.

(Ord. passed - -2022)

ZONING AMENDMENTS

§ 153.065 APPLICATION.

(A) This chapter may be amended whenever the public necessity and the general welfare require such amendment by following the procedure specified in this subchapter.

(B) Proceedings for amendment of this chapter shall be initiated by:

(1) A petition of the owner or owners of the actual property;

- (2) A recommendation of the County Planning Commission; and
- (3) Or by action of the Board of County Commissioners.

(C) An application for an amendment shall be filed with the Zoning Administrator. All applications for changes in the boundaries of any zoning district which are initiated by the petition of the owner or owners of property, the zoning of which is proposed to be changed, shall be accompanied by a map or plat showing the lands proposed to be changed and all lands within one-half mile of the boundaries of the property proposed to be rezoned, together with the names and addresses of the owners of the lands in such area as the same appears on the records of the county.

(D) All property owners within one-half mile shall be notified as to the time and place of the public hearing. All municipalities within two miles of the boundaries of the property proposed to be rezoned and the township within which the property proposed to be rezoned is located shall be given proper notice.

(Ord. passed - -2022)

§ 153.066 PUBLIC HEARING.

(A) Upon receipt in proper form of the application and other requested material, the county's Planning Commission shall hold at least one public hearing in a location to be prescribed by the Planning Commission.

(B) At least ten days in advance of such hearing notice of the time, place, and purpose of such hearing shall be published in the official paper of the county. Written notice of the public hearing shall be sent to the governing bodies of all towns and all municipalities located within the county.

(Ord. passed - -2022)

§ 153.067 AUTHORIZATION.

(A) Following the public hearing, the County Planning Commission shall make a report of its findings and recommendations on the proposed amendment and shall file a copy with the Board of County Commissioners and the Zoning Administrator within 60 days after the hearing. If no report or recommendation is transmitted by the County Planning Commission within 60 days after the hearing, the Board of County Commissioners may take action without awaiting such recommendation.

(B) Upon the filing of such report or recommendation, the Board of County Commissioners may hold such public hearings upon the amendment as it deems advisable. After the conclusion of the hearings, if any, the Board of County Commissioners may adopt the amendment or any part thereof in such form as it deems advisable. The amendment shall be effective only if four-fifths of all the members of the Board concur in its passage.

(Ord. passed - -2022)

§ 153.068 FEES.

To defray the administrative cost of processing requests for amendments to this chapter, a fee not exceeding administrative costs shall be paid by the petitioner. Such fee shall be determined by the Board of County Commissioners.

(Ord. passed - -2022)

§ 153.069 AMENDMENTS TO THE FLOODPLAIN DESIGNATION.

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

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

(Ord. passed - -2022)

CONDITIONAL USE PERMITS**§ 153.080 APPLICATION.**

(A) *General.* Conditional use permits may be issued for any and only the uses or purposes for which such permits are required or permitted by provisions of this chapter.

(B) *Application.* An application for a conditional use permit shall be filed with the Zoning Administrator on a form prescribed by the Board of County Commissioners. The application shall be accompanied by such plans and elevations and site plans as prescribed by the County Planning Commission.

(C) *Notice to township boards.* The Zoning Administrator shall forward a copy of the application, together with notice of hearing as required in § 153.081 of this chapter, to the Chair of the township board in the township affected.

(Ord. passed - -2022)

§ 153.081 PUBLIC HEARING AND NOTIFICATION.

(A) *Public hearing.* Prior to the consideration of any request for a conditional use permit, a public hearing shall be held. Such public hearings may be continued from time to time and additional hearings may be held.

(B) *Notice.* Upon receipt in proper form of the application and other requested material, the County Planning Commission shall hold at least one public hearing in a location to be prescribed by the Planning Commission. Notice of the time, place and purpose of the public hearing shall be given by publication in a newspaper of general circulation in the town, municipality or other area concerned, and in the official newspaper of the county at least ten days before the hearing. Written notice shall be sent to all property owners of record within 500 feet of the affected property in incorporated areas. In unincorporated areas written notice shall be sent to owners of record within one-half mile of the affected property or to the ten properties nearest to the affected property, whichever would provide notice to the greatest number of owners. Written notice shall also be given to the affected board of town supervisors, and the municipal council of any municipality within two miles of the affected property.

(C) *Who runs hearing.* The Board may assign responsibility to conduct public hearings for one or more purposes to the Planning Commission, Board of Adjustment or any official or employee of the county.

(Ord. passed - -2022)

§ 153.082 REPORT TO THE COUNTY BOARD.

(A) For each application for a conditional use, the County Planning Commission shall report to the Board of County Commissioners its findings and recommendations, including the stipulation of additional conditions and guarantees that such conditions will be compiled complied with when they are deemed necessary for the protection of the public interest. Upon receipt of the report of the Planning Commission, the Board of County Commissioners shall hold whatever public hearings it deems advisable and shall make a decision upon the proposal to grant or deny a conditional use permit.

(B) The Planning Commission may recommend, and the County Board may impose such additional restrictions or conditions as it deems necessary to protect the public interest, including, but not limited to, matters relating to appearance, lighting, hours of operation, care of public rights-of-way affected and performance characteristics. When appropriate, restrictive covenants may be entered into regarding such matters.

(Ord. passed - -2022)

§ 153.083 FINDINGS.

(A) No conditional use shall be recommended by the County Planning Commission unless said Commission shall find:

(1) That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity;

(2) That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area;

(3) That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided;

(4) That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use;

(5) That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result; and

(6) The use or development conforms to the comprehensive Land Use Plan of the county.

(B) With respect to uses for which material shall be hauled or carried on highways, roads or other public rights-of-way the above findings shall also relate to the property in the immediate vicinity of the proposed hauling route.

(Ord. passed - -2022)

§ 153.084 FEES.

To defray administrative costs of processing requests for conditional use permits, a fee shall be paid by the applicant. Such fee shall be established by the Board of County Commissioners.

(Ord. passed - -2022)

§ 153.085 COMPLIANCE.

Any use permitted under the terms of any conditional use permit shall be established and conducted in conformity with the terms of such permit and of any conditions designated in connection therewith.

(Ord. passed - -2022)

§ 153.086 DURATION.

A conditional use permit shall remain in effect for so long as the conditions agreed upon are observed; provided that, nothing in this subchapter shall prevent the Board from enacting or amending official controls to change the status of the conditional uses.

(Ord. passed - -2022)

§ 153.087 COPY FILED.

A certified copy of any conditional use permit shall be filed with the County Recorder. The conditional use permit shall include the legal description of the property involved.
(Ord. passed - -2022)

§ 153.088 PERMIT TIME LENGTH.

A conditional use permit shall be substantially implemented within two years of the date of issuance or reapplication will be required.
(Ord. passed - -2022)

§ 153.089 PROCEDURES FOR EVALUATING PROPOSED CONDITIONAL USES WITHIN THE GENERAL FLOODPLAIN DISTRICT.

(A) Upon receipt of an application for a conditional use permit for a use within the General Floodplain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the County Board of Commissioners for the determination of the regulatory flood protection elevation and whether the proposed use is within the floodway or flood fringe:

(1) A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development and high water information;

(2) Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type; and

(3) Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.

(B) One copy of the above information shall be transmitted to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the floodway or flood fringe and to determine the regulatory flood protection elevation. Procedures consistent with the Minn. Regs. No. 86-87 shall be followed in this expert evaluation. 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 base upon a hydraulic analysis of the stream channel and over bank areas; and

(3) Compute the floodway necessary to convey the regional flood without increasing flood stages more than one-half foot. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.

(C) Based upon the technical evaluation of the designated engineer or expert, the County Board of Commissioners shall determine whether the proposed use is in the floodway or flood fringe and the regulatory flood protection elevation at the site.

(D) Procedures to be followed by the County Board of Commissioners in passing on conditional use permit applications within all floodplain districts are as follows:

(1) Require the applicant to furnish such of the following information and additional information as deemed necessary by the County Board of Commissioners for determining the suitability of the particular site for the proposed use:

(a) Plans in triplicate drawn to scale showing the nature, location, dimensions and elevation of the lot, existing or proposed structures, fill, storage of materials, flood-proofing measures and the relationship of the above to the location of the stream channel; and

(b) Specifications for building construction and materials, flood-proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.

(2) Transmit one copy of the information described in division (D)(1) above 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; and

(3) Based upon the technical evaluation of the designated engineer or expert, the County Board of Commissioners shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

(E) Factors upon which the decisions of the County Board of Commissioners shall be based: In passing upon conditional use applications, the County Board of Commissioners shall consider all relevant factors specified in § 153.083 of this chapter, and may also consider the following:

(1) The danger to life and property due to increased flood heights or velocities caused by encroachment;

(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 service provided by the proposed facility to the county;

(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 floodplain 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; and

(12) Such other factors which are relevant to the purposes of this chapter.

(F) Upon consideration of the factors listed above and the purpose of this chapter, the County Board of Commissioners shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this chapter. 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; and

(5) Flood-proofing measures, in accordance with the state's Building Code. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood protection elevation and associated flood factors for the particular area.

(G) A copy of all decisions granting conditional use permits in floodplains shall be forwarded by mail to the Commissioner of Natural Resources within ten days of such action.

(Ord. passed - -2022)

VARIANCES**§ 153.100 GENERALLY.**

Variations may only be granted in accordance with M.S. Ch. 394, as applicable and as it may be amended from time to time. A variance may not circumvent the general purposes and intent of this chapter. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest. In considering a variance request, the Board of Adjustment must also consider whether the property owner has reasonable use of the land without the variance, whether the property is used seasonally or year-round, whether the variance is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties. For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a non-conforming sewage treatment system.

(Ord. passed - -2022)

§ 153.101 CRITERIA FOR GRANTING VARIANCES.

(A) A variance to the provision of this chapter may be issued to provide relief to the land owner in those zones where the ordinance imposes undue hardship or practical difficulties to the property owner in the use of his or her land. No use variances may be issued.

(B) A variance may be granted only in the event that the following circumstances exist:

(1) Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, topography or other circumstances over which the owners of property since enactment of this chapter have had no control;

(2) That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;

(3) That the special conditions or circumstances do not result from the actions of the applicant;

(4) That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to owners of other lands, structures or buildings in the same district;

(5) The variance requested is the minimum variance which would alleviate the hardship;

(6) The variance would not be materially detrimental to the purpose of this chapter, or to property in the same zone; and

(7) In the Floodplain District no variance may be granted which permits a lower degree of protection than the regulatory flood protection elevation.
(Ord. passed - -2022)

§ 153.102 VARIANCE EXCEPTIONS.

(A) In instances where a permit request has been made to improve or add on to an existing structure which does not meet present setback requirements a variance will not be required as long as the applied for construction will be parallel to or away from the regulating point such as the side lot line or the ordinary high water mark. This exception does not apply to road setbacks.

(B) On undeveloped shoreland lots that have two adjacent lots with existing principal structures on both adjacent lots, any new residential structure may be set back to the average setback of the principal structures from the ordinary high water mark or 50 feet whichever is greater; provided, all other provisions of the shoreland district are complied with.
(Ord. passed - -2022)

§ 153.103 PROCEDURE.

(A) The person applying for a variance shall fill out and submit to the Zoning Administrator a variance request form.

(B) The Zoning Administrator shall refer the application to the Zoning Board of Adjustment and Appeals for review.

(C) The Zoning Board of Adjustment and Appeals shall hold a public hearing on the proposal. Notice of the public hearing shall be published in the official newspaper designated by the County Board at least ten days prior to the hearing. Notice of the hearing shall also be submitted to the affected township clerk and/or municipal clerk within the county. In unincorporated or incorporated areas of the county, property owners of record within 500 feet of the affected property shall be notified in writing of the public hearing on the request for a variance.

(D) Notifications to the Department of Natural Resources. Copies of all notices of any public hearings to consider variances, under local shoreland and floodplain management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked at least ten days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.

(E) The petitioner or his representative shall appear before the Zoning Board of Adjustment in order to answer questions concerning the proposed variance.

(F) The Zoning Board of Adjustment must take action on the application within 90 days after receiving the application. If it grants the variance, the Zoning Board of Adjustment may impose

conditions (including time limits) 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.

(G) A copy of the final decisions granting or denying a variance in the shoreland and floodplain district must be sent to the Commissioner or the Commissioner's designated representative and postmarked within ten days of final action.

(H) (1) The Zoning Administrator shall notify the applicant for a variance that:

(a) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and

(b) Such construction below the 100-year or regional flood level increases risks to life and property.

(2) Such notification shall be maintained with 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.

(Ord. passed - -2022)

LAND USE AND BUILDING PERMITS

§ 153.115 LAND USE AND BUILDING PERMITS.

(A) *Permitted required.* A permit issued by the Zoning Administrator in conformity with the provisions of this chapter shall be secured prior to the erection, addition, removal, demolition 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 placement of fill, excavation of materials or the storage of materials or equipment within the floodplain.

(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.* State and federal permits shall be the responsibility of the applicant.

(D) *Construction and use to be as provided on applications, plans, permits, variances and certificates of zoning compliance.* Zoning permits, conditional use permits or certificates of zoning compliances issued on the basis of approved plans and applications authorize only the use, arrangement

and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Any use, arrangement or construction at variance with that authorized shall be deemed a violation of this chapter.

(E) *Permit time length.* A zoning permit shall be substantially implemented within two years of the date of issuance or reapplication will be required.
(Ord. passed - -2022)

§ 153.116 UTILITY PERMITS.

(A) (1) Before any underground or aboveground utility, such as power lines, telephone lines, sanitary or storm sewer lines, water lines, gas lines, fire lines and the like is installed in the right-of-way of any county highway, county state aid highway or town road a permit shall be obtained from the county engineer.

(2) The application for the new utility permit shall be accompanied by such plans, drawing and as-built drawings as deemed necessary by the County Engineer.

(B) Where such utility lines are along highways and roads, such utility lines may be required to be built in the right-of-way.

(C) Such utility permits shall not be required to maintain, reconstruct or relocate existing lines or maintain pole line anchors where the general line established in the original permits is maintained, or such line is in existence at the time of the adoption of this chapter.

(D) Public utility buildings not customarily considered industrial in use, as well as electric substations and similar utility structures, are permitted in the Limited Industrial District and may be constructed in all other districts, except any Special Protection Shorelands District, if a conditional use permit is granted under § 153.228 of this chapter. However, no such facilities shall be constructed within 50 feet of any line of an abutting lot in any residence district.

(E) Since transmission services (i.e., utility service such as high voltage (35 KV or greater) electrical power or bulk gas or fuel being transferred from station to station and not intended for in-route consumption) may have an effect on county land uses, the owner of the proposed services shall, prior to any condemnation or construction, comply with the following.

(1) The owner shall file with the Zoning Administrator such maps indicating the location, alignment and type of service proposed as shall be requested.

(2) Maps and accompanying data on location and alignment of the transmission services shall be submitted to the County Planning Commission for review and recommendations regarding the relationship between the proposed transmission services and the county land uses along the proposed route.

(3) Following such review, the County Planning Commission shall make a report of its findings and recommendations on the proposed transmission services and shall file such report with the County Board.

(4) Upon receipt of the report of the County Planning Commission, the Board of County Commissioners shall consider the maps and accompanying data and shall either approve the proposed route or make modifications considered desirable under this chapter. The Board shall transmit to the owner in writing any modifications and the reason for such modifications. The owner shall not construct any service along any route not approved by the county.

(5) No filing shall be necessary to maintain, reconstruct or relocate existing lines or facilities where the general line and confirmation thereof remain essentially the same. Recognizing a need for timely and adequate service by owners of transmission services, the county shall act upon any filing within 45 days of receipt by the Zoning Administrator. Failure to act within such time shall constitute approval.

(Ord. passed - -2022)

§ 153.117 DEADLINES FOR COUNTY ACTION REGARDING APPLICATIONS FOR VARIANCES, AMENDMENTS, REZONINGS AND APPEALS.

(A) When all application requirements have been complied with, the request is considered as officially submitted. The county must, except as otherwise provided herein and notwithstanding any other law to the contrary, approve or deny within 60 days. Failure to do so results in automatic approval of the request. A denial must include a written reason.

(B) In requesting additional information from the applicant, the county must do so in writing, within 30 business days of the original application (or follow-up submittal) in order to start the 60-day limit over.

(C) If an action requires the approval of more than one state agency in the executive branch, the 60-day period begins to run for all executive branch agencies on the day a request containing all required information is received by one state agency. The agency receiving the request must forward copies to other agencies whose approval is required.

(D) The time limit is extended if a state statute, federal law or court order requires a process to occur before the agency acts on the request, and the time periods prescribed in the state statute, federal law or court order make it impossible to act on the request within 60 days. In cases described in this division (D), the deadline is extended to 60 days after completion of the last process required in the applicable statute, law or order. Final approval of an agency receiving a request is not considered a process for purposes of this division (D).

(E) (1) The time limit is extended if:

(a) A request submitted to a state agency requires prior approval of a federal agency; or

(b) An application submitted to a city, county, town, school district, metropolitan or regional entity or other political subdivision requires prior approval of a state or federal agency.

(2) In cases described in this division (E), the deadline for action is extended to 60 days after the required prior approval is granted.

(F) The county may extend the timeline before the end of the initial 60-day period by providing written notice of the extension to the applicant. The notification must state the reasons for the extension and its anticipated length, which may not exceed 60 days unless approved by the applicant.
(Ord. passed - -2022)

NON-CONFORMING USES

§ 153.130 NON-CONFORMING BUILDINGS AND USES.

(A) The lawful use of buildings or land existing at the effective date of this chapter which does not conform to the provisions of this chapter shall be discontinued within a reasonable period of amortization of the building; uses of buildings and land which become non-conforming by reason of change in this chapter shall also be discontinued within a reasonable period of amortization of the building. A reasonable period of amortization shall be construed to begin after the date of adoption of this chapter and shall be considered to be 40 years for buildings of ordinary wood construction, 50 years for buildings of wood and masonry construction and 60 years for buildings of fireproof construction.

(B) Buildings found to be non-conforming only by reason of height, yard or area requirements shall be exempt from the provisions of division (A) above.
(Ord. passed - -2022)

§ 153.131 NON-CONFORMING SIGNS.

(A) Signs existing on the effective date of this chapter which do not conform to the regulations set forth in this chapter shall become a non-conforming use and shall be discontinued within a reasonable period of amortization of the sign; uses of signs which become non-conforming by reason of a subsequent change in this chapter shall also be discontinued within a reasonable period of amortization of the sign. The period of amortization for signs shall be not more than:

- (1) Advertising signs: five years from the effective date of this chapter; or
- (2) Business signs: five years from the effective date of this chapter.

(B) Business signs on the premises of non-conforming building or use may be continued, but such signs shall not be increased in number, area, height or illumination. New signs not to exceed erected

only upon the complete removal of all other signs existing at the time of the adoption of this chapter. Such signs may be illuminated, but no flashing, rotating or moving signs shall be permitted.

(C) No sign erected before the passage of this chapter shall be rebuilt, altered or moved to a new location without being brought into compliance with the requirements of this chapter.
(Ord. passed - -2022) Penalty, see § 153.999

§ 153.132 NON-CONFORMING SALVAGE YARD.

(A) No salvage yard may continue as a non-conforming use for more than five years after the effective date of this chapter, except that a salvage yard may continue as a non-conforming use in a business or industrial district, if, within that period, it is completely enclosed within a building, fence, screen planting or other device of such height as to screen completely the operations of the salvage yard.

(B) Plans of such a building or device shall be approved by the County Planning Commission and the Board of County Commissioners before it is erected or put into place.
(Ord. passed - -2022) Penalty, see § 153.999

§ 153.133 DISCONTINUANCE.

(A) In the event that a non-conforming use of any building or premises is discontinued or its normal operation stopped for a period of one year, the use of the same shall thereafter conform to the regulations of the district in which it is located.

(B) In the event that the use of a non-conforming advertising sign structure is discontinued or its normal operation stopped for a period of six months, said structure shall be removed by the owner or lessor at the request of the Board of County Commissioners.
(Ord. passed - -2022)

§ 153.134 ALTERATIONS.

(A) The lawful use of a building existing at the time of the adoption of this chapter may be continued, although such use does not conform with the provisions hereof. The foregoing provisions shall also apply to non-conforming uses in districts hereafter changed. Whenever a non-conforming use of a building has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed into a less restricted use.

(B) The lawful use of a building, structure or premises existing at the time of the adoption of this chapter may be continued; provided that, no new permits of any kind may be issued until the premises has come into conformity with this chapter.
(Ord. passed - -2022)

§ 153.135 RESIDENTIAL ALTERATIONS.

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

(Ord. passed - -2022)

§ 153.136 DESTRUCTION OF NON-CONFORMING USE.

If any non-conforming use or structure is destroyed by any means, including floods, to an extent of 50% or more of its market value at the time of destruction, it shall not be reconstructed, except in conformity with the provisions of this chapter.

(Ord. passed - -2022)

§ 153.137 NORMAL MAINTENANCE.

(A) Maintenance of a building or other structure containing or used by a non-conforming use will be permitted when it includes necessary, non-structural repairs and incidental alterations which do not extend or intensify the non-conforming building or use.

(B) Nothing in this chapter shall prevent the placing of a structure in a safe condition when said structure is declared unsafe by the county's Zoning Administrator.

(Ord. passed - -2022)

§ 153.138 NON-CONFORMING SANITARY FACILITIES.

All sanitary facilities inconsistent with Ch. 150 of this code of ordinances, located within the jurisdictional limits of this chapter, shall be brought into conformity or discontinued within five years from the date of enactment of this chapter.

(Ord. passed - -2022)

§ 153.139 NON-CONFORMING USES LOCATED IN THE FLOODPLAIN DISTRICT.

(A) In the Floodplain District, no such use shall be expanded, changed, enlarged or altered in a way which increases its non-conformity.

(B) Any alteration or addition to a non-conforming structure or non-conforming use which would result in increasing the flood damage potential of the structure or use shall be protected to the regulatory flood protection elevation in accordance with any rules for elevation, fill or flood proofing techniques allowable in the state's Building Code, except as further restricted below.

(C) The cost of any structural alterations or additions to any non-conforming structure over the life of the structure shall not exceed 50% of the market value of the structure unless the conditions of this section are satisfied. The cost of all structural alterations and additions constructed since the adoption of the county's initial floodplain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds 50% of the current market value of the structure, then the structure must meet the standards of this chapter for new structures depending upon whether the structures is in the floodway or flood fringe, respectively.

(D) If any non-conforming use is discontinued for 12 consecutive months, any further use of the building premises shall conform to this chapter. The assessor shall notify the Zoning Administrator in writing of instances of non-conforming uses which have been discontinued for a period of 12 months. (Ord. passed - -2022)

CLASSIFICATION OF DISTRICTS

§ 153.150 DISTRICTS.

For the purpose of this chapter, the county is hereby divided into classes of districts which shall be designated as follows:

(A) Agriculture districts:

- (1) A-1, Limited Agriculture District; and
- (2) A-2, General Agriculture District.

(B) Residence district: R-1, Suburban Residence District;

(C) Shoreland district:

- (1) S-1, Shore Land District; and
- (2) F-1, Floodplain Management District.

(D) Business districts:

- (1) B-1, Highway Service Business District; and
- (2) B-2, General Business District.

(E) Industry district: I-1, General Industry District.
 (Ord. passed - -2022)

§ 153.151 MAPS.

(A) *Zoning map.* The location and boundaries of the districts established by this chapter are hereby set forth on the zoning map, and said map is hereby made a part of this chapter; said map shall be known as the “County Zoning Map”. Said map and all notations, references and data shown thereon are hereby incorporated by reference into this chapter and shall be as much a part of it as if all were fully described herein. It shall be the responsibility of the Zoning Administrator to maintain said map, and amendments thereto shall be recorded on said zoning map within 30 days after official publication of amendments. The official zoning map shall be kept on file with the Zoning Officer.

(B) *Floodplain zoning district map.* The boundaries of the Floodplain District shall be determined and established by the Official Floodplain Zoning District Map of Rock County, as amended.

(C) *Amendments.* All amendments to §§ 153.245 through 153.256 of this chapter, including revisions to the Official Floodplain Zoning District Map, shall be submitted to and approved by the Commissioner of Natural Resources prior to adoption. The floodplain designated on the Official Floodplain Zoning District Map shall not be removed unless the area is filled to an elevation at or above the regulatory flood protection elevation and is contiguous to lands outside of the floodplain.
 (Ord. passed - -2022)

§ 153.152 DISTRICT BOUNDARIES.

The boundaries between districts are, unless otherwise indicated, the centerlines of highways, roads, streets, alleys or railroad rights-of-way or such lines extended or lines parallel or perpendicular thereto; or plot or lot lines; or section, half-section, quarter-section, quarter-quarter-section or other fractional section lines of United States public land surveys, as established by law. Where figures are shown on the zoning map between a road and a district boundary line, they indicate that the district boundary line runs parallel to the road centerline at a distance therefrom equivalent to the number of feet so indicated, unless otherwise indicated.
 (Ord. passed - -2022)

§ 153.153 FUTURE DETACHMENT.

Any land detached from an incorporated municipality and placed under the jurisdiction of this chapter in the future shall be placed in the A-1 Limited Agriculture District, until placed in another district by action of the Board of County Commissioners after recommendation of the County Planning Commission.
 (Ord. passed - -2022)

§ 153.154 ORDERLY ANNEXATION.

Any land located adjacent to or in close proximity to existing incorporated cities within the county and designated under orderly annexation agreements on the zoning map shall be governed by the unit of government so designated in the joint resolution, and applicable zoning ordinances duly adopted.
(Ord. passed - -2022)

A-1 LIMITED AGRICULTURE DISTRICT**§ 153.165 PURPOSE.**

The intent of the A-1 Agriculture District is to provide a district that will:

- (A) Allow limited agricultural activities because of topographic and physiographic characteristics;
 - (B) Retain and protect areas of natural ground cover, including, but not limited to, established parks and conservation preserves for conservation and aesthetic purposes;
 - (C) Prevent scattered, non-farm growth; and
 - (D) Secure economy in governmental expenditures for public services, utilities and schools.
- (Ord. passed - -2022)

§ 153.166 PERMITTED USES.

The following uses shall be permitted in the A-1 Agriculture District:

- (A) Agriculture, including farm dwellings and agricultural buildings unless specifically addressed in § 153.167 of this chapter;
- (B) Parks, recreational areas, wildlife areas, game refuges and prairie preserves owned or operated by governmental agencies or non-profit organizations;
- (C) Flood control and watershed structures;
- (D) Essential services and power transmission lines, as regulated in §§ 153.115 through 153.117 of this chapter; and
- (E) Single family dwellings - newly constructed non-farm dwellings with the following conditions.
 - (1) The dwelling unit shall be located on a separately owned parcel.

(2) The parcel of land must have at least 200 feet of frontage, access to an existing road and have a minimum lot area of two acres, including public rights-of-way and a minimum depth of not less than 250 feet.

(3) A new non-farm residence must maintain the same setback distance from existing feedlots as is specified for a new feedlot (of a 1,000 animal units or less) from an existing residence, unless the new residence is built to replace an existing residence.

(Ord. passed - -2022)

§ 153.167 CONDITIONAL USES.

The following uses may be allowed in the A-1 Agriculture District:

(A) Commercial outdoor recreation areas that are similar to public recreation areas;

(B) Riding academies, stables;

(C) Organized group camps;

(D) Churches;

(E) Cemeteries, memorial gardens;

(F) Water supply buildings, reservoirs, wells, elevated tanks, regional pipelines and power lines, public sewage treatment facilities and similar essential public utility and service structures excluding wind towers for the commercial production of electrical energy;

(G) Essential services and power transmission lines, as regulated in §§ 153.115 through 153.117 of this chapter;

(H) Golf courses, golf club house, country club, public swimming pool, private swimming pool serving more than one family;

(I) Railroad rights-of-way, but not including railroad yards;

(J) Feedlots located no less than one mile from the statutory boundary of any state park, one-half mile from any R-1 District boundary, one-half mile from the boundary of any county or municipal park, recreational area, wildlife area, game refuge or prairie preserve and otherwise in compliance with the provisions of §§ 153.380 through 153.387 of this chapter;

(K) Truck farms;

(L) Produce stands;

(M) Storage of non-toxic chemicals;

(N) Commercial storage of fertilizer;

(O) Home occupations as defined at § 153.007 of this chapter; and

(P) Self-storage facility.

(Res. 23-21, passed 10-5-2021; Ord. passed - -2022)

§ 153.168 ACCESSORY USES AND STRUCTURES.

(A) Residential accessory uses include, but are not limited to, gardening, garage sales, storage of personal items, recreation, socializing and boarding.

(B) Agriculture accessory uses include, but are not limited to, sale products raised on the farm, seed sales and airstrips.

(C) Residential accessory structures include, but are not limited to, storage shed, garages, fences, gazebos, antennas, satellite dishes, light poles, flag poles, raised plant beds, personal green houses, swimming pools, play equipment, docks and boat lifts.

(D) Swimming pools must be enclosed within a chain link or similar fence five feet in height.

(E) Agricultural accessory structures include, but are not limited to, storage facilities, feeding equipment, animal shelters, irrigation systems and shops.

(F) Accessory structures must conform with yard and setback requirements with the following exceptions.

(1) Fences can be erected with zero setback.

(2) Sheds under 150 square feet in floor area can be within five feet of property lines in side yards and rear yards behind the dwelling.

(3) Structures shall be five feet away from each other if not attached.

(Ord. passed - -2022) Penalty, see § 153.999

§ 153.169 HEIGHT, YARD, AREA AND LOT WIDTH AND DEPTH REGULATIONS.

(A) *Height regulations.*

(1) No height regulation shall be imposed for agricultural buildings.

(2) No other building hereafter erected or altered shall exceed three stories or 40 feet in height.

(B) *Front yard regulations.*

(1) There shall be a front yard setback of not less than 130 feet from the centerline of all highways.

(2) There shall be a front yard setback of not less than 65 feet from the centerline of other public rights-of-way.

(3) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. No accessory buildings shall project beyond the front yard setback of either road.

(C) *Side yard regulations.* No side yard regulation shall be required for agricultural buildings. For other buildings, there shall be a side yard having a width of not less than 30 feet on each side of a building.

(D) *Rear yard regulations.* No rear yard regulation shall be required for agricultural buildings. For other buildings, there shall be a rear yard having a depth of not less than 30 feet.

(E) *Lot area regulations.* Every lot or plot of land on which a one-family dwelling is erected shall contain an area of not less than two acres on a separately owned parcel.
(Ord. passed - -2022) Penalty, see § 153.999

§ 153.170 GENERAL REGULATIONS.

Additional requirements for feedlots, signs, parking and other regulations in the A-1 Agriculture District are set forth herein and incorporated into this subchapter by this reference.
(Ord. passed - -2022)

A-2 GENERAL AGRICULTURE DISTRICT

§ 153.185 PURPOSE.

The intent of the A-2 Agriculture District is to provide a district that will:

(A) Allow suitable areas of the county to be retained in agricultural use;

(B) Prevent scattered, non-farm development; and

(C) Secure economy in governmental expenditures for public services, utilities and schools.
(Ord. passed - -2022)

§ 153.186 PERMITTED USES.

The following uses shall be permitted within the A-2 Agricultural District:

(A) Agriculture, including farm dwellings and agricultural buildings unless specifically addressed in § 153.187 of this chapter;

(B) Parks, recreational areas, wildlife areas, game refuges and prairie preserves owned or operated by governmental agencies or non-profit organizations;

(C) Flood control and watershed structures;

(D) Nurseries and tree farms;

(E) Riding academies, stables;

(F) Flood control and watershed structures;

(G) Advertising signs and billboards, as regulated in §§ 153.330 through 153.334 of this chapter;

(H) Feedlots of no more than 1,000 animal units and otherwise on compliance with the provisions of §§ 153.380 through 153.387 of this chapter;

(I) Essential services and power transmission lines as regulated in §§ 153.115 through 153.117 of this chapter;

(J) Single-family dwellings:

(1) One newly constructed non-farm dwelling with the following conditions:

(a) The dwelling unit shall be located entirely within a 40 acre parcel (one-quarter of a one-quarter section) and shall be the only non-farm dwelling of said parcel;

(b) The parcel of land must have at least 200 feet of frontage, access to an existing road, and have a minimum lot area of two acres, including public rights-of-way; and

(c) A new non-farm residence must maintain the same setback distance from existing feedlots as is specified for a new feedlot (of a 1,000 animal units or less) from an existing residence, unless the new residence is built to replace an existing residence.

(2) The limitations of division (J)(1) above notwithstanding, non-farm dwellings shall be allowed at densities exceeding one per 40 acres if the property for which the permit is requested, as measured from its nearest point, is within:

- (a) Two miles of the statutory limits of the City of Luverne;
- (b) One mile of the statutory limits of any other statutory city in the county; or
- (c) One-quarter mile from the centerline of any state highway.

(Ord. passed - -2022)

§ 153.187 CONDITIONAL USES.

The following uses may be allowed in the A-2 Agriculture District, subject to § 153.190 of this chapter:

- (A) Commercial outdoor recreation areas that are similar to public recreation areas;
- (B) Organized group camps;
- (C) Water supply buildings, reservoirs, wells, elevated tanks, regional pipelines and power lines, public sewage treatment facilities, sanitary landfill operations and similar essential public utility and service structures;
- (D) Essential services and power transmission lines, as regulated in [*reserved*];
- (E) Local municipal administration and service buildings;

(F) Golf course and club house, country club, public swimming pool, private swimming pool serving more than one family;

- (G) Stock and poultry feeding operations or feedlots, exceeding 1,000 animal units;
- (H) Railroad rights-of-way, but not including railroad yards;
- (I) Grain storage bins as a primary use;
- (J) Dog kennels;

(K) Commercial wireless telecommunication towers and antennas subject to the provisions of §§ 153.425 and 153.426 of this chapter;

(L) Public, parochial or other private elementary, middle, junior high or senior high schools, offering a curriculum equivalent to the public school system and not operated for profit; when located one mile or more from an existing feedlot;

(M) Churches, when located one-half mile or more from an existing feedlot;

(N) Hospitals, convalescent or nursing homes, when located one mile or more from an existing feedlot;

(O) Extraction of minerals, as regulated in §§ 153.345 through 153.353 of this chapter;

(P) Truck farms;

(Q) Produce stands;

(R) Cemeteries and memorial gardens;

(S) Storage of non-toxic chemicals;

(T) Commercial storage of fertilizer;

(U) Home occupations, as defined at § 153.007 of this chapter;

(V) Renewable energy developments, as regulated in §§ 153.400 through 153.412 of this chapter;

(W) Small business, as defined in § 153.007 of this chapter with more than five full-time equivalent employees;

(X) Agricultural-orientated business, as defined in § 153.007 of this chapter not qualifying as a small business;

(Y) Self-storage facility; and

(Z) Campgrounds.

(Res. 23-21, passed 10-5-2021; Ord. passed - -2022)

§ 153.188 ACCESSORY USES AND STRUCTURES.

(A) Residential accessory uses include, but are not limited to, gardening, garage sales, storage of personal items, recreation, socializing and boarding.

(B) Agriculture accessory uses include, but are not limited to, sale products raised on the farm, seed sales and airstrips.

(C) Residential accessory structures include, but are not limited to, storage shed, garages, fences, gazebos, antennas, satellite dishes, light poles, flag poles, raised plant beds, personal green houses, swimming pools, play equipment, docks and boat lifts.

(D) Swimming pools must be enclosed within a chain link or similar fence five feet in height.

(E) Agricultural accessory structures include, but are not limited to, storage facilities, feeding equipment, animal shelters, irrigation systems and shops.

(F) Accessory structures must conform with yard and setback requirements with the following exceptions.

(1) Fences can be erected with zero setback.

(2) Sheds under 150 square feet in floor area can be within five feet of property lines in side yards and rear yards behind the dwelling.

(3) Structures shall be five feet away from each other if not attached.

(Ord. passed - -2022) Penalty, see § 153.999

§ 153.189 HEIGHT, YARD, AREA AND LOT WIDTH AND DEPTH REGULATIONS.

(A) *Height regulations.*

(1) No height regulation shall be imposed for agricultural buildings.

(2) No other building hereafter erected or altered shall exceed three stories or 40 feet in height.

(B) *Front yard regulations.*

(1) There shall be a front yard setback of not less than 130 feet from the centerline of all highways.

(2) There shall be a front yard setback of not less than 65 feet from the centerline of other public rights-of-way.

(3) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. No accessory buildings shall project beyond the front yard setback of either road.

(C) *Side yard regulations.*

(1) No side yard regulations shall be required for agricultural buildings.

(2) For other buildings, there shall be a side yard having a width of not less than 15 feet on each side of a building.

(D) *Rear yard regulations.*

(1) No rear yard regulations shall be required for agricultural buildings.

(2) For other buildings, there shall be a rear yard having a depth of not less than 30 feet.

(E) *Lot area regulations.* Every lot or plot of land on which a one-family dwelling is erected shall contain an area of not less than two acres on a separately-owned parcel.

(F) *Lot width and depth regulations.* Every lot or plot of land on which a one family dwelling is erected shall have a minimum width of not less than 150 feet at the building setback line, a minimum frontage upon a public road, street or highway of 150 feet, and a minimum depth of not less than 220 feet.

(Ord. passed - -2022)

§ 153.190 GENERAL REGULATIONS.

Additional requirements for feedlots, signs, parking and other regulations in the A-2 Agriculture District are set forth herein and incorporated into this subchapter by this reference.

(Ord. passed - -2022)

R-1 SUBURBAN RESIDENCE DISTRICT

§ 153.205 PURPOSE.

The intent of the R-1 Suburban Residence District is to provide a district that will allow low density residential development and on-lot utilities in areas adjacent to urban development, but where municipal utilities are not available.

(Ord. passed - -2022)

§ 153.206 PERMITTED USES.

The following uses shall be permitted within the R-1 Residence District:

(A) One-family dwellings; provided that, the dwelling is located 50 feet or more from any lot line abutting an existing agricultural use;

(B) Parks and recreational areas owned or operated by governmental agencies;

(C) Public schools or private schools having a curriculum equivalent to a public elementary school or public high school; provided that, no building shall be located within 50 feet of any lot line of an abutting lot in any of the classes of residence districts;

(D) Churches; provided that no building shall be located within 50 feet of any lot line of an abutting lot in any of the classes of residence districts;

(E) Agriculture, farming and truck farming, except kennels operated for commercial purposes;

(F) Hospital, convalescent or nursing home; and

(G) Essential services and power transmission lines, as regulated in [*reserved*].
(Ord. passed - -2022)

§ 153.207 CONDITIONAL USES.

The following uses may be allowed in the R-1 Residence District, subject to § 153.201 of this chapter, which provisions are incorporated into this subchapter by this reference:

(A) Municipal administration buildings, police and fire stations, community center buildings, public libraries, museums, art galleries, post office and other municipal service buildings, except those customarily considered industrial in use; and, provided that, no buildings shall be located within 50 feet of any lot line of an abutting lot in any of the classes of residence districts;

(B) Water supply buildings, reservoirs, wells, elevated tanks and similar essential service structures; except that, no structure shall be located within 50 feet of the lot line of an abutting lot in any of the classes of residence districts;

(C) Essential services and power transmission lines, as regulated in §§ 153.115 through 153.117 of this chapter;

(D) Golf club house, country club, public swimming pool, private swimming pool serving more than one family; provided that, no principal structure shall be located within 50 feet of any lot line of an abutting lot in any of the classes of residence districts;

(E) Offices of professional persons and home occupations, when such use does not exceed one-third of the main floor space of a dwelling and is conducted only in the principal dwelling;

(F) Railroad rights-of-way, but not including railroad yards;

(G) Cemetery, memorial garden;

(H) Two-family and multi-family dwellings located on a lot or plot complying with the lot area, width and depth regulations of this section; and

(I) Home occupations, as defined at § 153.007 of this chapter.
(Ord. passed - -2022)

§ 153.208 ACCESSORY USES AND STRUCTURES.

(A) Residential accessory uses include, but are not limited to, gardening, garage sales, storage of personal items, recreation, socializing and boarding.

(B) Agriculture accessory uses include, but are not limited to, sale products raised on the farm, seed sales and airstrips.

(C) Residential accessory structures include, but are not limited to, storage shed, garages, fences, gazebos, antennas, satellite dishes, light poles, flag poles, raised plant beds, personal green houses, swimming pools, play equipment, docks and boat lifts.

(D) Swimming pools must be enclosed within a chain link or similar fence five feet in height.

(E) Agricultural accessory structures include, but are not limited to, storage facilities, feeding equipment, animal shelters, irrigation systems and shops.

(F) Accessory structures must conform with yard and setback requirements with the following exceptions.

(1) Fences can be erected with zero setback.

(2) Sheds under 150 square feet in floor area can be within five feet of property lines in side yards and rear yards behind the dwelling.

(3) Structures shall be five feet away from each other if not attached.

(Ord. passed - -2022)

§ 153.209 HEIGHT, YARD, AREA AND LOT WIDTH AND DEPTH REGULATIONS.

(A) *Height regulations.* No building hereafter erected or altered shall exceed three stories or 40 feet in height.

(B) *Front yard regulations.*

(1) There shall be a front yard setback of not less than 130 feet from the centerline of all highways.

(2) There shall be a front yard setback of not less than 65 feet from the centerline of all other public rights-of-way.

(3) (a) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot.

(b) No accessory buildings shall project beyond the front yard setback of either road.

(C) *Side yard regulations.* There shall be a side yard having a width of not less than 15 feet on each side of a building.

(D) *Rear yard regulations.* There shall be a rear yard having a depth of not less than 30 feet.

(E) *Lot area regulations.* Every lot or plot of land on which a dwelling is erected shall contain an area of not less than:

(1) Twenty-two thousand square feet for lots with individual water and sewer systems; or

(2) Fifteen thousand square feet for lots with community water or sewer systems.

(F) *Lot width and depth regulations.* Every lot or plot of land on which a one-family dwelling is erected shall have a minimum width of not less than 100 feet at the building setback line and a minimum depth of 150 feet for lots with individual water and sewer systems.

(Ord. passed - -2022)

§ 153.210 GENERAL REGULATIONS.

Additional requirements for signs, parking and other regulations in the R-1 Residence District are set forth herein and incorporated into this subchapter by this reference.

(Ord. passed - -2022)

S-1 SHORELAND DISTRICT

§ 153.225 PURPOSE.

The intent of the S-1 Shoreland District is to provide a district which will allow the proper development and control of waters and related land resources within the county.

(Ord. passed - -2022)

§ 153.226 PUBLIC WATERS CLASSIFICATION.

The shorelands of the county are hereby classified in one land use area known as the “General Shoreland Use Area”. Final determination of the exact location of the General Shoreland Use Area shall

be made by the Zoning Administrator, subject to appeal to the Board of Adjustment as provided for in §§ 153.035 through 153.039 of this chapter.

(Ord. passed - -2022)

§ 153.227 PERMITTED USES.

The following uses are permitted within the S-1 Shoreland District:

(A) Agriculture, not to include feedlots;

(B) Forestry;

(C) Parks, waysides and golf courses which do not maintain overnight camping facilities;

(D) Nature areas, hiking and riding trails, wildlife preserves and designated official wetland areas;
and

(E) Designated historical sites.

(Ord. passed - -2022)

§ 153.228 CONDITIONAL USES.

The following uses may be allowed in the S-1 Shoreland District, subject to § 153.233 of this chapter:

(A) All approved aerial or underground utility line crossings, such as electrical, telephone, telegraph or gas lines which cannot be reasonably located outside the area;

(B) Non-residential structures used solely in conjunction with raising wild animals or fish; provided, the structures are of a design approved by the County Board as being compatible with other general allowable uses of the district;

(C) One-family seasonal or year round residential uses;

(D) Two-family and multi-family seasonal or year round residential uses;

(E) Mobile home parks; provided:

(1) Site plans for mobile home parks shall be approved by the Board of Commissioners;

(2) Mobile home parks shall be licensed by and in conformance with the standards prescribed by the state's Department of Health, except where provisions of this chapter are more restrictive, and then these provisions shall prevail;

(3) There shall be at least ten feet between sides of adjacent mobile homes, including their attachments and at least three feet between mobile homes when parked end to end;

(4) A centralized sewage disposal facility which meets the standards, criteria, rules or regulations of the state's Department of Health and the Pollution Control Agency must be installed;

(5) The location of this facility shall be consistent with the number of units served, soil types and topography. The facility shall be setback from the normal high water mark at a distance approved by the Board of Commissioners; and

(6) Adequate vegetative screening shall be maintained for the mobile home park.

(F) Recreational camping vehicle areas; provided:

(1) Site plans for recreational camping vehicle areas shall be approved by the Board of Commissioners;

(2) Recreational camping vehicle areas shall be licensed by and meet the standards prescribed by the state's Department of Health, except where the provisions of this chapter are more restrictive, and then these provisions shall prevail;

(3) Each recreational camping vehicle site shall be at least 2,000 square feet in area;

(4) A centralized sewage disposal facility which meets the standards, criteria, rules and regulations of the state's Department of Health and the Pollution Control Agency must be installed; and

(5) Adequate vegetative screening for the recreational camping area shall be maintained.

(G) Hotels, motels, resorts and other permanent buildings which provide sleeping accommodations on a transient rental basis;

(H) Restaurants, drive-ins, dinner clubs, taverns and private clubs;

(I) Retail businesses, novelty shops and service facilities, such as gas stations, and any other establishments, except those engaged in manufacturing or processing enterprises;

(J) Commercial uses;

(K) Industrial uses which require location within shoreland areas;

(L) Feedlots;

(M) Truck farms; and

(N) Produce stands.
(Ord. passed - -2022)

§ 153.229 SANITARY PROVISIONS.

The following provisions relating to water supply, waste disposal and sewage disposal shall apply to both permitted and conditional uses in the S-1 Shoreland District.

(A) *Water supply.*

(1) Any public or private supply of water for domestic purposes must conform to State Department of Health standards for water quality.

(2) No person, firm or corporation shall install or extend any private well without first obtaining a permit therefor from the Zoning Administrator for the specific installation or extension.

(a) Application for permits shall be made in writing upon printed blanks or form furnished by the Zoning Administrator and shall be signed by the applicant.

(b) Each application for a permit shall have thereon the correct legal description of the property on which the proposed installation or extension is to take place. Each application for a permit shall be accompanied by a plan of the site.

(B) *Waste disposal.*

(1) The disposal of sewage and industrial wastes shall be subject to the standards, criteria, rules and regulations of the state's Pollution Control Agency.

(2) No rubbish or trash of any sort shall be thrown or discarded in any manner into any public water or into any watercourse leading to a public water.

(3) No solid waste disposal site shall be located within the jurisdiction of this chapter.

(C) *Sewage disposal.*

(1) Any premises intended for human occupancy must be provided with an adequate method of sewage disposal to be maintained in accordance with acceptable practices.

(2) No person, firm or corporation shall install, alter, repair or extend any individual sewage disposal system without first obtaining a permit therefor from the Zoning Administrator for the specific installation, alteration, repair or extension.

(a) Application for permits shall be made in writing upon printed blanks or forms furnished by the Zoning Administrator and shall be signed by the applicant.

(b) Each application for a permit shall have thereon the correct legal description of the property on which the proposed installation, alteration, repair or extension is to take place, and each application for a permit shall be accompanied by a plan of the site of reasonable scale and accuracy showing the location of any proposed or existing buildings located on the property with respect to the boundary lines of the property and complete plans of the proposed sewage disposal system with substantiating data, if necessary, attesting to the compliance with the minimum standards of this chapter.

(c) A complete plan shall include the location, size and design of all parts of the system to be installed, altered, repaired or extended. The application shall also show the present or proposed location of water supply facilities and water supply piping, and the name of the person, firm or corporation who is to install the system, and shall provide such further information as may be required by the Zoning Administrator.

(d) The Zoning Administrator may assign responsibility for administration of these provisions to a qualified inspector.

(3) Location and installation of the individual sewage disposal system shall be such that, with reasonable maintenance, it will function in a sanitary manner and will not create a nuisance, endanger the safety of any domestic water supply, nor pollute any waters of the state. In determining a suitable location for the system, consideration shall be given to the size and shape of the lot, slope of natural and finished grade, soil permeability, high ground water elevation, geology, proximity to existing or future water supplies and future expansion of the system.

(4) Privies shall be considered to be an adequate method of sewage disposal; provided, they are maintained in a clean condition and do not constitute a public nuisance. Privies shall be located at least ten feet from a dwelling or lot line, and they shall meet the structural setbacks from public waters specified herein.

(5) Only septic tanks meeting the specifications prescribed by the state's Department of Health and the state's Pollution Control Agency may be installed or constructed. Location of septic tanks shall be subject to the following restrictions: ten feet from any building intended for human occupancy; ten feet from a lot line; 50 feet from a well or other water supply; and, where feasible, the septic tank shall be placed downslope from a well.

(6) Placement of soil absorption systems shall be subject to the following specifications, where soil conditions are adequate:

(a) At least 50 feet from the normal high water mark; ten feet from a lot line; 20 feet from a building intended for human occupancy; and 50 feet from a well or other water supply source;

(b) Soil absorption or similar systems shall not be acceptable for disposal of domestic sewage for developments on lots adjacent to public waters under the following circumstances:

1. Low swampy areas or areas subject to recurrent flooding;

2. Areas where the highest known ground water table is within four feet of the bottom of the soil absorption system;
3. Areas of exposed bedrock or shallow bed rock within four feet of the bottom of the soil absorption system or where sub-surface conditions significantly restrict percolation of the effluent; or
4. Areas of ground slope where there is danger of seepage of the effluent onto the surface of the ground.

(7) Servicing of septic tanks and soil absorption units shall conform to the state's Department of Health and the state's Pollution Control Agency specifications. Disposal of sludge and scum removed from the system shall be:

- (a) Into a municipal sewage disposal system where practicable;
- (b) In the absence of a public sewer, at a disposal site designed by the Zoning Administrator; and
- (c) Sludge shall not be discharged into any lake or watercourse, nor on land without burial.

(8) Alternative methods of sewage disposal such as holding tanks, electric or gas incinerators, biological and/or tertiary waste treatment plants or land disposal systems wherever required or allowed in particular circumstances, shall be subject to the standards, criteria, rules and regulations of the state's Department of Health and the state's Pollution Control Agency.

(D) *Agricultural waste disposal.* Any agricultural waste disposal operations in shoreland areas must conform to the standards, criteria, rules and regulations of the state's Pollution Control Agency. (Ord. passed - -2022)

§ 153.230 LOT SIZE, STRUCTURE PLACEMENT AND SHORELAND ALTERATIONS.

(A) *Lot size.*

- (1) For lots newly platted or created by metes and bounds description:
 - (a) The minimum lot size shall be 22,000 square feet and at least 100 feet in width at the building line and at least 100 feet in width at the waterline for lots abutting a public water; and
 - (b) The total area of all structures proposed on a lot will not equal more than 30% of the lot area.
- (2) Lots of record in the County Recorder's office prior to the date of enactment of this chapter which do not meet the requirements immediately above may be allowed as building sites; provided, such

use is permitted in the zoning district, the lot is in separate ownership from abutting lands and all sanitary and dimensional requirements of the county ordinance are complied with insofar as practical.

(B) *Structure placement.*

(1) *Setbacks.* All structures, except boat houses, piers and docks shall be setback at least 75 feet from the normal high water mark and outside a floodway, as defined. In addition, the following setback requirements shall be used for all feedlots, unless there is stricter application by State Pollution Control Agency regulations.

(a) No feedlot of over 300 animal units shall be located within 1,000 feet of the normal high water mark of any lake, pond or water pit; or within 300 feet of a river or stream.

(b) No feedlot of over 1,000 animal units shall be located within one-half mile of ten or more homes or within 1,000 feet of a public park.

(2) No structure shall be placed in any area which will require grading and/or filling which will result in impairment of public waters by reason of erosion and sedimentation, violate provisions of *Statewide Standards and Criteria for Management of Floodplain Areas of Minnesota*, or result in impairment of fish and aquatic life.

(3) Location of structures in relation to side lot lines and roads:

(a) There shall be at least ten-foot side yard between any structure and side lot lines; and

(b) No structure shall be placed closer than 130 feet from the centerline of any federal, state or county trunk highway, or 65 feet from the centerline of any town road, public street or others not classified.

(4) Variances to the setback requirements of this division (B) may be granted under the following circumstances by the County Board of Adjustment, if not within a floodway:

(a) In areas where development exists on both sides of a proposed building site, water and road setbacks may be varied to conform to the existing established setbacks;

(b) In areas of unusual topography or substantial elevation above the lake level, the water setback may be varied to allow a riparian owner reasonable use and enjoyment of his or her property; or

(c) Where homes incorporate a method of sewage disposal other than soil absorption, water setbacks may reduced by one-third.

(5) Locations of signs and structural appurtenances thereto: all commercial advertising signs shall be of a size, shape and location so as not to be unduly prominent in their surroundings. The

regulations of signs hereunder are in addition to the provisions of M.S. 1969, c. 173, and regulations promulgated pursuant thereto.

(a) All signs, except the following when they are not more than six square feet in area, shall require a permit to be erected:

1. Signs advertising a customary home occupation;
2. Temporary signs advertising the sale, rent or lease of property; and
3. Recreational directory signs.

(b) Prohibited signs are:

1. Those which interfere with visibility of drivers or obstruct traffic signs;
2. Those which are illuminated by a flashing light or by any light directed toward a neighboring residence or toward the water, except emergency or warning signs;
3. Those which are composed of any conspicuous animated part; and
4. Those which are mounted on a dock or float.

(C) *Shoreland alterations.*

(1) The removal of natural vegetation shall be restricted to prevent erosion into public waters, to consume nutrients in the soil, and to preserve shoreland aesthetics. Removal shall be restricted within a strip 35 feet from the normal high water mark; provided, however, that, this provision shall not apply to permitted uses which normally require the removal of the natural vegetation.

(2) Grading and filling in shoreland areas or any alterations of the natural topography where the slope of the land is toward public water or a watercourse leading to a public water must be authorized by a conditional use permit obtained from the Board of County Commissioners and Planning Commission.

(3) The permit may be granted subject to the conditions that:

- (a) The smallest amount of bare ground is exposed for as short a time as feasible;
- (b) Temporary ground cover, such as mulch, is used and permanent ground cover, such as sod, is planted;
- (c) Methods to prevent erosion and trap sediment are employed; and
- (d) Fill is stabilized to accepted engineering standards.

(4) Excavations on shore lands where the intended purpose is connection to a public water shall require a permit from the county’s Zoning Administrator before construction is begun. Such permit may be obtained only after the Commissioner of Natural Resources has issued a permit for work in the beds of public waters.

(Ord. passed - -2022)

§ 153.231 LAND SUBDIVISIONS.

(A) No land shall be subdivided which is held not suitable for the proposed use by the Board of Commissioners for reason of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities or any other feature likely to be harmful to the health, safety or welfare of the future residents of the proposed subdivision or of the community.

(B) The Board of Commissioners in applying the provisions of this section shall in writing recite the particular facts upon which it bases its conclusions that the land is not suitable for the proposed use and afford the subdivider an opportunity to present evidence regarding such suitability at a public hearing as provided in M.S. § 394.26, as it may be amended from time to time. Thereafter, the Board of Commissioners may affirm, modify or withdraw its determination of unsuitability.

(Ord. passed - -2022) Penalty, see § 153.999

§ 153.232 NON-CONFORMING USES.

(A) Any uses in existence prior to the date of enactment of this chapter which do not conform to the use restrictions of the established zoning district are non-conforming uses. All sanitary facilities inconsistent herewith shall be brought into conformity or discontinued within five years from the date of enactment of this chapter. All other non-conforming uses shall be subject to the following conditions.

(1) No such use shall be expanded or enlarged except in conformity with the provisions of this chapter.

(2) No structural alteration, addition or repair to any non-conforming structure over the life of the structure shall exceed 50% of its assessed value at the time of its becoming a non-conforming use unless permanently changed to a conforming use.

(3) If such use is discontinued for 12 consecutive months, any future use of the building or premises shall conform to this chapter. The County Assessor shall notify the Zoning Administrator in writing of instances of non-conforming uses which have been discontinued for a period of 12 consecutive months.

(4) Uses or adjuncts thereof which are nuisances shall not be permitted to continue as non-conforming uses.

(B) Any uses of shorelands in existence prior to the date of enactment of this chapter which are permitted within the applicable zoning district, but do not meet the minimum lot area, setbacks or other dimensional requirements of this chapter are substandard uses, including substandard sanitary facilities, shall be allowed to continue. However, any structural alteration or addition to a substandard use which will increase the substandard dimensions shall not be allowed.

(Ord. passed - -2022)

§ 153.233 ADDITIONAL STANDARDS APPLICABLE TO CONDITIONAL USE PERMITS IN S-1 SHORELAND DISTRICT.

(A) In passing upon a conditional use permit in the S-1 Shoreland District, the Planning Commission shall evaluate the effect of the proposed use upon the following:

- (1) The maintenance of safe and healthful conditions;
- (2) The prevention of control of water pollution including sedimentation;
- (3) Existing topographic and drainage features and vegetative cover on the site;
- (4) The location of the site with respect to floodplains and floodways of rivers and streams;
- (5) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover;
- (6) The location of the site with respect to existing or future access roads;
- (7) The need of the proposed use for a shoreland location;
- (8) Its compatibility with uses on adjacent land;
- (9) The amount of liquid wastes to be generated and the adequacy of the proposed disposal systems; and
- (10) Locational factors under which:
 - (a) Uses not inherently a source of pollution within an area shall be preferred over uses that are or may be a pollution source; or
 - (b) Use locations within an area tending to minimize the possibility of pollution shall be preferred over use locations tending to increase that possibility.

(B) (1) Upon consideration of the factors listed above, the Planning Commission may attach such conditions, in addition to those required elsewhere in this chapter, that it deems necessary in furthering

the purposes of this chapter. Violation of any of these conditions may include specifications for, without limitation because of specific enumeration: type of shore cover; increased setbacks and yards; specified sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; locations of piers, docks, parking and signs; type of construction or any other requirements necessary to fulfill the purpose and intent of this chapter.

(2) In order to secure information upon which to base its determination, the Planning Commission may require the applicant to furnish, in addition to the information required for a zoning permit, the following information:

(a) A plan of the area showing contours, soil types, high water mark, ground water conditions, bedrock, slope and vegetative cover;

(b) Location of buildings, parking area, traffic access, driveways, walkways, piers, open spaces and landscaping;

(c) Plans of buildings, sewage disposal facilities, water supply systems and arrangements of operations;

(d) Specifications for areas of proposed filling, grading, lagooning or dredging; and

(e) Other pertinent information necessary to determine if the proposed use meets the requirements of this chapter.

(3) The Planning Commission in evaluating each application may request the County Soil and Water Conservation District to make available expert assistance from those state and federal agencies which are assisting said district under a memorandum of understanding and any other state or federal agency which can provide technical assistance.

(Ord. passed - -2022)

F-1 FLOODPLAIN MANAGEMENT DISTRICT

§ 153.245 PURPOSE.

The intent of the Floodplain Management District is to maintain the county's eligibility in the National Flood Insurance Program and to minimize potential losses due to periodic flooding including loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(Ord. passed - -2022)

§ 153.246 WARNING OF DISCLAIMER OF LIABILITY.

This subchapter does not imply that areas outside the floodplain district or land uses permitted within such districts will be free from flooding and flood damages. The Floodplain Management District shall not create liability on the part of the county or any officer or employee thereof for any flood damages that result from reliance on this subchapter or any administrative decisions lawfully made thereunder. (Ord. passed - -2022)

§ 153.247 GENERAL PROVISIONS.

(A) The Floodplain Management District shall apply to all lands designated as floodplain within the jurisdiction of the county.

(B) The boundaries of the floodplain district shall be determined by scaling distances on the Official Floodplain Zoning District Map. Where interpretation is needed as to the exact location of the boundaries of the floodplain district, the Zoning Administrator shall make the necessary interpretation based on elevation on the regional (100-year) flood profile, if available. If 100-year flood elevations are not available, the county shall:

(1) Require a floodplain elevation consistent with § 153.249 of this chapter to determine a 100-year flood elevation for the site; or

(2) Base its decision on available hydraulic/hydrologic or site elevation survey data which demonstrates the likelihood the site is within or outside the floodplain. (Ord. passed - -2022)

§ 153.248 CONFLICT WITH PRE-EXISTING ZONING REGULATIONS.

(A) (1) The Floodplain Zoning District shall be considered an overlay zoning district to all existing land use regulations of the county. The uses permitted in §§ 153.249 and 153.250 of this chapter shall be permitted only if not prohibited by any established, underlying zoning district.

(2) The requirements of this chapter shall apply in addition to other legally established regulations of the county where this chapter shall apply in addition to other legally established regulations of the county and where this subchapter imposes greater restrictions, the provisions of this chapter shall apply.

(B) 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 subchapter and other applicable regulations which apply to uses within the jurisdiction of this subchapter. Within the floodway and flood fringe, all uses not listed as permitted uses in § 153.249 of this chapter shall be prohibited. In addition, a caution is provided here that:

(1) New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this subchapter and specifically §§ 153.249 and 153.256 of this chapter;

(2) Modifications, additions, structural alterations or repair after damage to existing non-conforming structures and non-conforming uses of structures or land are regulated by the general provisions of this subchapter and specifically § 153.254 of this chapter; and

(3) As-built elevations for elevated structures must be certified by ground surveys as stated in § 153.252 of this chapter.
(Ord. passed - -2022)

§ 153.249 PERMITTED USES, STANDARDS AND FLOODPLAIN EVALUATION CRITERIA.

(A) *Permitted uses in the floodplain.* The following uses of land are permitted uses in the floodplain district:

(1) Any use of land which does not involve a structure, an addition to the outside dimensions to an existing structure or an obstruction to flood flows such as fill or storage of materials or equipment;

(2) Any use of land involving the construction of new structures, the addition to the outside dimensions of any existing structure or obstructions such as fill or storage of materials or equipment, provided these activities are located in the flood fringe portion of the floodplain. These uses shall be subject to the development standards in division (B) below and the floodplain evaluation criteria in division (C) below for determining floodway and flood fringe boundaries;

(3) Travel trailers and travel vehicles are regulated by § 153.256 of this chapter; and

(4) New accessory structures or additions to existing accessory structures costing \$1,000 or less are exempt from the floodplain requirements as long as they do not require placement of fill or are obstructions, as defined in § 153.007 of this chapter.

(B) *Standards for floodplain permitted uses.*

(1) 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.

(2) Storage of materials and equipment:

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

(b) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning or if placed on fill to the regulatory flood protection elevation;

(3) No use shall be permitted which will adversely affect the capacity of the channels or floodways of any tributary to the main stream, or of any drainage ditch, or any other drainage facility or system;

(4) All structures, including accessory structures, additions to existing structures and manufactured homes, shall be constructed on fill so that the basement floor, or first floor if there is no basement, is at or above the regulatory flood protection elevation. The finished fill elevation must be no lower than one foot below the regulatory flood protection elevation and shall extend at such elevation at least 15 feet beyond the limits of the structure constructed thereon;

(5) All uses. Uses that do not have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation to lands outside of the floodplain shall not be permitted unless granted a variance by the Board of Adjustment. In granting a variance, the Board shall specify limitations on the period of use or occupancy of the use and only after determining that adequate flood warning time and local emergency response and recovery procedures exist;

(6) Commercial and manufacturing uses. Accessory land uses, such as yards, railroad tracks and parking lots may be at elevations lower than the regulatory flood protection elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth greater than two feet or be subject to flood velocities greater than four feet per second upon occurrence of the regional flood;

(7) On-site sewage treatment and water supply systems:

(a) 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.

(b) 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 subchapter.

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

(C) Floodplain evaluation.

(1) Upon receipt of an application for a permit, manufactured home park development or subdivision approval within the Floodplain District, the Zoning Administrator shall require the applicant to furnish sufficient site development plans and a hydrologic/hydraulic analysis by a qualified engineer or hydrologist specifying the nature of the development and whether the proposed use is located in the floodway or flood fringe and the regulatory flood protection elevation for the site. Procedures consistent with Minn. Rules parts 6120.5600 (Technical Standards and Requirements for Floodplain Evaluation) and 6120.5700 (Minimum Floodplain Management Standards for Local Ordinances) shall be followed during the technical evaluation and review of the development proposal.

(2) The Zoning Administrator shall submit one copy of all information required by division (C)(1) above to the respective Department of Natural Resources' Area Hydrologist for review and comment at least 20 days prior to the granting of a use/building permit or manufactured home park development/subdivision approval by the community. The Planning Commission may accept or reject any review comments provided. The Zoning Administrator shall notify the respective Department of Natural Resources Area Hydrologist within ten days after a use/building permit or manufactured home park development/subdivision approval is granted.

(Ord. passed - -2022)

§ 153.250 UTILITIES, RAILROADS, ROADS AND BRIDGES IN THE FLOODPLAIN DISTRICT.

All utilities and transportation facilities, including railroad tracks, roads and bridges, shall be constructed in accordance with state floodplain management standards contained in Minn. Rules parts 6120.5000 through 6120.6200.

(Ord. passed - -2022)

§ 153.251 SUBDIVISIONS.

(A) (1) No land shall be subdivided and no manufactured home park shall be developed or expanded where the site is determined to be suitable by the Planning and Zoning Commission for reason of flooding or inadequate drainage, water supply or sewage treatment facilities.

(2) The Zoning Administrator shall review the subdivision/development proposal to insure that each lot or parcel contains sufficient area outside of the floodway for fill placement for elevating structures, sewage systems and related activities.

(B) In the Floodplain District, applicants for subdivision approval or development of a manufactured home park or manufactured home park expansion shall provide the information required in § 153.249(C) of this chapter. The Zoning Administrator shall evaluate the proposed subdivision or mobile home park development in accordance with the standards established in §§ 153.249(B) and (C) and 153.250 of this chapter.

(C) For all subdivisions in the floodplain, the floodway and flood fringe boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

(D) (1) Removal of special flood hazards 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.

(2) 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. (Ord. passed - -2022)

§ 153.252 ADMINISTRATION.

(A) A land use permit issued by the Zoning Administrator shall be secured prior to the construction, addition or alteration of any building or structure; prior to the use or change of use of a building, structure or land; prior to the change or extension of a non-conforming use; and prior to the placement of an obstruction within the floodplain.

(B) Prior to granting a use/building permit or processing an application for a variance, the Zoning Administrator shall determine that the applicant has obtained all necessary state and federal permits.

(C) The applicant shall be required to submit certification by a registered professional engineer, registered architect or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this chapter. The Zoning Administrator shall maintain a record of the elevation of the first floor (including basement) for all structures in the floodplain district. (Ord. passed - -2022)

§ 153.253 VARIANCES.

(A) A variance means a modification of a specific permitted development standard required in an official control including this subchapter to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in the county's respective planning and zoning enabling legislation.

(B) (1) The Board may authorize upon appeal in specific cases such relief or variance from the terms of this subchapter as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for counties.

(2) In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in the respective enabling legislation which justified the granting of the variance.

(C) No variance shall allow in any district a use prohibited in that district or permit a lower degree of flood protection than the regulatory flood protection elevation. Variances may be used to modify permissible methods of flood protection.

(D) The Board shall submit by mail to the Commission of Natural Resources a copy of the application for proposed variance sufficiently in advance so that the Commissioner will receive at least ten days' notice of the hearing. A copy of all decisions granting a variance shall be forwarded by mail to the Commission of Natural Resources within ten days of such action.

(E) Appeals from any decision of the Board may be made, and as specified in the community's official controls and also state statutes.

(F) Flood insurance notice and record keeping.

(1) The Zoning Administrator shall notify the applicant for a variance that:

(a) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and

(b) Such construction below the 100-year or regional flood level increases risks to life and property.

(2) 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.

(Ord. passed - -2022)

§ 153.254 NON-CONFORMITIES.

A structure or the use of a structure or premises which was lawful before the passage or amendment of this subchapter, but which is not in conformity with the provisions of this chapter may be continued subject to the following conditions.

(A) No such use shall be expanded, changed, enlarged or altered in a way which increases its non-conformity.

(B) An alteration within the inside dimensions of a non-conforming use or structure is permissible; provided, it will not result in increasing the flood damage potential of that use or structure.

(C) The cost of all structural alterations or additions both inside and outside of a structure to any non-conforming structure over the life of the structure shall not exceed 50% of the market value of the structure unless the conditions of this section are satisfied. The cost of all structural alterations and additions constructed since the adoption of the county's initial floodplain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds 50% of the current market value of the structure, then the structure must meet the standards of § 153.249 of this chapter for new structures.

(D) If any non-conforming use of a structure or land is destroyed by any means, including flood, to an extent of 50% or more of its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter. The Zoning Administrator may issue a permit for reconstruction if the use is located outside the floodway and, upon reconstruction, is adequately elevated on fill in conformity with the provisions of this subchapter.

(Ord. passed - -2022)

§ 153.255 VIOLATIONS.

(A) In responding to a suspected ordinance violation, the Zoning Administrator and County Board may utilize the full array of enforcement actions available to it including, but not limited to, prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The county must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

(B) (1) When an ordinance violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control.

(2) As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources' and Federal Emergency Management Agency Regional Office along with the county's plan of action to correct the violation to the degree possible.

(C) The Zoning Administrator shall notify the suspected party of the requirements of this subchapter and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the

county. If the construction or development is already completed, then the Zoning Administrator may either:

(1) Issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or

(2) Notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30 days.

(D) (1) 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 subchapter and shall be prosecuted accordingly.

(2) 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 chapter. (Ord. passed - -2022)

§ 153.256 TRAVEL TRAILERS AND TRAVEL VEHICLES.

(A) *Exemption.* Travel trailers and travel vehicles are exempt from the provisions of this chapter if they are placed in any of the areas listed in division (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 campground and trailer parks and the travel trailer/travel vehicle has no permanent structural type additions attached to it; and

(3) The travel trailer or travel vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.

(B) *Areas exempted for placement of travel/recreational vehicles.*

(1) Individual lots or parcels of record;

(2) Existing commercial recreational vehicle parks or campgrounds; and

(3) Existing condominium type associations.

(C) *Exemptions.* Travel trailers and travel vehicles exempted in division (A) above lose this exemption when development occurs on the parcel exceeding \$500 for a structural addition to the travel trailer/travel vehicle or an accessory structure such as a garage or storage building. The travel trailer/travel vehicle and all additions and accessory structures will then be treated as a new structure and

shall be subject to the elevation requirements and the use of land restrictions specified in § 153.249 of this chapter.

(D) *New construction or areas.* New commercial travel trailer or travel vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five units or dwelling sites shall be subject to the following.

(1) Any new or replacement travel trailer or travel vehicle will be allowed in the Floodway or Flood Fringe Districts; provided, said trailer or vehicle and its contents are placed on fill above the regulatory flood protection elevation determined in accordance with the provisions of § 153.249(C) of this chapter and proper elevated road access to the site exists in accordance with § 153.249 of this chapter. No fill placed in the floodway to meet the requirements of this section shall increase flood stages of the 100-year or regional flood.

(2) All new or replacement travel trailers or travel vehicles not meeting the criteria of division (D)(1) above may, as an alternative, be allowed if in accordance with the following provisions. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100-year flood. Said plan shall be prepared by a registered engineer or other qualified individual and shall demonstrate that adequate time and personnel exist to carry out the evacuation. All attendant sewage and water facilities for new or replacement travel trailers or other recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with § 153.249(B)(7) of this chapter.

(Ord. passed - -2022)

B-1 HIGHWAY SERVICE BUSINESS DISTRICT

§ 153.270 PURPOSE.

The intent of the B-1 Highway Service Business District is to provide a district, that will:

(A) Allow compact and convenient limited highway oriented business, closely related to existing urban areas in the county; and

(B) Provide development standards that will not impair the traffic carrying capabilities of abutting roads and highways.

(Ord. passed - -2022)

§ 153.271 PERMITTED USES.

The following uses shall be permitted within the B-1 Business District:

(A) Agriculture;

(B) Automobile laundries, car wash;

(C) Automobile service stations, and garage for automobile repair for the sale of gasoline, oil and accessories;

(D) Bowling alleys;

(E) Drive-in retail stores or service uses;

(F) Drive-in restaurants or similar uses that provide goods and services to patrons in automobiles;

(G) Drive-in theater;

(H) Landscape nursery, garden store;

(I) Marine and boat sales;

(J) Miniature golf course or archery or golf driving range;

(K) Motel, motor hotel or tourist camp;

(L) Professional office;

(M) Restaurant, tea room, café or tavern;

(N) Signs and billboards, as regulated in §§ 153.330 through 153.334 of this chapter; and

(O) Essential services and transmission lines, as regulated in §§ 153.115 through 153.117 of this chapter.

(Ord. passed - -2022)

§ 153.272 CONDITIONAL USES.

The following uses may be allowed in the B-1 Business District, subject to the general regulations provisions of this chapter:

(A) Other highway oriented business activities of the same general character as listed in § 153.270 of this chapter;

(B) Two-family and multi-family dwellings;

(C) Trailer parks;

(D) The use, as a place of residence of a part of the principal building in which a business activity is conducted;

(E) One-family dwellings; and

(F) Essential services and transmission lines, as regulated in §§ 153.115 through 153.117 of this chapter.

(Ord. passed - -2022)

§ 153.273 ACCESSORY USES.

The following uses shall be permitted accessory uses within a B-1 Highway Service Business District: accessory uses customarily incident to the uses permitted in §§ 153.271 and 153.272 of this chapter.

(Ord. passed - -2022)

§ 153.274 HEIGHT, YARD AND LOT WIDTH AND COVERAGE REGULATIONS.

(A) *Height regulations.* No building shall hereafter be erected or structurally altered to exceed two stories or 30 feet in height.

(B) *Front yard regulations.*

(1) There shall be front yard setback of not less than 130 feet from the centerline of all highways.

(2) There shall be a front yard setback of not less than 65 feet from the centerline of all other public rights-of-way.

(3) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. No accessory buildings shall project beyond the front yard setback of either road.

(C) *Side yard regulations.*

(1) There shall be a side yard having a width of not less than 15 feet on each side of a building.

(2) Except that, no building shall be located within 30 feet of any side lot line abutting a lot in any of the classes of residence districts.

(D) *Rear yard regulations.*

(1) There shall be a rear yard having a depth of not less than 15 feet.

(2) Except that, no building shall be located within 30 feet of any rear lot line abutting a lot in any of the classes of residence districts.

(E) *Lot width regulations.* Every lot or tract shall have a width of not less than 100 feet abutting a public right-of-way.

(F) *Lot area minimums.* Not more than 50% of the lot or plot area shall be occupied by buildings. (Ord. passed - -2022)

§ 153.275 GENERAL REGULATIONS.

Additional requirements for signs, parking and other regulations in the B-1 Business District are set forth herein and made a part of this subchapter by this reference. (Ord. passed - -2022)

B-2 GENERAL BUSINESS DISTRICT

§ 153.290 PURPOSE.

The intent of the B-2 General Business District is to provide a district that will retain and allow general commercial uses in the small, unincorporated urban communities in the county. (Ord. passed - -2022)

§ 153.291 PERMITTED USES.

The following uses shall be permitted within the B-2 Business District:

(A) Agriculture;

(B) Automobile laundries, car wash;

(C) Automobile service stations and garage for automobile repair, for the sale of gasoline, oil and accessories;

(D) Bowling alleys;

(E) Drive-in retail stores or service uses;

(F) Drive-in restaurants or similar uses that provide goods and services to patrons in automobiles;

- (G) Drive-in theater;
- (H) Landscape nursery, garden store;
- (I) Marine and boat sales;
- (J) Miniature golf course or archery or golf driving range;
- (K) Motel, motor hotel or tourist camp;
- (L) Professional office;
- (M) Restaurant, tea room, café or tavern;
- (N) Signs and billboards as regulated in §§ 153.330 through 153.334 of this chapter;
- (O) Appliance store;
- (P) Bank, savings institution;
- (Q) Barber or beauty shop;
- (R) Bicycle sales and repair shop;
- (S) One-family dwellings;
- (T) Book or stationery store, antique or gift shop, art and school supply;
- (U) Candy, ice cream, soft drinks or confectionery stores;
- (V) Cabinet or carpenter shop;
- (W) Clothing or ready-to-wear stores, dry goods or notion stores;
- (X) Delicatessen;
- (Y) Drug store;
- (Z) Dry cleaning or laundry collection station;
- (AA) Frozen food lockers for industrial or family use;
- (BB) Furniture store;
- (CC) Grocery, fruit, vegetable or meat store, bakery or pastry shop;

(DD) General store, department store;

(EE) Hardware store;

(FF) Laundrettes or self-service laundries;

(GG) Municipal or government buildings;

(HH) Newsstand;

(II) Offices, business or professional;

(JJ) Postal sub-station;

(KK) Shoe store or shoe repair shop;

(LL) Telephone booth (outside);

(MM) Variety store;

(NN) Vending machines;

(OO) Billboards and signs, as regulated in §§ 153.330 through 153.334 of this chapter; and

(PP) Essential services and transmission lines, as regulated in §§ 153.115 through 153.117 of this chapter.

(Ord. passed - -2022)

§ 153.292 CONDITIONAL USES.

The following uses may be allowed in the B-2 Business District, subject to the general regulations provisions of this chapter:

(A) Other business activities of the same general character as listed in § 153.291 of this chapter;

(B) The use, as a place of residence, of a part of the principal building in which a business activity is conducted;

(C) Two-family dwellings; and

(D) Essential services and transmission lines, as regulated in §§ 153.115 through 153.117 of this chapter.

(Ord. passed - -2022)

§ 153.293 ACCESSORY USES.

The following uses shall be permitted accessory uses within the B-2 Business District: accessory uses customarily incidental to the uses permitted in §§ 153.291 and 153.292 of this chapter.
(Ord. passed - -2022)

§ 153.294 HEIGHT AND YARD REGULATIONS.

(A) *Height regulations.* No building shall hereafter be erected or structurally altered to exceed three stories or 40 feet in height.

(B) *Front yard regulations.*

(1) There shall be a front yard setback of not less than 130 feet from the centerline of all highways.

(2) No front yard shall be required on other public rights-of-way.

(C) *Side yard regulations.* No side yard shall be required. Except that, no building shall be located within ten feet of any side lot line abutting a lot in any of the classes of residence districts.

(D) *Rear yard regulations.* No rear yard shall be required. Except that, no building shall be located within 15 feet of any rear lot line abutting a lot in any of the classes of residence districts.
(Ord. passed - -2022)

§ 153.295 GENERAL REGULATIONS.

Additional requirements for signs, parking and other regulations in the B-2 Business District are set forth herein and incorporated into this subchapter by this reference.
(Ord. passed - -2022)

I-1 GENERAL INDUSTRY DISTRICT**§ 153.310 PURPOSE.**

The intent of the I-1 General Industry District is to provide a district that will:

(A) Allow general industrial development related to the existing development in the urban communities of the county;

(B) Encourage development that is compatible with surrounding or abutting districts; and

(C) Provide development standards that will not impair the traffic-carrying capabilities of abutting roads and highways.

(Ord. passed - -2022)

§ 153.311 PERMITTED USES.

The following uses shall be permitted within the I-1 General Industry District:

(A) Industrial activities of the same general character as permitted in this section;

(B) Billboards, signs, as regulated in §§ 153.330 through 153.334 of this chapter;

(C) Bottling establishments;

(D) Building material sales and storage, lumber yards;

(E) Broadcasting antennas, television and radio;

(F) Camera and photographic supplies manufacturing;

(G) Cartage and express facilities;

(H) Cartography and bookbinding;

(I) Contractors' offices; shops and yards for plumbing, heating, glazing, painting, paper hanging, roofing, ventilating, air conditioning, masonry, electrical and refrigeration;

(J) Electric light or power-generating stations;

(K) Electrical and electronic projects manufacture;

(L) Electrical service shops;

(M) Engraving, printing and publishing;

(N) Freight terminal;

(O) Highway maintenance shops and yards;

(P) Jewelry manufacturer;

(Q) Laundries;

(R) Medical, dental and optical laboratories;

(S) Monument works;

(T) Public service structures, including power substations, gas regulator stations, sewage disposal plant, telephone exchange, police or fire station, elevated tanks and water works;

(U) Essential services and transmission lines as regulated in §§ 153.115 through 153.117 of this chapter;

(V) Printing;

(W) Railroad rights-of-way, railroad yards;

(X) Storage or warehousing; and

(Y) Wholesale business and office establishments.
(Ord. passed - -2022)

§ 153.312 CONDITIONAL USES.

The following uses may be allowed in the I-1 General Industry District, subject to the general regulations provisions of this chapter:

(A) Any manufacturing, production, processing, cleaning, storage, servicing, repair and testing of materials, goods or products which conform with the performance standards set forth for this district;

(B) Junk yards, salvage yards, dumping grounds;

(C) Extraction, processing or storage of sand, gravel, stone or other minerals;

(D) Existing agriculture;

(E) Essential services and transmission lines, as regulated in §§ 153.115 through 153.117 of this chapter;

(F) Automobile laundries, car wash;

(G) Automobile service stations and garage for automobile repair, for the sale of gasoline, oil and accessories;

(H) Bowling alleys;

(I) Drive-in retail stores or service uses;

- (J) Drive-in restaurants or similar uses that provide goods and services to patrons in automobiles;
- (K) Drive-in theater;
- (L) Landscape nursery, garden store;
- (M) Marine and boat sales;
- (N) Miniature golf course or archery or golf driving range;
- (O) Motel, motor hotel or tourist camp;
- (P) Professional office;
- (Q) Restaurant, tea room, café or tavern;
- (R) Signs and billboards, as regulated in §§ 153.330 through 153.334 of this chapter;
- (S) Appliance store;
- (T) Bank, savings institution;
- (U) Barber or beauty shop;
- (V) Bicycle sales and repair shop;
- (W) Book or stationery store, antique or gift shop, art and school supply;
- (X) Candy, ice cream, soft drinks or confectionery stores;
- (Y) Cabinet or carpenter shop;
- (Z) Clothing or ready-to-wear stores, dry goods or notion stores;
- (AA) Delicatessen;
- (BB) Drug store;
- (CC) Dry cleaning or laundry collection station;
- (DD) Frozen food lockers for industrial or family use;
- (EE) Furniture store;
- (FF) Grocery, fruit, vegetable or meat store, bakery or pastry shop;

(GG) General store, department store;

(HH) Hardware store;

(II) Municipal or government buildings;

(JJ) Newsstand;

(KK) Offices, business or professional;

(LL) Postal sub-station;

(MM) Shoe store or shoe repair shop;

(NN) Telephone booth (outside);

(OO) Variety store;

(PP) Vending machines; and

(QQ) The use, as a place or residence, of a part of the principal building in which the industrial activity is conducted.

(Ord. passed - -2022)

§ 153.313 ACCESSORY USES.

The following uses shall be permitted accessory uses within an I-1 General Industry District: accessory uses customarily incidental to the uses permitted in §§ 153.311 and 153.312 of this chapter.

(Ord. passed - -2022)

§ 153.314 HEIGHT, YARD AND LOT WIDTH AND BUILDING COVERAGE REGULATIONS.

(A) *Height regulations.* No building shall hereafter be erected or structurally altered to exceed four stories or 45 feet in height.

(B) *Front yard regulations.*

(1) There shall be a front yard setback of not less than 130 feet from the centerline of all highways.

(2) There shall be a front yard setback of not less than 65 feet from the centerline of all public rights-of-way.

(3) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. No accessory buildings shall project beyond the front yard setback of either road.

(C) *Side yard regulations.*

(1) No side yard shall be required.

(2) Except that, no building shall be located within 50 feet of any side lot line abutting a lot in any of the classes of residence or agriculture districts.

(D) *Rear yard regulations.*

(1) No rear yard shall be required.

(2) Except that, no building shall be located within 50 feet of any rear lot line abutting a lot in any of the classes of residence or agriculture districts.

(E) *Lot width regulations.* Every lot or tract shall have a width of not less than 100 feet abutting a public right-of-way.

(F) *Lot coverage regulations.* Not more than 50% of the total area of a lot shall be covered by buildings.

(Ord. passed - -2022)

§ 153.315 GENERAL REGULATIONS.

Additional requirements for signs, parking and other regulations in the I-1 General Industry District are set forth in the general regulations provisions of this chapter and made a part of this subchapter by this reference.

(Ord. passed - -2022)

SIGN REGULATIONS

§ 153.330 GENERALLY.

(A) All signs hereafter erected or maintained, except official, public, traffic and street signs and warning signs shall conform with the provisions of this subchapter and any other ordinances or regulations of the county.

(B) The following regulations shall apply to all signs hereinafter in all districts.

(1) From and after the effective date of this chapter, no sign shall be constructed unless, prior to construction, the owner makes application for, and thereafter obtains, a permit. Application for such permits shall be made to the Zoning Administrator and shall be accompanied by detailed plans and such other necessary information to determine the location and compliance with all applicable regulations. Said permit may be issued upon payment of the required permit fee.

(2) Signs shall not be permitted within the public right-of-way or easements, except warning signs for utilities or essential services.

(3) Flashing or rotating signs resembling emergency vehicles shall not be permitted in any district.

(4) Signs painted on a building shall be governed by the square footage limitations specified in the appropriate zoning districts. These shall be repainted when required, to be kept in good condition, and shall be repainted, removed or painted upon 30 days' notice when, in the opinion of the Board of County Commissioners, they are not so maintained.

(5) No sign shall be placed that resembles any official marker erected by a governmental agency or shall display such words as "stop" or "danger".

(6) No sign shall be permitted to obstruct any window, door, fire escape, stairway or opening intended to provide light, aid, ingress or egress for any building or structure.

(7) The owner, lessee or manager of any ground sign and the owner of the land on which the same is located shall keep grass or weeds and other growth cut and debris and rubbish cleaned up and removed from the lot on which a sign is located.

(8) Advertising signs, business signs and name plate signs which may be or may hereafter become rotted, unsafe or unsightly shall be repaired or removed by the owner or lessee of the property upon which the sign stands upon 30 days' notice of the Board of County Commissioners.

(9) Where a sign is illuminated, the source of light shall not shine upon any part of a residence or into any residence district.

(Ord. passed - -2022)

§ 153.331 SIGNS IN A-1 LIMITED AGRICULTURE DISTRICTS AND R-1 RESIDENCE DISTRICTS.

In A-1 and R-1 Districts, no sign, advertising sign or business sign shall be erected, except for the following:

(A) A name plate sign or professional name plate sign identifying the owner or occupant of a building or dwelling unit; provided, the surface area does not exceed two square feet. (This sign may

be placed in any front yard, but in no case may it be placed in any side yard.) Such sign may be illuminated;

(B) A sign pertaining to the lease or sale of a building or property; provided, such sign shall not exceed 12 square feet in surface area and shall not be illuminated;

(C) Temporary signs advertising a new subdivision development; each subdivision or development shall be allowed the following signs:

(1) One sign not to exceed 96 square feet in surface area, no more than 15 feet in height; and

(2) Directional signs not to exceed two square feet in surface area; provided that, each subdivision shall be limited to one such sign per major thoroughfare approach to the subdivision or development. No such sign shall be allowed on minor residential streets.

(D) Temporary unilluminated signs identifying an engineer, architect, contractor or product engaged in or used in the construction of a building; provided, such signs shall not exceed 12 square feet each in surface area and are no more than 15 feet in height;

(E) One identification sign, not to exceed 30 square feet in area, for the following uses: churches, school, hospital, parks, recreation areas and business signs advertising goods and products raised and sold on the premises or similar uses. Such signs shall be solely for the purpose of displaying the name of the use and its activities and services. It may be illuminated, but not flashing;

(F) Seasonal signs shall not exceed eight square feet in surface area and are no more than eight feet in height; and

(G) Signs for allowed conditional uses, subject to the following provisions:

(1) No more than one freestanding pylon sign of not more than 35 square feet in surface area and not more than 15 feet in height above the average grade; and

(2) No more than one flat wall sign, which shall not exceed 35 square feet in surface area.
(Ord. passed - -2022)

§ 153.332 SIGNS IN A-2 GENERAL AGRICULTURE DISTRICTS.

In A-2 Districts, no sign, advertising sign or business sign shall be erected, except for the following:

(A) Signs as permitted and regulated in A-1 and R-1 Districts;

(B) Advertising signs and billboards, subject to the following provisions.

(1) Advertising structures shall be limited to no more than two signs per facing, a total of not more than four signs per structure.

(2) Advertising structures shall be limited to not more than 55 feet in total length.

(3) No advertising sign shall project higher than 20 feet above average grade.

(4) No advertising sign structure shall be permitted with 660 feet of any existing advertising sign or advertising structure on the same side of the road or highway.

(5) No advertising sign structure shall be permitted within 330 feet of a dwelling, at-grade-intersection of two or more roads or at-grade-intersection of any road and a railroad.

(C) Business signs for allowed conditional uses, subject to the following provisions: no more than one freestanding pylon sign of not more than 35 square feet in surface area and no more than 20 feet in height above the average grade.

(Ord. passed - -2022)

§ 153.333 SIGNS IN B-1 HIGHWAY SERVICE AND B-2 GENERAL BUSINESS DISTRICTS.

In B-1 and B-2 Business Districts, no sign, advertising sign or business sign shall be erected, except for the following:

(A) Signs as permitted in A-1, A-2 and R-1 Districts;

(B) Advertising signs, subject to the following provisions.

(1) Advertising sign structures shall be limited to not more than one for a lot of 100 feet of lot frontage.

(2) Such advertising structure may not contain more than two signs per facing nor exceed 55 feet in total length.

(3) Advertising structures shall not exceed 20 feet in height above the average grade.

(4) No advertising sign shall be erected within 50 feet of any adjoining residence district.

(C) Business signs, subject to the following provisions.

(1) No more than one freestanding pylon sign of not more than 35 square feet in surface area.

(2) The total surface area of all business signs on a lot shall not exceed the sum of two square feet per lineal foot of lot frontage or 10% of the front building face area or 75 square feet in area, whichever is greater.

(3) No business sign shall project above the permitted building height.
(Ord. passed - -2022)

§ 153.334 SIGNS IN I-1 GENERAL INDUSTRY DISTRICTS.

In I-1 Industry Districts, no sign advertising sign or business sign shall be erected, except for the following:

(A) Signs as permitted in A-1, A-2, and R-1 Districts.

(1) Advertising signs structures shall be limited to not more than one for a lot of 100-foot frontage or less and to only one per each additional 100 feet of lot frontage.

(2) Such advertising structure may not contain more than two signs per facing nor exceed 55 feet in total length.

(3) Advertising structures shall not exceed 20 feet in height above the average grade.

(4) No advertising sign shall be erected within 50 feet of any adjoining residence district.

(B) Business signs, subject to the following.

(1) No more than one freestanding pylon sign of not more than 100 square feet in surface area.

(2) The total surface area of all business signs on a lot shall not exceed three square feet for each lineal foot of lot frontage or 20% of the front building face area or 300 square feet in area, whichever is greater.

(3) No business sign shall project above the permitted building height.
(Ord. passed - -2022)

MINERAL EXTRACTIONS

§ 153.345 DEFINITION.

(A) All excavations, extraction of materials and minerals, open pits and impounding of waters hereafter established or enlarged shall conform with the provisions of this subdivision and any other ordinance or regulation of the county.

(B) ***EXTRACTION PIT***, as used in this subchapter, shall mean any artificial excavation of the earth, within the county, dug, excavated or made by the removal from the natural surface of the earth

of sod, soil, sand, gravel, stone or other matter or made by tunneling or breaking or undermining the surface of the earth.

(1) Excavations ancillary to other construction of any installation erected or to be erected, built, or placed thereon contemporaneously with or immediately following such excavation and covering or to cover such excavation when completed are excepted, if a permit has been issued for such construction or installation.

(2) Excavations not exceeding 50 square feet of surface area to two feet in depth and excavations including impounding of water for agricultural purposes are exempted. Excavations for borrow material related to a road construction project, taken from a borrow site adjacent to the project, are exempted.

(Ord. passed - -2022)

§ 153.346 CONDITIONAL USE PERMIT REQUIRED.

(A) No person shall hereafter dig, excavate, enlarge, make, maintain or allow to be maintained, upon property owned or used by him, any open pit or excavation or any impounded water, without first making an application for and obtaining from the Board of County Commissioners and the County Planning Commission a conditional use permit therefor. Section 153.086 of this chapter notwithstanding, a conditional use permit granted under this subchapter shall remain in effect for a period of five years so long as the conditions agreed upon are observed and there occurs no change of ownership.

(B) Application for a renewal of the conditional use permit shall be made no later than 30 days prior to the expiration of the five-year term. Additionally, application shall be made annually for a gravel extraction renewal permit in such form as the County Zoning Administrator may direct.

(C) The County Zoning Administrator shall be vested with the authority to grant gravel extraction renewal permits but shall advise the Planning and Zoning Board annually of the status of all permits so granted. If the conditional use permit application is denied, no application may be made for the same extraction site within five years from the date of denial, unless the application is accompanied by the written consent to the project by all of the landowners within 1,000 feet of the proposed extraction operation.

(Ord. passed - -2022)

§ 153.347 APPLICATION.

Application for a permit for the extraction of minerals, open pits and impounding of waters shall be made in such form, and the applicant shall furnish such information, as shall be required by the Board of County Commissioners, and among other things shall include:

(A) The applicant's true name and address;

(B) A full description of the location and acreage of the area where the pit or excavation is or is to be or where the impounded waters are or are to be maintained and also a full description of the location on such land of the pit, excavation or impounded waters;

(C) The following maps of the entire site and to include all areas within 500 feet of the site. All maps shall be drawn at a scale of one inch to 100 feet unless otherwise stated below or as otherwise approved by the county:

(1) Map A, existing conditions to include:

- (a) Contour lines at ten-foot intervals;
- (b) Existing vegetation;
- (c) Existing drainage and permanent water areas;
- (d) Existing structures; and
- (e) Existing wells.

(2) Map B, proposed operations to include:

- (a) Structures to be erected;
- (b) Location of sites to be extracted showing depth of proposed excavation;
- (c) Location of tailings deposits showing maximum height of deposits;
- (d) Location of machinery to be used in the extraction operation;
- (e) Location of storage of extracted materials, showing height of storage deposits;
- (f) Location of vehicle parking;
- (g) Location of storage of explosives; and
- (h) Erosion and sediment control structures.

(3) Map C, end use plan to include:

- (a) Location and species of vegetation to be replanted; and
- (b) Location and nature of any structures to be erected in relation to the end use plan.

(D) A soil erosion and sediment control plan;

(E) A plan for dust and noise control;

(F) When required by the state, an approval by the state to impound such waters or to make such excavation as described in the application;

(G) The purpose of the pit or excavation or the quantity of water impounded;

(H) A plan shall be submitted identifying the highways, roads or other public ways in the county upon and along which any material for removal is to be hauled or carried and the repair and maintenance responsibilities shall be identified through a haul road haul agreement with the township and/or the County Engineer's office;

(I) A full and adequate description of all phases of the proposed operation to include an estimate of duration of the extracting operation; and

(J) Any other information requested by the Planning Commission or governing body.
(Ord. passed - -2022)

§ 153.348 RENEWAL OF EXTRACTION PERMITS.

All property owners and residents within 1,000 feet of the extracting operation shall be notified of an extraction permit renewal request.
(Ord. passed - -2022)

§ 153.349 USE RESTRICTIONS.

The crushing, washing, refining or processing other than the initial removal of material shall be considered a separate conditional use.
(Ord. passed - -2022)

§ 153.350 PERFORMANCE STANDARDS.

The governing body may impose additional performance standards as part of the conditional use permit:

(A) Properly fence any pit or excavation; including the following standards when any extracting operation is adjacent to a residential zone or within 300 feet of two or more residential structures:

(1) Where collections of water occur that are one and one-half feet or more in depth existing for any period of at least one month, and occupy an area of 700 square feet or more, all access to such collections of water shall be barred by a fence or some similarly effective barrier such as a snow fence of at least four feet in height; and

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

(B) Slope the banks and otherwise properly guard and keep any pit or excavation in such condition as not to be dangerous from caving or sliding banks;

(C) Properly drain, fill or level any pit or excavation, after created, so as to make the same safe and healthful as the Board shall determine;

(D) Keep any pit, excavation or impounded waters within the limits for which the particular permit is granted; including the following standards.

(1) The extracting operation shall not be allowed to interfere with surface water drainage beyond the boundaries of the extracting operation.

(2) The extracting operation shall not adversely affect the quality of surface or subsurface water resources.

(3) Surface water originating outside and passing through the operation site shall, at its point of departure from the site, be of equal quality to the water at the point where it enters the site. The extracting operator shall perform any water treatment necessary to comply with this provision.

(E) Provide, for the purpose of retaining impounded waters, a container of sufficient strength and durability and maintain such container in safe and proper condition;

(F) Remove excavated material from any pit or excavation away from the premises, upon and along such highways, streets or other public ways as the Board shall order and direct; including the following standard: the location of the intersection of extracting operation access roads with any public roads shall be selected such that traffic on the access roads will have a sufficient distance of the public roads in view so that any turns onto the public roads can be completed with a margin of safety;

(G) (1) To minimize problems of dust and noise and to shield operations from public view, a screening barrier may be maintained between the extracting site and adjacent residential and commercial properties. A screening barrier shall also be maintained between the extracting site and any public road within 500 feet of any extracting or processing operations. The screening barrier shall be planted with a species of fast growing trees such as green ash.

(2) 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.

(H) (1) Extracting activities shall not be conducted closer than 100 feet to the property line, nor closer than 500 feet to any residential or commercial structures located prior to commencement of

extracting operations without the written consent of all owners and residents of said structures. Processing activities shall not be conducted closer than 100 feet to the property line nor closer than 1,000 feet to any residential structure nor closer than 500 feet any commercial structure located prior to commencement of extracting operations without the written consent of all owners and residents of said structures.

(2) Extracting operations shall not be conducted closer than 30 feet to the boundary of any zone where such operations are not permitted, nor shall such production or processing be conducted closer than 30 feet to the boundary of an adjoining property line, unless the written consent of the owner in fee of such adjoining property is first secured in writing.

(3) Extracting operations shall not be conducted closer than ten feet to the right-of-way line of an existing or platted street, road or highway with no less than a six-foot to one-foot (6:1) slope.

(I) 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;

(J) All extracting operations shall be conducted between the hours of 7:00 a.m. and 7:00 p.m. Any operations not conducted between the hours of 7:00 a.m. and 7:00 p.m. shall require a conditional use permit. Such permits shall be granted for public or private emergency or whenever any reasonable or necessary repairs to equipment are required to be made; and

(K) (1) 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.

(2) No sand and gravel operation shall be conducted on parcels of less than 20 acres in size. This limitation shall not apply when the tract of land is contiguous to an active operation; provided that, both tracts are being operated by the same sand and gravel producer.

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

(4) All equipment used for extracting 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 600 feet of the extracting operating lot line.

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

(6) These limitations above shall not apply to any extracting operation in any industrial zone, unless such operations are closer than 150 yards to another zone other than an industrial zone.

(Ord. passed - -2022)

§ 153.351 WAIVER OF SETBACK REQUIREMENT.

The governing body may provide, in the permit, for the waiver of the requirements for setbacks from the centerline of highways and other public rights-of-way in appropriate circumstances where such waiver shall not constitute a safety or health hazard; provided that, such modified setback shall not conflict with applicable state or federal laws and regulations.

(Ord. passed - -2022)

§ 153.352 LAND REHABILITATION.

(A) All extracting sites shall be rehabilitated immediately after extracting operations cease. Rehabilitation shall be complete within one year.

(B) The following standards shall apply.

(1) (a) Within a period of three months after the termination of an extracting operation, or within three months after abandonment of such operation for a period of six months, or within three months after expiration of an extraction permit, all buildings, structures and plants incidental to such operation shall be dismantled and removed by, and at the expense of, the extracting operator last operating such buildings, structures and plants.

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

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

(b) No finished slope shall exceed 18% in grade.

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

(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 shall adequately retard soil erosion.

(c) Excavations completed to a water producing depth need not be back-filled if the water depth is at least ten feet and if banks shall be sloped to the water line at a slope no less than six feet horizontal to one foot vertical.

(d) The finished grade shall be such that it will not adversely affect the surrounding land or future development to the site upon which extracting operations have been conducted. The finished

plan shall restore the extraction site to a condition whereby it can be utilized for the type of land use proposed to occupy the site after extracting operations cease.

(Ord. passed - -2022) Penalty, see § 153.999

§ 153.353 YARDAGE REPORTS.

(A) All operator shall file yearly reports with the County Planning and Zoning Administrator.

(B) The reports shall detail the name of the operator holding the permit, the extraction site and the amount in cubic yards of gravel or other aggregate material removed from the extraction site during the reporting period and shall be filed on or before the fourteenth day following each calendar year.

(Ord. passed - -2022)

ROAD MATERIAL CRUSHING

§ 153.365 ESTABLISHMENT; DEFINITIONS.

(A) All road material crushing operations hereafter established shall conform with the provisions of this subchapter and any other ordinances or regulation of the county.

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

ROAD MATERIAL. Any bituminous or concrete paving material used as roadway material.

ROAD MATERIAL CRUSHING OPERATION. Any operation upon land or in buildings where road material is brought, stored, handled and/or crushed.

(Ord. passed - -2022)

§ 153.366 PERMIT REQUIREMENT.

No person shall hereafter conduct a road material crushing operation upon property owned or used by him or her without first making application for obtaining a conditional use permit or over the counter permit as hereinafter provided.

(A) An over the counter permit may be granted by the County Planning and Zoning Administrator for a road material crushing operation upon the following conditions.

(1) The site must be located adjacent to a road project of either the state or county.

(2) The applicant must provide a performance bond to assure proper cleanup of an amount equal to the greater of 5% of the gross construction contract or \$10,000.

(3) The permit shall last for one year and may be renewed, but the permit shall expire one year after the completion of the road project at which time all materials shall be removed and the property returned to its original condition.

(B) All other road material crushing operations shall require a conditional use permit as a salvage yard as regulated by § 153.312 of this chapter.

(Ord. passed - -2022) Penalty, see § 153.999

§ 153.367 APPLICATION.

Application for a permit shall be made in such form and shall furnish such information as shall be required by the Rock County Board of Commissioners.

(Ord. passed - -2022)

FEEDLOTS

§ 153.380 GENERALLY.

(A) The use of any land for the establishment, expansion, or management of an animal feedlot shall comply with the provisions and minimum standards of this chapter, and the MPCA Minn. Rules Ch. 7020, as may from time to time be amended.

(B) The county shall forward to the Commissioner of MPCA with comments and recommendations, all animal feedlot permit applications which fall within the following categories:

(1) Animal feedlots of 1,000 animal units or more;

(2) Animal feedlots of more than 300 animal units where a potential pollution hazard has been mitigated through corrective or protective measures;

(3) Animal feedlots with a potential pollution hazard which has not been mitigated by corrective or protective measures;

(4) Animal feedlots where manure is not used as domestic fertilizer; and

(5) Animal feedlots for which further technical review is desired by the county's Feedlot Pollution Control Office.

(Ord. passed - -2022)

§ 153.381 DEFINITIONS.

All terms employed in this chapter, unless specifically defined otherwise, shall have the meaning ascribed to them by Minn. Rules part 7020.0300 as amended. For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

NEW ANIMAL FEEDLOT.

(1) An animal feedlot constructed and operated at a site where no animal feedlot existed previously, the expansion of an existing feedlot to a location in excess of 500 feet from the existing feedlot as measured from the expansion's nearest point and the continuation in use of an existing animal feedlot which has been abandoned or unused for a period of five years or more.

(2) For purposes of determining the prior existence of a feedlot, the following factors may be considered:

(a) Whether there existed buildings intended for the confined feeding, breeding, raising or holding of animals;

(b) Whether manure was allowed to accumulate;

(c) Whether the concentration of animals was such that a vegetative cover could not be maintained within the enclosure;

(d) Whether there were permanent fences on site;

(e) Whether there existed permanent watering structures;

(f) Whether there existed feeding bunks or feeding structures;

(g) The number and type of livestock on site; or

(h) Whether or not the owner/operator prior to discontinuation of use, notified the Land Management Office as required at § 153.386 of this chapter.

(3) The above is not meant to be an exclusive list of factors to be considered when assessing whether or not a feedlot existed at a particular site. Land Management may also utilize such assessment tools as it deems necessary and useful in making individualized determinations of the prior existence of animal feedlots. Said tools shall be subject to review and approval by the County Planning and Zoning Board.

RESIDENCE. Any dwelling occupied or to be occupied by persons as a place of abode and shall include residences located in counties and states adjacent to the county.

(Ord. passed - -2022)

§ 153.382 VARIANCE.

Any person may apply for a variance from any requirements or provisions of this chapter. Such variance shall be applied for and acted upon in accordance with the provisions of this chapter, as amended.

(Ord. passed - -2022)

§ 153.383 FEEDLOT APPLICATION REQUIREMENTS.

(A) The owner of a proposed registered, or, existing animal feedlot for greater than ten animal units shall make application to the county and/or the state’s Pollution Control Agency for a feedlot permit when any of the following conditions exist:

(1) A new feedlot is proposed where a feedlot did not previously exist;

(2) An existing feedlot which does not have a feedlot permit or not registered;

(3) A change in operation of an existing animal feedlot is proposed. A change in operation shall include a physical expansion of the facility, a change in the type of animal units or an increase in the number of animal units over that number permitted by the existing permit;

(4) A change in ownership of an existing feedlot;

(5) An existing feedlot is to be restocked after being abandoned for five or more years; and

(6) An inspection by a State Pollution Control Agency (MPCA) staff or County Feedlot Officer reveals that the feedlot is creating a potential pollution hazard.

(B) Animal units, as described in § 153.007 of this chapter, and Minn. Rules part 7020.03, subpart 5.

(Ord. passed - -2022)

§ 153.384 FEEDLOT SETBACK REQUIREMENTS.

(A) All new animal feedlots of less than 1,000 animal units shall be located no closer than one-half mile from a neighboring residence (other than residences owned by the operators). A notarized waiver on forms provided by the Land Management Office signed by affected owners of residences located more than one-fourth, but less than one-half, mile of the proposed feedlot and signed by the applicant will be accepted to allow a permitted setback no closer than one-fourth mile from a neighboring residence.

(B) All new animal feedlots of 1,000 animal units or greater, shall be located no closer than three-fourths of a mile from a neighboring residence (other than residences owned by the operators). A

notarized waiver on forms provided by the Land Management Office, signed by all affected owners of residences located more than one-fourth, but less than three-fourths, mile of the proposed feedlot and signed by the applicant, will be accepted to allow a permitted setback no closer than one-fourth mile from a neighboring residence.

(C) Divisions (A) and (B) notwithstanding, a conditional use permit shall be required prior to the construction or operation of an animal feedlot (new or existing) of 1,000 animal units or greater. Applications for conditional use permits shall be made as provided in §§ 153.080 through 153.089 of this chapter.

(D) All new animal feedlots shall be located no closer than 300 feet from the center of any public right-of-way.

(Ord. passed - -2022) Penalty, see § 153.999

§ 153.385 EXPANSIONS; ADDITIONAL EARTHEN BASIN AND OPEN TOP PIT REQUIREMENTS.

(A) Expansions.

(1) A conditional use permit shall be required prior to the expansion of an existing animal feedlot located within one-quarter mile of the following:

- (a) A residence (excluding residences owned by the operator and/or owner of the feedlot);
- (b) An incorporated city;
- (c) Any church or cemetery; and/or
- (d) Blue Mound State Park or Schoeneman Park.

(2) For purposes of this division (A), the term **EXPANSION** shall be defined as any construction or activity that will increase the number of animal units by more than 250 units over the registered units on said site as of 1-1-2003.

(B) Abandoned/unused feedlots.

(1) *Notice by owner.* Prior to the abandonment or discontinuation in use of an animal feedlot, the owner shall notify the County Land Management Office, in writing, of an intent to abandon or discontinue use.

(2) *Site inspection.* Within ten days of receipt of notice by the owner/operator, there shall occur a site inspection during which the Land Management Office shall document the number of animal units under registration, type of animal units and the effective date of abandonment/discontinuation.

(C) *Earthen basins and open top pits.*

(1) (a) All earthen basins and open top concrete pits constructed in connection with a new animal feedlot shall be located no closer than one mile from a neighboring residence (other than residences owned by the operators).

(b) A notarized waiver on forms provided by the Zoning Administrator’s office, signed by all affected owners of residences located within one-half mile to one mile of proposed earthen basins or open top concrete pits, and signed by the applicant, will allow a permitted setback no closer than one-half mile from a neighboring residence.

(2) All earthen basins and open top concrete pits constructed in connection with existing animal feedlots (as opposed to a “new animal feedlot” as the term is defined at § 153.381 of this chapter) and constructed for the purpose of accommodating additional animal units, shall require conditional use permits as provided for in §§ 153.080 through 153.089 of this chapter.

(3) No conditional use permit shall be required prior to the construction and use of earthen basins and open top concrete pits to be used in connection with existing animal feedlots if no greater number of animal units is to be accommodated.

(4) Earthen basins and open top concrete pits having a capacity exceeding 20,000 gallons shall be designed by a licensed engineer.

(5) Earthen basins and open top concrete pits shall be secured by a well maintained fence, as approved by the County Feedlot Officer. Slurry storage (A.O. Smith or similar type structures) greater than eight feet above grade shall be exempt from fencing requirements.

(Ord. passed - -2022) Penalty, see § 153.999

§ 153.386 MANURE MANAGEMENT REQUIREMENTS.

(A) A manure management plan shall be developed as required by MPCA Minn. Rules Ch. 7020, as amended.

(B) (1) Where easements for additional acres for manure application are required, the landowner(s) or designated agent(s) of these parcels shall also be required to take part in the manure management plan development.

(2) Signatures of all producers and landowners and/or agents will be required on a manure management plan when submitted with the feedlot application.

(C) The manure management plan shall include aerial photos showing where manure application(s) will be located, a nitrogen-phosphorus-potassium allocation per acre based on current crop rotations, soil fertility, manure nutrient values, storage, handling and incorporation method. The plan shall include a total acreage requirement for the proposed feedlot application.

(D) Surface applied manure within 300 feet of tile intakes, open ditches, wetlands, intermittent streams and unbermed ditches shall be incorporated within 24 hours of application in the absence of a vegetative buffer strip of at least 50 feet in width. Surface applied manure within 300 feet of lakes and streams shall be incorporated within 24 hours of application in the absence of a vegetative buffer strip of at least 100 feet in width.

(Ord. passed - -2022) Penalty, see § 153.999

§ 153.387 PROHIBITED USES.

(A) No new feedlots shall be allowed within one mile of the boundary lines of an incorporated city.

(B) No new feedlots shall be allowed within one-half mile of any public park, church or cemetery.

(C) No new feedlots shall be allowed within one mile of tier one wells as identified by the state's Department of Health.

(D) Spillage or spreading of manure on roads or in ditches shall not be allowed.

(E) The use of manure irrigation guns (new and existing) shall not be allowed. For the purpose of this chapter, irrigation of effluent from the top of earthen basins will be allowed if the nitrogen value in the effluent being irrigated does not exceed 5# per 1,000 gallons. Tests shall be taken at any time as requested by the Environmental Office.

(F) No manure shall be stored or spread within 100 feet of any well.

(G) No new feedlots shall be allowed within the 100-year floodplain areas.

(H) No new feedlots shall be allowed within 1,000 feet of the ordinary high water mark of a lake or within 300 feet of the ordinary high water mark of a stream or river.

(I) No new feedlots shall be allowed within 200 feet of any public or 100 feet private well.

(Ord. passed - -2022) Penalty, see § 153.999

RENEWABLE ENERGY

§ 153.400 TITLE.

The title of this subchapter is the "Rock County Renewable Energy Ordinance", and will be referred to herein as "this subchapter".

(Ord. passed - -2022)

§ 153.401 PURPOSE.

This subchapter is established to set forth processes for permitting renewable energy from eligible energy technology, as described in M.S. § 216B.1691, as it may be amended from time to time, to promote the health, safety and general welfare of the citizens of the county, and shall include the following:

(A) Wind energy conversion systems (WECS) with a rated capacity of less than 5,000 kilowatts (or five megawatts) and to regulate the installation and operation of WECS within the county not otherwise subject to siting and oversight by the state pursuant to M.S. Ch. 216F, Wind Energy Conversion Systems, as it may be amended from time to time; and

(B) Large and small solar energy systems, and to regulate the installation and operation of a solar energy system within the county pursuant to M.S. §§ 216C.25 and 500.30, as they may be amended from time to time, and Minn. Rules part 1325.1100, as amended.
(Ord. passed - -2022)

§ 153.402 JURISDICTION.

The regulations of this subchapter shall apply to all the area of the county outside the incorporated limits of municipalities.
(Ord. passed - -2022)

§ 153.403 INTERPRETATION.

In interpreting and applying the provisions of this subchapter, 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 subchapter impose greater restriction than those of any statute, other ordinance or regulations, the provisions of this subchapter shall be controlling. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this subchapter, the provisions of such statute, other ordinance or regulation shall be controlling.
(Ord. passed - -2022)

§ 153.404 DEFINITIONS.

If not specifically defined in this section or in § 153.007 of this chapter, terms used in this chapter shall have the same meaning as provided in the standards adopted by reference. Words or phrases that are not defined here or in the standards adopted by reference shall have common usage meaning. For purposes of this chapter, the words “must” and “shall” are mandatory and the words “may” and “should” are permissive. For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY USE. A use clearly incidental or subordinate to the principle use of a lot or a building located on the same lot as the principle use.

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

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

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 subchapter.

C-BED PROJECT. A community based energy development project that must have local owners; no single owner may be allowed to own more than 15% 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. 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 this chapter 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 this chapter exist;
- (2) Use or development conform to the comprehensive plan of the county; and
- (3) Is compatible with the existing neighborhood.

COUNTY. Rock County, Minnesota.

COUNTY BOARD. Includes the County Commissioners, the Board of County Commissioners or any other word or words meaning the Rock County Board of Commissioners.

ELIGIBLE ENERGY TECHNOLOGY. As defined in M.S. § 216B.1691, as it may be amended from time to time.

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

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

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

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

LARGE SOLAR ENERGY SYSTEM. A solar farm, where the primary land use of the parcel is for a solar array. Solar farms are composed of multiple solar panels on multiple mounting systems (poles or racks), and generally have a direct current (DC) rated capacity greater than 100 kilowatts.

METEOROLOGICAL TOWER.

(1) Those towers which are erected primarily to measure wind speed and directions plus other data relevant to siting WECS.

(2) **METEOROLOGICAL TOWERS** do not include towers and equipment used by airports, the state’s Department of Transportation or other similar applications to monitor weather conditions.

MICRO-WECS. WECS of one kW nameplate generating capacity or less and utilizing supporting towers of 40 feet or less.

MIDSIZE SOLAR ENERGY SYSTEM. A solar farm meant to generate electricity to be used on site and sold back to power utilities. It includes roof-, building- and ground-mounted photovoltaic arrays, and has a direct current (DC) rated capacity of less than 100 kilowatts.

MODULE (SOLAR). A number of individual solar cells connected together in an environmentally protected housing producing a standard output voltage and power. Multiple **MODULES/PANELS** can be assembled into an array for increased power and/or voltage.

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 one kW in total name plate generating capacity.

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

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

POWER PURCHASE AGREEMENT. A legally enforceable agreement between two or more persons where one or more of the signatories agrees to provide electrical power and one or more of the signatories agrees to purchase the power.

PROJECT BOUNDARY/PROPERTY LINE. The boundary line of the area over which the entity applying for a WECS 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 subchapter, **PUBLIC CONSERVATION LANDS** will also include lands owned in fee title by non-profit conservation organizations. **PUBLIC CONSERVATION LANDS** do not include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.

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

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

SMALL SOLAR ENERGY SYSTEM. A solar array that is an accessory use and meant to generate electricity to be used on site. It includes roof- and building-mounted photovoltaic arrays, but does not include ground-mounted photovoltaic arrays, and has a direct current (DC) rated capacity of less than 100 kilowatts.

SOLAR CELL. The basic unit of a photovoltaic solar panel.

SOLAR EASEMENT. A right, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of any owner of land or solar skyspace for the purpose of ensuring adequate exposure of a solar energy system as defined in M.S. § 216C.06, subd. 17, as it may be amended from time to time, to solar energy. Required contents of a **SOLAR EASEMENT** are defined in M.S. § 500.30, as it may be amended from time to time.

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

SUBSTATIONS. Any electrical facility designed to convert electricity produced by wind turbines 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. Includes vertical structures that support the electrical generator, rotor blades or meteorological equipment.

TOWER HEIGHT. The total height of the WECS exclusive of the rotor blades.

TRACKING SOLAR ARRAY. A solar array that follows the path of the sun during the day to maximize the solar radiation it receives.

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

WIND EASEMENT. A right, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of any owner of land or air space for the purpose of ensuring adequate exposure of a wind power system to the winds. Required contents of a **WIND EASEMENT** are defined in M.S. § 500.30, as it may be amended from time to time.

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

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

WINDMILL, ORNAMENTAL. A non-functional windmill used for decoration.

ZONING ORDINANCE. The Rock County Zoning Ordinance.
(Ord. passed - -2022)

§ 153.405 PERMIT APPLICATION FOR WECS.

(A) Land use permits, conditional use permits and variances shall be applied for and reviewed under the procedures established in this chapter and M.S. Ch. 394, as it may be amended from time to time, except where noted below.

(B) 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 M.S. § 216F.011, as it may be amended from time to time;

(2) The names and addresses of project applicant;

(3) The names and addresses of the project owner. For C-BED projects, must provide percent of ownership for each of the project owners;

(4) The legal description and address of the project;

(5) A description of the project including: number, type, total name plate generating capacity, tower height, rotor diameter, total height of all wind turbines and means of interconnecting with the electrical grid;

(6) Site layout, including the location of project area boundaries (purchased wind rights), property lines, roads, wind turbines, electrical wires, interconnection points with the electrical grid and all related accessory structures. The site layout shall include distances and be drawn to scale;

(7) Documentation of land ownership or legal control of the property and current land use on the site and surrounding area;

(8) Signed copy of the power purchase agreement or documentation that the power will be utilized on-site;

(9) The latitude and longitude of all WECS and meteorological towers;

(10) A USGS topographical map, or map with similar data, of the property and surrounding area, including any other WECS within ten rotor diameters of the proposed WECS;

(11) Location of wetlands, scenic and natural areas including bluffs within 1,320 feet of the proposed WECS;

(12) Copies of all permits or documentation that indicates compliance with all other applicable state and federal regulatory standards:

(a) Uniform Building Code, as amended;

- (b) The National Electrical Code, as amended;
 - (c) Federal Aviation Administration (FAA), as amended;
 - (d) Minnesota Pollution Control Agency (MPCA)/Environmental Protection Agency (EPA), as amended;
 - (e) Microwave Beam Path Study; and
 - (f) Acoustical analysis.
- (13) Location of all known communications towers within two miles of the proposed WECS;
- (14) Location of all known public or private airports or heliports within five miles of the proposed WECS;
- (15) Detailed decommissioning plan including how decommissioning costs would be covered. The applicant may be required to establish an escrow account to fund decommissioning costs;
- (16) Description of potential impacts on nearby WECS and wind resources on adjacent properties. A wake loss study may be required if the county determines the proposed project may have a significant impact on nearby WECS;
- (17) Additional information stated in Minn. 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; and
- (19) Locations and site plans for all temporary, non-residential construction sites and staging areas.
(Ord. passed - -2022)

§ 153.406 PERMIT APPLICATION FOR SOLAR ENERGY SYSTEMS.

(A) Land use permits, conditional use permits and variances shall be applied for and reviewed under the procedures established in this chapter and M.S. Ch. 394, as it may be amended from time to time, except where noted below.

(B) An application to the county for a permit under this section is not complete unless it contains the following:

- (1) A site plan of existing conditions showing the following:

- (a) Existing property lines and property lines extending 100 feet from the exterior boundaries, including the names of the adjacent property owners and current use of those properties;
 - (b) Existing public and private roads, showing widths of the roads and any associated easements;
 - (c) Location and size of any abandoned wells, sewage treatment systems and dumps;
 - (d) Existing buildings and any impervious surface;
 - (e) Topography at two-foot intervals and source of contour interval. A contour map of the surrounding properties may also be required;
 - (f) Existing vegetation (list type and percent of coverage; i.e., grassland, plowed field, wooded areas and the like);
 - (g) Waterways, watercourses, lakes and public water wetlands;
 - (h) Delineated wetland boundaries;
 - (i) The 100-year flood elevation and regulatory flood protection elevation, if available;
 - (j) Floodway, flood fringe and/or general floodplain district boundary, if applicable;
 - (k) The shoreland district boundary, if any portion of the project is located in a shoreland district;
 - (l) In the shoreland district, the ordinary high water level and the highest known water level;
 - (m) In the shoreland district, the toe and top of any bluffs within the project boundaries;
 - (n) Mapped soils according to the county soil survey; and
 - (o) Surface water drainage patterns.
- (2) Site plan of proposed conditions:
- (a) Location and spacing of solar panels;
 - (b) Location of access roads;
 - (c) Planned location of underground or overhead electric lines connecting the solar farm to the building, substation or other electric load;

(d) New electrical equipment other than at the existing building or substation that is the connection point for the solar farm;

(e) Proposed erosion and sediment control measures;

(f) Proposed storm water management measures; and

(g) Sketch elevation of the premises accurately depicting the proposed solar energy conversion system and its relationship to structures on adjacent lots (if any).

(3) Manufacturer’s specifications and recommended installation methods for all major equipment, including solar panels, mounting systems and foundations for poles or racks;

(4) The number of panels to be installed;

(5) A description of the method of connecting the array to a building or substation;

(6) A copy of the interconnection agreement with the local electric utility or a written explanation outlining why an interconnection agreement is not necessary; and

(7) A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life. Decommissioning of solar panels must occur in the event they are not in use for 12 consecutive months. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and a plan ensuring financial resources will be available to fully decommission the site. Disposal of structures and/or foundations shall meet the provisions of Ch. 50 of this code of ordinances, or successor ordinance. The Board may require the posting of a bond, letter of credit or the establishment of an escrow account to ensure proper decommissioning.

(Ord. passed - -2022)

§ 153.407 DISTRICT REGULATIONS.

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

<i>District</i>	<i>Micro-WECS</i>	<i>Non-Commercial < 100 kW</i>	<i>Commercial ≥ 100kW</i>	<i>Meteorological</i>
Floodplain Management	C	C	C	P
General Agriculture	P	P	C	C
General Business	C	C	C	P
General Industry	C	C	C	P

Rock County - Land Usage

<i>District</i>	<i>Micro-WECS</i>	<i>Non-Commercial < 100 kW</i>	<i>Commercial ≥ 100kW</i>	<i>Meteorological</i>
Highway Service Business	P	C	C	C
Limited Agriculture	P	P	NP	NP
Shoreland	C	NP	NP	NP
Suburban Residence	P	C	NP	C

(B) *Permitted and conditional uses for solar energy systems.* Solar farms will be permitted, conditionally permitted or not permitted based on the generating capacity and land use district as established in the table below (P=Permitted, C=Conditionally Permitted, NP=Not Permitted):

<i>District</i>	<i>Small Solar Energy System</i>	<i>Midsized Solar Energy System</i>	<i>Large Solar Energy System</i>
Floodplain Management	NP	NP	NP
General Agriculture	P	C	C
General Business	P	C	C
General Industry	P	C	C
Highway Service Business	P	C	C
Limited Agriculture	P	C	NP
Shoreland	P	C	NP
Suburban Residence	P	C	C

(Ord. passed - -2022)

§ 153.408 SETBACKS FOR WECS.

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

(A) *Setbacks for WECS.*

	<i>Micro-WECS</i>	<i>Non-Commercial < 100 kW</i>	<i>Commercial ≥ 100 kW</i>	<i>Meteorological Tower</i>
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	1,000 feet and/or sufficient distance to meet state noise standards, whichever is greater	1.1 times the total height. Minimum 250 feet
Noise standard	Minn. Rules Ch. 7030	Minn. Rules Ch. 7030	Minn. Rules Ch. 7030	N/A

	<i>Micro-WECS</i>	<i>Non-Commercial < 100 kW</i>	<i>Commercial ≥ 100 kW</i>	<i>Meteorological Tower</i>
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
Other rights-of-way (recreational trails, power lines and the like)	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 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
Project boundary	An amount equal to the height of the structure	1.1 times the total height or a lesser distance may be utilized provided that distance has been reviewed and approved by the MnDNR as in the process of environmental review used in the state permitting process	3 RD on east-west axis and 5 RD on north-south axis	1.1 times the total height. Minimum 250 feet. Any guy wires must meet the setbacks of the district
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
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
Wetlands, WCA types III, IV and V	An amount equal to the height of the structure	1.1 times the total height		1.1 times the total height. Minimum 250 feet

(B) Additional setback requirements for WECS.

(1) *C-VED projects.* 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 chapter, and will follow the setbacks established for the category for which they fall under, as listed in § 153.408 of this chapter.

(2) *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 60 days prior to the start of construction.

(3) *Sand and gravel operations.* No turbines, towers or associated facilities in active sand and gravel operations.

(4) *Aviation (public and private airports).* No turbines, towers or associated facilities shall be located so as to create an obstruction to navigable airspace of public and private airports in the county. Setbacks or other limitations determined in accordance with MN/DOT Department of Aviation and Federal Aviation Administration (FAA) requirements.

(5) *Setbacks.* All essential service lines and structures must meet the setback requirements of this chapter.

(6) *New dwellings.* The setback for new dwellings shall be reciprocal in that no dwelling shall be constructed within the same setback as a new turbine would need to meet to an existing dwelling.

(7) *Wind turbines.* No wind turbines allowed within Shoreland Districts, except micro towers may be allowed by permission of the County Planning Commission through the conditional use process and only in areas where electricity is not presently available.

(Ord. passed - -2022) Penalty, see § 153.999

§ 153.409 REQUIREMENTS AND STANDARDS FOR WECS.

(A) *Safety design standards.*

(1) *Engineering certification.* For all WECS, the manufacturer's engineer or another qualified engineer shall certify that the turbine, foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.

(2) *Clearance.* Rotor blades or airfoils must maintain at least 30 feet of clearance between their lowest point and the ground.

(3) *Warnings.*

(a) For all commercial WECS, a sign or signs shall be posted on the tower, transformer and substation warning of high voltage. Signs with emergency contact information shall also be posted on the turbine or at another suitable point.

(b) For all guyed towers, visible and reflective objects, such as plastic sleeves, reflectors or tape, shall be placed on the guy wire anchor points and along the outer and innermost guy wires up to a height of eight feet above the ground. Visible fencing shall be installed around anchor points of guy wires. Aviation warning shall be painted on meteorological towers of less than 200 feet.

(c) All WECS and meteorological towers more than 100 feet in overall height shall be required to have safety lighting or other markings as recommended by the Federal Aviation Administration.

(B) *Height standards.*

(1) *Total height.* Non-commercial WECS shall have a total height of less than 200 feet.

(2) *Exemptions.* In those districts where meteorological towers are a permitted use, meteorological towers of less than 200 feet shall be exempt from conditional use process established for structures exceeding height requirements.

(C) *Tower configuration standards.*

(1) *Self-support.* All WECS must use self-supporting towers. The base for such towers shall be designed to anchor and support the tower for the site and shall be guarded against unauthorized climbing. The first 12 feet of the tower shall be unclimbable by design or be enclosed by a six-foot high unclimbable fence with a secured access.

(2) *Guyed towers.* Meteorological towers may be guyed.

(3) *Color and finish.* All wind turbines and towers that are part of a WECS shall be white, grey or another non-obtrusive color. Blades may be black in order to facilitate deicing. Finishes shall be matt or non-reflective.

(4) *Lighting.* Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by Federal Aviation Administration permits and regulations. Red strobe lights are preferred for night-time illumination to reduce impacts on migrating birds. Red pulsating incandescent lights should be avoided.

(D) *Other applicable standards.*

(1) *Other signage.* All signage on site shall comply with §§ 153.330 through 153.334 of this chapter. The manufacturer's or owner's company name and/or logo may be placed upon the nacelle, compartment containing the electrical generator, of the WECS.

(2) *Feeder lines.* All feeder lines subject to county authority equal to or less than 34.5 kV in capacity shall be buried and located on the back side of the right-of-way. Feeder lines installed as part of a WECS shall not be considered an essential service. If not buried, must apply for a variance and shall follow §§ 153.100 through 153.103 of this chapter for variance procedures.

(3) *Waste disposal.* Solid and hazardous wastes, including, but not limited to, crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.

(4) *Discontinuation and decommissioning.* A WECS shall be considered a discontinued use after one year without energy production, unless a plan is developed and submitted to the County Zoning Administrator outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities shall be removed four feet below ground level within 90 days of the discontinuation of use.

(5) *Decommissioning plan.*

(a) 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.

(b) The plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the WECS and accessory facilities.

(c) The plan shall also address road maintenance during and after completion of the decommissioning.

(6) *Orderly development.* Upon issuance of a conditional use permit, all WECS shall notify the Minnesota Public Utilities Commission (PUC) energy facilities permitting program staff of the project location and details on the survey form specified by the PUC.

(7) *Noise.* All WECS shall comply with Minn. Rules Ch. 7030, as amended, governing noise.

(8) *Electrical codes and standards.* All WECS and accessory equipment and facilities shall comply with the National Electrical Code and other applicable standards.

(9) *Federal Aviation Administration.* All WECS shall comply with FAA standards and permits.

(E) *Interference.* 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 State Department of Transportation microwave transmissions.

(F) *Avoidance and mitigation of damages to public infrastructure.*

(1) *Roads.* Applicants shall:

(a) Identify all public roads to be used for the purpose of transporting WECS, substation parts, materials and/or equipment for construction, operation or maintenance of the WECS and obtain applicable weight and size permits from the impacted road authority(ies) prior to construction;

(b) Contact the road authority for road closures, road signage removals, road signage re-locating, road signage restoring, moving permits, culverts, access/driveway permits, tile outlet permits, widening road intersections, standard utility permits and any other road activities that may require permits;

(c) Contact the County Dispatch prior to any road closures for the re-routing of emergency vehicles during the closure;

(d) Contact the road authority to conduct an inspection of the road conditions of the haul routes prior to and after construction;

(e) Provide a performance bond to be held by the county until the township and/or county road authority(ies) have provided the County Auditor with a written release that all haul routes within their jurisdiction in the county have been returned to pre-construction condition.

(2) *Drainage system.* The applicant shall be responsible for immediate repair of damage to public and private drainage systems stemming from construction, operation, maintenance or decommissioning.

(G) *Pre-construction meeting.* The 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 Chairperson;
- (2) County Highway Engineer;
- (3) County Sheriff;
- (4) County Zoning Administrator;
- (5) Area Hydrologist, State Department of Natural Resources;
- (6) State Pollution Control Agency;
- (7) United States Farm Service Agency;
- (8) County Soil and Water Conservation District;
- (9) U.S. Fish and Wildlife Service;
- (10) State Historical Society;
- (11) Two Planning Commission members: Chair and County Board representative; and
- (12) MN/DOT.

(Ord. passed - -2022)

§ 153.410 SETBACKS AND STANDARDS FOR SOLAR ENERGY SYSTEMS.

(A) *Setbacks for solar energy systems.*

<i>Item</i>	<i>Small Solar Energy System</i>	<i>Midsize Solar Energy System</i>	<i>Large Solar Energy System</i>
Dwelling(s) (other than project owners)	50 feet	100 feet	200 feet
Neighboring property lines (property lines within project boundary are exempt)	25 feet	25 feet	25 feet
Public conservation lands	25 feet	25 feet	200 feet

<i>Item</i>	<i>Small Solar Energy System</i>	<i>Midsized Solar Energy System</i>	<i>Large Solar Energy System</i>
Road right-of-way	25 feet	25 feet	25 feet
NOTES TO TABLE: *Measured from the named item to a solar panel or racking system			

(B) *Standards for all solar energy systems.*

(1) *Purpose.* This subchapter permits solar energy systems while protecting the health, safety and welfare of residents and the property interests of adjacent and surrounding land uses through appropriate zoning and land use controls.

(2) *Aesthetics.* All solar energy systems shall use colors that blend with the color of the roof or other structure. Reflection angles from collector surfaces shall be oriented so as not to interfere with the use and enjoyment of other properties. Where necessary, screening may be required to address glare.

(3) *Easements.* It shall be the responsibility of the property owner to secure any desired solar easement to protect solar access for the system (per M.S. § 500.30, as it may be amended from time to time).

(4) *Installation.* Solar energy systems shall be installed only by licensed contractors.

(C) *Standards for large solar farms.*

(1) *General.* Solar farms are the primary land use for the parcel on which the array is located and are distinguished from solar arrays that are a secondary or accessory use. Solar farms are composed of multiple solar panels on multiple mounting systems (poles or racks), and generally have a direct current (DC) rated capacity greater than 100 kilowatts.

(2) *Storm water, erosion and sediment control.* Storm water management and erosion and sediment control shall meet the requirements of the MPCA construction storm water permit requirements.

(3) *Foundations.* The manufacturer's engineer or another qualified engineer shall certify that the foundation and design of the solar panels is within accepted professional standards, given local soil and climate conditions.

(4) *Other standards and codes.* All solar farms shall be in compliance with any applicable local, state and federal regulatory standards, including the state's Uniform Building Code, as amended, and the National Electric Code, as amended.

(5) *Power and communication lines.* Power and communication lines running between banks of solar panels may be placed above ground; provided, the lines are placed no higher than the top of the

solar modules power communication lines to electric substations or interconnections with buildings shall be buried underground. Exceptions may be granted by Board in the following circumstances:

- (a) Where shallow bedrock, watercourses or other elements of the natural landscape interfere with the ability to bury lines;
- (b) When required by the utility company; and
- (c) Unless otherwise determined by the Board.

(D) *Standards for solar energy systems, accessory.* Solar energy systems are a permitted accessory use in all zoning districts, subject to the following standards.

(1) *Accessory building limit.* Solar systems, either roof or ground-mounted, do not count as an accessory building for the purpose of meeting limits on the number of accessory structures allowed per residential lot or the coverage limits, as set forth in this chapter.

(2) *Height.* Active solar systems are subject to the following height requirements.

(a) Building- or roof- mounted solar systems shall not exceed the maximum allowed height in any zoning district. For purposes of height measurement, solar systems other than building integrated systems shall be considered to be mechanical devices and are restricted consistent with other building-mounted mechanical devices for the zoning district in which the system is being installed.

(b) Ground- or pole-mounted solar systems shall not exceed 15 feet in height when oriented at maximum tilt.

(3) *Location within lot.* Solar systems must meet the accessory structure setback for the zoning district.

(a) *Roof-mounted solar systems.* In addition to the building setback, the collector surface and mounting devices for roof-mounted solar systems that are parallel to the roof surface shall not extend beyond the exterior perimeter of the building on which the system is mounted or built. The collector and racking for roof-mounted systems that have a greater pitch than the roof surface shall be set back from all roof edges by at least two feet. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side yard exposure.

(b) *Ground-mounted solar systems.* Ground-mounted solar energy systems may not extend into the side-yard, rear or road right-of-way setback when oriented at minimum design tilt.

(c) *Large ground-mounted systems.* Ground-mounted solar systems that result in the creation of one or more acres of impervious surface, must comply with the MPCA construction storm water permit requirements.

(4) *Maximum coverage.* Roof or building mounted solar systems, excluding building-integrated systems, shall not cover more than 80% of the south-facing or flat roof upon which the panels are mounted. The total collector surface area of pole or ground mount systems in non-agricultural district shall not exceed 1% of the lot area.

(5) *Approved solar components.* Electric solar system components must have a Underwriters Laboratory (UL) listing.

(6) *Compliance with State Electric Code.* All photovoltaic systems shall comply with the State Electric Code.

(7) *Utility notification.* No grid-intertie photovoltaic system shall be installed until evidence has been given to the Department that the owner has notified the utility company of the customer's intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement.

(Ord. passed - -2022)

§ 153.411 ENFORCEMENT, VIOLATION, REMEDIES AND FEES.

(A) *General.* Enforcement of this chapter shall be done in accordance with process and procedures established in § 153.999 of this chapter.

(B) *Fees.*

(1) 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 chapter. Any person filing a petition for an amendment to this chapter 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.

(2) Municipal corporations and governmental agencies shall be exempt from the fee requirements as prescribed by this chapter.

(Ord. passed - -2022)

§ 153.412 VALIDITY.

Should any section or provisions of this subchapter be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the subchapter as a whole or any part thereof other than the part so declared to be invalid.

(Ord. passed - -2022)

WIRELESS TELECOMMUNICATIONS EQUIPMENT AND SERVICES

§ 153.425 DEFINITIONS.

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

ANTENNA. Any structure or device used for the purpose of collection or radiating electromagnetic waves including, but not limited to, directional antennas such as panels, microwave dishes, satellite dishes and omnidirectional antennas such as whip antennas.

COMMERCIAL WIRELESS TELECOMMUNICATION SERVICES. Licensed commercial wireless telecommunication services including cellular, personal communications services, specialized mobilized radio, enhanced specialized mobilized radio, paging and similar services that are marketed to the general public.

COMMUNICATION TOWER, FREESTANDING. A ground mounted tower consisting of a pole, spire, structure or combination thereof constructed with or without guy wires and anchors.

COMMUNICATION TOWER, GUYED. A tower that is supported in whole or part by wires and ground anchors.

COMMUNICATION TOWER, MONOPOLE. A ground mounted tower consisting of a single pole constructed without guy wires and anchors

PUBLIC UTILITY. Persons, corporations or governments, supplying gas, electric, transportation, water, sewer or land line telephone service to the general public. For the purpose of this subchapter, commercial wireless telecommunication services shall not be considered a ***PUBLIC UTILITY USE*** and are defined separately.

TOWER. Any ground or roof mounted pole, spire, structure or combination thereof taller than 35 feet in height if freestanding or 15 feet in height if roof mounted, including supporting lines, cables, wires, braces and masts intended primarily for the purpose of mounting an antenna, meteorological device or similar apparatus above grade.

(Ord. passed - -2022)

§ 153.426 GENERAL REGULATIONS.

(A) *Purpose.* In order to accommodate the communication needs of residents and businesses while protecting the public health, safety and general welfare of the community, the county finds that these regulations are necessary in order to:

- (1) Facilitate provision of wireless communication services to the residents and businesses of the county;
- (2) Minimize adverse visual effects of towers through careful design and siting standards;
- (3) Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements; and
- (4) Maximize the use of existing and approved towers and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the community.

(B) *Conditional use permit required.* It shall be unlawful for any person, firm or corporation to erect, construct in place, place or re-erect, or replace any tower without first making application to the county and securing a conditional use permit therefor as hereinafter provided. Routine maintenance of towers and related structures shall not require the issuance of a conditional use permit.

(C) *Additional submittal requirements.* All commercial wireless telecommunication towers erected, constructed or located within the county shall comply with the following requirements.

- (1) Provide documentation of the area to be served including maps demonstrating size of communication cells and search radius for the antenna location. A narrative describing a search radius of not less than one mile for the requested site, clearly explaining why the site was selected, locating all existing towers and identifying all other structures that may be potential co-location sites.
- (2) For all proposed commercial wireless telecommunication service towers, a letter of intent committing the tower owner and his or her successor(s) to allow the shared use of the tower if an additional user agrees in writing to meet reasonable industry terms and conditions for shared use.
- (3) The applicant(s) must submit a copy of the Federal Aviation Administration report.
- (4) The applicant(s) must obtain the Federal Communications Commission's licensure and approval as required for various communication applications.
- (5) The applicant(s) must submit proof of liability and worker's compensation insurance.
- (6) The applicant(s) must submit proof that towers and their antennas have been designed by and, following completion of construction, were inspected, at the applicant's expense, by a qualified and licensed engineer to conform to applicable State structural building standards and accepted electrical engineering methods and practices as specified in applicable provisions of the National Electrical Code.
- (7) All applications for new wireless telecommunication services shall submit an intermodulation study which provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems.

(D) *Co-location required.*

(1) If a new tower or antenna support structure over 99 feet in height is to be constructed, it shall be designed to accommodate a minimum of two other users of similar antenna configurations including, but not limited to, other cellular communication companies, police, fire and ambulance companies; if the proposed tower or antenna support structure is between 35 and 99 feet in height it shall be designed so as to accommodate at least one additional user.

(2) Proposals for new commercial wireless telecommunication service towers shall not be approved unless it can be reasonably documented by the applicant(s) that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing tower or building within a one-mile search radius of the proposed tower due to one or more of the following reasons:

(a) The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a competent structural engineer;

(b) 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 competent radio frequency engineer;

(c) Existing or approved towers and buildings cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a competent radio frequency and/or structural engineer;

(d) The applicants shall submit proof of best efforts to negotiate reasonable industry terms regarding the lease or purchase of space on an existing tower; or

(e) Other reasons considered reasonable by the industry as documented by a competent radio frequency engineer affecting technical performance, system coverage and system capacity that make it impractical to place or locate the planned telecommunications equipment upon an existing tower.

(E) *Tower and antenna design requirements.* Proposed construction or modification of towers shall meet the following design requirements.

(1) Towers and antennas, including support cables and structures, and fencing shall be designed to blend into the surrounding environment to the maximum extent possible through the use of color. Communication towers not requiring FAA or FCC painting/markings shall have either a galvanized finish or be painted a non-contrasting color consistent with the surrounding area.

(2) Commercial wireless telecommunication service towers shall be of a monopole, guyed wire or freestanding design unless the County Board determines that an alternative design would better blend into the surroundings.

(3) All utility buildings and utility structures accessory to a tower, if not screened in accordance with this chapter, shall be aesthetically designed to conform with current industry standards.

(4) All towers shall be protected by a county-approved barrier at least six feet in height to discourage climbing by unauthorized persons.

(5) No advertising or identification of any kind intended to be visible from the ground or other structures is permitted, except applicable warning and equipment information signage required by the manufacturer or by federal, state or local authorities.

(6) Towers and antennas shall not be illuminated by artificial means, except if the illumination is specifically required by the Federal Aviation Administrator or other authority.

(7) No part of any antenna or tower, nor any lines, cable, equipment, wires or braces shall at any time extend across or over any part of the right-of-way, public street, highway or sidewalk.

(8) No interference with local television and radio reception will be allowed.

(F) *Screening and landscaping.*

(1) A screening and landscaping plan designed to screen the base of the tower, accessory utility buildings, utility structures and security fencing shall be submitted. The plan shall show the location, size, quantity and type of landscape materials. The County Planning Commission may require that landscape materials shall be capable of screening all year and must form a continuous mass, six feet in height by the end of the second growing season. Gravel or other durable surface or other weed prevention measures shall be applied within the fenced area to prevent the growth of weeds.

(2) The County Planning Commission may consider the substitution of other screening plans, such as decorative fencing or walls, or the use of vines on fencing, where the installation of other types of landscape materials may not be feasible.

(G) *Tower location and setbacks.*

(1) Proposals for new commercial wireless telecommunication service towers shall not be approved in a Limited Agricultural, Suburban Residence, General Business or Highway Business Service District unless it can be reasonably documented by the applicant(s) that the telecommunications equipment planned for the proposed tower cannot be accommodated in other zoning districts or jurisdictions.

(2) Towers and accessory buildings located on any lot of record shall be subject to the appropriate side and rear setbacks established for structures in the underlying zoning districts in addition to the setbacks established in divisions (G)(4) through (G)(11) below.

(3) The setback shall be measured from the center point of the base of the tower.

(4) The minimum distance from the center point of the base of any free standing tower to the nearest existing residential structure or any vacant parcel boundary currently platted for residential development in the Suburban Residence District shall be equal to four times the height of the tower.

(5) The minimum distance from the center point of the base of a monopole or guyed wire designed tower to the nearest existing residential structure or any vacant parcel boundary currently platted for residential development in the Agriculture District shall be equal to two times the height of the tower. The minimum distance from the center point of the base of all other free standing tower types shall be four times the height of the tower.

(6) Except for a guyed wire designed monopole designed towers, the minimum distance from the center point of the base of any free standing tower to state Highways 23 and 75 and Interstate 90 rights-of-way shall be four times the height of the tower.

(7) The minimum distance from the center point of the base of any guyed wire or monopole designed tower to Highways 23 and 75 and Interstate 90 rights-of-way shall be twice height of the tower.

(8) Except for a guyed wire designed towers, the minimum distance from the center point of the base of a free standing tower to all other county rights-of-way shall be four times the height of the tower and may be reduced to two times the height of the tower if the tower is a monopole design.

(9) The minimum distance from the center point of the base of a guyed wire tower to all other county rights-of-way shall be equal to the height of the tower and may be increased to two times the height of the tower if the tower is a monopole design.

(10) A setback may be reduced or its location in relation to a public right-of-way may be varied at the sole discretion of the County Planning Commission to allow the integration of a tower into an existing or proposed structure such as a light standard, power line support device, building, steeple, elevator or similar structure.

(11) Towers shall not be located between a principal structure and a public right-of-way.

(12) Towers shall not encroach upon any easements.

(13) The minimum distance from the center point of the base of any tower to all designated Shoreland Districts, the Rural Service District, Blue Mound State Park, Touch the Sky Prairie, any city or county park and all DNR protected waters, or other protected environmental features shall be four times the height of the tower, if the tower is a freestanding or monopole design and two times the height of the tower if it is a guyed wire design.

(14) The minimum distance from the center point of the base of a freestanding tower to the end of an airport clear zone shall be one-half mile.

(15) The minimum distance from the center point of the base of a guyed wire tower to the end of an airport clear zone shall be one mile.

(H) *Tower height.* Tower height shall be determined by measuring the vertical distance from the point of contact with the ground to the highest point of the tower including all antennas or other attachments. Restrictions on the height of the tower and antennas shall be as follows: in a Limited

Agricultural, Suburban Residence, General Business or a Highway Business Service District; the height of the antenna shall be the minimum necessary to function satisfactorily as verified by a competent radio frequency engineer.

(I) *Antennas mounted on roofs, walls and existing towers.* The placement of antennas on roofs, walls, and existing towers may be administratively approved by the county; provided that, the antenna meets the appropriate requirements of this code.

(1) Roof mounted antennas shall not exceed 15 feet above the highest point of the roof and shall be setback at least ten feet from the edge of the roof.

(2) Wall or facade mounted antennas may not extend beyond five feet above the cornice line.

(J) *Multiple principal uses and structures on a single lot.* For the purpose of this subdivision one tower with one or more antennas and attachments shall be permitted on the same lot as another principal use or structure subject to the requirements of this chapter.

(K) *Time limit on tower construction.* Construction of an approved tower, including all accessory structures, including footings and foundations, must be completed within one year following the date of the permit. Landscaping must be installed within the first growing season immediately following construction.

(L) *Obsolete or unused towers.*

(1) All obsolete or unused towers and accompanying accessory facilities shall be removed within six months of the cessation of operations at the site unless a time extension is approved by the County Board. After the facilities are removed, the site shall be restored to its original or an improved state. Electronic equipment shall not be removed in advance of removal of obsolete or unused towers.

(2) The owner of the tower shall provide the county with an acceptable financial guarantee in an amount equal to one and one-half times the cost to remove the tower and related infrastructure, including footings and other underground improvements, and to restore the site. Failure to remove the structure shall be cause for the county to remove the tower and associated equipment and be reimbursed by the property owner.

(M) *Effect of the ordinance on existing towers and antennas.* Antennas and towers in existence as of 10-5-1999, which do not conform to or comply with this section are subject to the following provisions.

(1) Towers may continue in use and maintenance for the purpose now used and as now existing, but may not be replaced or structurally altered without complying in all respects with this section. At the sole discretion of the Planning Commission, towers in existence as of 10-5-1999 which do not conform to or comply with this section may be considered for the co-location of other users' antennas.

(2) If such towers are hereafter damaged or destroyed due to any reason or cause whatsoever, the tower may be repaired and restored to its former use, location and physical dimensions if the cost of repairing the tower to the former use, physical dimensions and location would be less than 50 percent of its value, as determined by the County Assessor.

(Ord. passed - -2022)

PARKING AND LOADING REGULATIONS

§ 153.440 MINIMUM SIZE REGULATIONS.

(A) All parking hereafter constructed or maintained shall conform with the provisions of this subchapter and any other ordinances or regulations of the county.

(B) Each space shall contain a minimum area of not less than 300 square feet, including access drives, a width of not less than eight and one-half feet and a depth of not less than 20 feet. Each space shall be adequately served by access drives. All loading spaces shall be sufficient to meet the requirements of each use and shall provide adequate space for storage and maneuvering of the vehicles they are designed to serve.

(Ord. passed - -2022)

§ 153.441 REDUCTION AND USE OF PARKING AND LOADING SPACE.

(A) On-site parking facilities existing at the effective date of this chapter shall not subsequently be reduced to an amount less than that required under this chapter for a similar new building or use. On-site parking facilities provided to comply with the provisions of this chapter shall not subsequently be reduced below the requirements of this chapter.

(B) Such required parking or loading space shall not be used for storage or goods or for storage of vehicles that are inoperable or for sale or rent.

(Ord. passed - -2022)

§ 153.442 COMPUTING REQUIREMENTS.

In computing the number of such parking spaces required, the following rules shall govern.

(A) ***FLOOR SPACE*** shall mean the gross floor area of the specific use.

(B) Where fractional spaces result, the parking spaces required shall be construed to be the nearest whole number.

(C) The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of similar nature, as determined by the Board of County Commissioners and the County Planning Commission.

(Ord. passed - -2022)

§ 153.443 YARDS.

On-site parking and loading facilities shall be subject to the front yard, side yard and rear yard regulations for the use district in which parking is located; except that:

(A) In a B-1 Highway Service Business District, no parking or loading space shall be located within ten feet of any property line that abuts a road or highway right-of-way, or any of the classes of residence districts;

(B) In a B-2 General Business District, no parking or loading space shall be located within ten feet of any highway right-of-way; and

(C) In I-1 General Industry Districts, no parking or loading space shall be located within ten feet of any property line that abuts a highway right-of-way line, or any of the classes of residence districts, except for railroad loading areas.

(Ord. passed - -2022)

§ 153.444 BUFFER FENCES AND PLANTING SCREENS.

Off-street parking and loading areas near or abutting residence districts shall be screened by a buffer fence of adequate design or a planting buffer screen; plans of such screen or fence shall be submitted for approval as a part of the required site or plot plan, and such fence or landscaping shall be installed as a part of the initial construction.

(Ord. passed - -2022)

§ 153.445 ACCESS.

(A) Parking and loading space shall have proper access from a public right-of-way.

(B) The number and width of access drives shall be so located as to minimize traffic congestion and abnormal traffic hazard.

(C) Vehicular access to business or industrial uses across property in an R-1 Residence District shall be prohibited.

(Ord. passed - -2022)

§ 153.446 LOCATION OF PARKING FACILITIES.

Required off-street parking space shall be provided on the same lot as the principal building or use, except as follows in § 153.447 of this chapter.

(Ord. passed - -2022)

§ 153.447 COMBINED FACILITIES.

Combined or joint parking facilities may be provided for one or more buildings or uses in B-1 and B-2 Business Districts and in I-1 Industry Districts; provided that, the total number of spaces shall equal the sum of the requirements for each building or use.

(Ord. passed - -2022)

§ 153.448 CONSTRUCTION AND MAINTENANCE.

In B-1 and B-2 Business Districts and in I-1 Industry Districts, parking areas and access drives shall be covered with a dust-free, all weather surface with proper surface drainage, as required by the County Engineer. The operator of the principal building or use shall maintain parking and loading areas, access drives and yard areas in a neat and adequate manner.

(Ord. passed - -2022)

§ 153.449 LIGHTING.

Lighting shall be reflected away from the public right-of-way and nearby or adjacent residence districts.

(Ord. passed - -2022)

§ 153.450 REQUIRED SITE PLAN.

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

(Ord. passed - -2022)

§ 153.451 APPLICATION OF PARKING AND LOADING REGULATIONS.

Parking and loading regulations shall apply to all buildings and uses of land established after the effective date of this chapter.

(Ord. passed - -2022)

§ 153.452 REQUIRED NUMBER OF ON-SITE PARKING SPACES.

On-site parking areas of sufficient size to provide parking for patrons, customers, suppliers, visitors and employees shall be provided on the premises of each use. The minimum number of required on-site parking spaces for the following uses shall be as follows:

(A) One-family dwelling: one parking space. No garage shall be converted into living space unless other acceptable on-site parking space is provided;

(B) Multiple dwelling or mobile home park: one parking space per dwelling unit, apartment unit or mobile home berth;

(C) Hospital, convalescent or nursing home: one parking space for each four beds for which accommodations are offered, plus one parking space for each employee on the major shift;

(D) Churches: one parking space for each four seats, based on the design capacity of the main seating area;

(E) Public senior high school or private high school: one parking space for each classroom, plus one parking space for each ten students, based upon design capacity;

(F) Public elementary, junior high school or similar private school: two parking spaces for each classroom;

(G) Municipal administration buildings, community center, public library, museum, art galleries, post office and other public service buildings: ten parking spaces, plus one parking space for each 500 square feet of floor area in the principal structure;

(H) Golf course, golf club house, swimming club, tennis club, public swimming pool, country club: 20 spaces, plus one space for each 500 square feet of floor area in the principal structure;

(I) Professional offices, medical and dental clinics and animal hospital: four parking spaces, plus one parking space for each 500 square feet of floor area over 1,000 square feet of floor area;

(J) Office buildings: ten parking spaces, plus one parking space for each 500 square feet of floor area over 1,000 square feet of floor area;

(K) Automobile service station: four parking spaces, plus two parking spaces for each service stall; such parking spaces shall be in addition to parking space required for gas pump area;

(L) Auto sales, trailer sales, marine and boat sales, implement sales, garden supply store, building materials sale, auto repair: six parking spaces, plus one parking space for each 500 square feet of floor area over 1,000 square feet;

(M) Bowling alley: five parking spaces for each bowling lane;

(N) Drive-in restaurant: 20 parking spaces or one space for each 20 square feet of floor area, whichever is greater;

(O) Motel or motor hotel: one parking space for each rental room or suite;

(P) Miniature golf course, archery range or golf driving range: ten parking spaces;

(Q) Assembly or exhibition hall, auditorium, theater or sports arena: one parking space for each four seats, based upon design capacity;

(R) Restaurant, café, nightclub, tavern or bar: one parking space for each 75 square feet of customer floor area;

(S) Retail stores and service establishments: one parking space for each 100 square feet of floor area, plus one space for each employee on the major shift or one off-street parking space for each 350 square feet of gross floor area within the building, whichever is greater;

(T) Research, experimental or testing stations: one parking space for each employee on the major shift or one off-street parking space for each 500 square feet of gross floor area within the building, whichever is greater;

(U) Storage, wholesale or warehouse establishments: one parking space for each two employees on the major shift or one space for each 2,000 square feet of floor area, whichever is larger, plus one space for each company motor vehicle when customarily kept on the premises; and

(V) Manufacturing or processing plant: one off-street parking space for each two employees on the major shift or one off-street parking space for each 1,000 square feet of gross floor area within the building, whichever is the greater; plus one space for each company motor vehicle when customarily kept on the premises.

(Ord. passed - -2022)

§ 153.453 REQUIRED LOADING AREAS.

Loading and unloading areas for goods, supplies and services shall be sufficient to meet the requirements of each use.

(Ord. passed - -2022)

COMPOSTING FACILITIES FOR YARD WASTES**§ 153.465 REGULATIONS FOR COMPOSTING FACILITIES FOR YARD WASTES.**

(A) Individual composting operations (non-commercial) are exempt from these regulations and conditional use requirements.

(B) Soil type: the area must have a clay base as required by MPCA.

(C) Surface runoff: runoff must meet feedlot guidelines established by Soil Conservation Service.

(D) Annual renewal on conditional use permit.

(E) Setbacks:

(1) One hundred feet from compost pad to property line;

(2) One thousand feet from compost pad to nearest dwelling if compost contains only yard waste (i.e., no livestock waste); and

(3) Five hundred feet from compost pad to nearest dwelling if compost contains only yard waste (i.e., no livestock waste).

(F) Capacity: only 300 cubic yards of compost per acre of compost pad.

(G) Access: operator must have a maintenance agreement with local units of government regarding road maintenance costs.

(H) Type of compost allowed: only Class I compost, as determined by MPCA, may be produced in allowed composting facility.

(I) Performance bonds: a performance bond of a minimum of \$1,000 per acre of compost pad.

(J) For purposes of this section, the definition of ***INDIVIDUAL COMPOSTING OPERATION (NON-COMMERCIAL)*** shall mean that the compost product is not for sale, is distributed at no cost and no charges of any kind, including transportation charges, are assessed for the product.

(Ord. passed - -2022)

ADDITIONAL REQUIREMENTS, EXCEPTIONS AND MODIFICATIONS

§ 153.480 HEIGHT REGULATIONS.

(A) Any structure that exceeds 150 feet in height shall obtain a letter of clearance from the Federal Aeronautics Administration and the Airport Commission for any airport located within ten miles of the structure proposed to exceed the height limitation.

(B) Height limitations set forth in other sections of this chapter may be increased by 100% when applied to the following:

- (1) Monuments;
- (2) Flag poles;
- (3) Cooling towers; and
- (4) Grain elevators.

(C) Height limitations set forth in other sections of this chapter may be increased with no limitation except as noted in division (B) above when applied to the following:

- (1) Church spires, belfries or domes which do not contain usable space;
- (2) Water towers;
- (3) Chimneys or smokestacks; and
- (4) Radio or television transmitting towers.

(Ord. passed - -2022) Penalty, see § 153.999

§ 153.481 YARD REGULATIONS AND BLUFF AND DITCH SETBACKS AND YARD EXCEPTIONS.

Measurements shall be taken from the nearest point of the wall of a building to the lot line in questions, subject to the following qualifications.

(A) Cornices, canopies or eaves may extend into the required front yard a distance not exceeding four feet six inches.

(B) Fire escapes may extend into the required front yard a distance not exceeding four feet, six inches.

(C) A landing place or uncovered porch may extend into the required front yard to a distance not exceeding six feet, if the landing place or porch has its floor no higher than the entrance floor of the building. An open railing no higher than three feet, six inches may be placed around such place.

(D) The above enumerated architectural features may also extend into any side or rear yard to the same extent that no porch, terrace or outside stairway shall project into the required side yard distance.

(E) A wall, fence or hedge may occupy part of the required front, side or rear yard.

(F) On double frontage lots, the required front yard shall be provided on both streets.

(G) The required front yard of a corner lot shall not contain any wall, fence or other structure, tree, shrub or other growth which may cause danger to traffic on a road or public road by obscuring the view.

(H) The required front yard of a corner lot shall be unobstructed above the height of three feet in a triangular area, two sides of which are the lines running along the shoulder road lines between the road intersection and a point 50 feet from the intersection, and the third side of which is the line between the latter two points.

(I) There shall be a setback of a minimum of 50 feet from all bluffs.

(J) There shall be a setback of a minimum of 150 feet from the edge of all public drainage ditches. (Ord. passed - -2022) Penalty, see § 153.999

§ 153.482 YARD LANDSCAPING.

In the B-1 Highway Service Business District and in the I-1 General Industrial District, all required yards shall be either open landscaped and green areas or be left in a natural state. If any yards are to be landscaped, they shall be landscaped attractively with lawn, trees, shrubs and the like. Any areas left in a natural state shall be properly maintained in a sightly and well-kept condition. Yards adjoining any residence district shall be landscaped with planting buffer screens. Plans for such screens shall be submitted as part of the application for land use/building permits and installed as a part of the initial construction.

(Ord. passed - -2022) Penalty, see § 153.999

§ 153.483 PUBLIC NUISANCE PROHIBITED.

The following shall be prohibited: accumulations in the open of parked, stored, discarded or disused machinery; unlicensed, unregistered or inoperable vehicles; household appliances; automobile or other vehicle bodies, parts or components thereof; or any material parked, stored, discarded or disused in a manner conducive to the harboring of rats, mice, snakes or vermin, or to fire, health or safety hazards from such accumulations of other material or from the rank growth of vegetation among the items so accumulated. In all districts, the county may require a conditional use permit for any exterior storage

if it is demonstrated that such storage is a hazard to the public health and safety or has a depreciating effect on nearby property values or impairs scenic views.

(Ord. passed - -2022) Penalty, see § 153.999

§ 153.484 YARD EXCEPTIONS.

Where buildings exist in violation of front yard or shoreland setback requirements, the yard or setback on the unbuilt lots shall be the average of those existing non-conforming yards or setbacks on adjacent lots. If there is just one, then average that with the minimum regulation.

(Ord. passed - -2022) Penalty, see § 153.999

SUBDIVISION REGULATIONS

§ 153.495 APPLICATION; RULES AND DEFINITIONS.

(A) Application.

(1) These regulations shall apply to all land lying within the jurisdiction of this chapter. Any plat filed after enactment of this chapter for each subdivision or each part thereof lying within the jurisdiction of this chapter shall be prepared, presented for approval and recorded as prescribed by this chapter.

(2) These regulations shall apply to the subdivision of any lot, tract or parcel of land into two or more lots if any resultant lot or parcel is less than two acres in area, or less than 150 feet in width and the subdividing is done for the purpose of transfer of ownership to effectuate building development or if a new street or road is involved, regardless of the size of the parcel or its width, subsequent parcels, in addition to the first lot, must be platted.

(3) The following shall be exempt from subdivision requirements:

(a) A division of any parcel of land in two or more parts wherein all parts are at least two acres and at least 150 feet in width and where no new road is involved;

(b) The conveyance of one lot per parcel provided that the resulting lot shall conform in size to the lot size specified for that district;

(c) The subdivision of a lot for the purpose of attachment to contiguous lots where no residual lot is left unaffected; and

(d) Conveyances to a governmental unit or public utility for the purpose of roads, streets, substations, poles, towers, telephone booths and the like.

(B) *Rules.* Words used in the present tense include the past and future tense; the singular number includes the plural and the plural includes the singular; the word “shall” is mandatory, and the words “should” and “may” are permissive. In the event of conflicting provisions in the text of this regulation, the more restrictive shall apply.

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

ATTORNEY. The attorney employed by the county unless otherwise stated.

BLOCK. The enclosed area within the perimeter of roads, property lines or boundaries of the subdivision.

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

BUTT LOT. A lot at the end of a block located between two corner lots.

CLUSTER DEVELOPMENT. A subdivision development planned and constructed so as to group housing units into relatively tight patterns while providing a unified network of open space and wooded areas, and meeting the overall density regulations of this chapter.

COMMUNITY. Rock County.

COMPREHENSIVE POLICIES PLAN. A comprehensive policies plan prepared by the county including a compilation of policy statements, goals, standards and maps indicating the general locations recommended for the various functional classes of land use and for the general physical development of the county and includes any plan or parts thereof.

CONTOUR MAP. A map on which irregularities of land surfaces are shown by lines connecting points of equal elevations. Contour interval is the vertical height between contour lines.

COPY. A print or reproduction made from a tracing.

CORNER LOT. A lot bordered on at least two sides by streets.

COUNTY. Rock County, Minnesota.

COUNTY BOARD. The Rock County Board of Commissioners.

DEVELOPMENT. The act of building structures and installing site improvements.

DOUBLE FRONTAGE LOTS. Lots which have a front line abutting on one street and a back or rear line abutting on another street.

DRAINAGE COURSE. A watercourse or indenture for the drainage of surface water.

EASEMENT. A grant by an owner of land for a specific use by persons other than the owner.

ENGINEER. The registered engineer employed by the community unless otherwise stated.

FINAL PLAT. The final map, drawing or chart on which the subdivider's plan of subdivision is presented to the County Board for approval and which, if approved, will be submitted to the County Recorder.

GOVERNING BODY. Rock County.

KEY MAP. A map drawn to comparatively small scale which definitely shows the area proposed to be platted and the areas surrounding it to a given distance.

LOT. A parcel or portion of land in a subdivision or plat of land, separated from other parcels or portions by description as on a subdivision or record of survey map, for the purpose of sale or lease or separate use thereof.

METES AND BOUNDS DESCRIPTION. A description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and describing the bearings and distances of the lines forming the boundaries of the property or delineates a fractional portion of a section, lot or area by described lines or portions thereof.

MINIMUM SUBDIVISIONS DESIGN STANDARDS. The guides, principles and specifications for the preparation of subdivision plans indicating among other things, the minimum and maximum dimensions of the various elements set forth in the plan.

NATURAL WATERWAY. A natural passageway in the surface of the earth so situated and having such a topographical nature that surface water flows through it from other areas before reaching a final ponding area.

OWNER. An individual, firm, association, syndicate, co-partnership, corporation, trust or any other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under these regulations.

PEDESTRIAN WAY. A public right-of-way across or within a block, to be used by pedestrians.

PERSON. Any individual firm, association, syndicate or partnership, corporation, trust or any other legal entity.

PLAT. A map or drawing which graphically delineates the boundary of land parcels for the purpose of identification and record of title. The ***PLAT*** is a recorded legal document and must conform to all state laws.

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

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

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

RIGHT-OF-WAY. The land covered by a public road or other land dedicated for public use or for certain private use such as land over which a power line passes.

SKETCH PLAN. A drawing showing the proposed subdivision of property. This plan is not necessarily drawn to scale and exact accuracy is not a requirement.

STREETS AND ALLEYS.

(a) **ALLEY.** A minor way which is used primarily for secondary vehicular service access to the back or the side of properties abutting on a street.

(b) **ARTERIAL STREET.** A street or highway with access restrictions designed to carry large volumes of traffic between various sectors of the county and beyond.

(c) **COLLECTOR STREET.** A street which carries traffic from local streets to arterials.

(d) **CUL-DE-SAC.** A minor street with only one outlet and having a turn-around.

(e) **SERVICE STREET.** Marginal access street, or otherwise designated, is a minor street, which is parallel and adjacent to a thoroughfare and which provided access to abutting properties and protection from through traffic.

(f) **LOCAL STREET.** A street of limited continuity used primarily for access to the abutting properties and the local need of a neighborhood.

(g) **STREET.** A public way for vehicular traffic, whether designated as a street, highway, thoroughfare, arterial parkway, throughway road, avenue, lane, place or however otherwise designated.

STREET WIDTH. The shortest distance between the lines delineating the right-of-way of a street.

SUBDIVIDER. Any person commencing proceedings under the ordinance to effect a subdivision of land hereunder for himself or for another.

SUBDIVISION. A subdivision is the dividing of any parcel of land into two or more parcels.

(a) **PLATTED SUBDIVISION.** If any resultant parcel is less than two acres in area and less than 150 feet in width and the subdividing was done for the purpose of transfer of ownership to effectuate building development or if a new street or road is involved, regardless of the size of the parcel and/or its width, subsequent parcels, in addition to the first lot must be platted in accordance with the terms and procedure of this subchapter.

(b) **UNPLATTED SUBDIVISION.**

1. A division of any parcel of land into two or more parts wherein all parts are at least two acres and at least 150 feet in width and where no new road is involved. These do not require platting.

2. For the division of parcels less than two acres, the conveyance of one lot per parcel is allowed without platting. If more than one lot is divided from the original parcel the area must be platted including the original lot. The lot size shall never be smaller than the lot size specified for that district.

SURVEYOR. The County Engineer.

TRACING. A plat or map drawn on transparent paper or cloth which can be reproduced by using regular reproduction procedure.

ZONING ORDINANCE. A zoning ordinance or resolution controlling the use of land as adopted by the community or county.
(Ord. passed - -2022)

§ 153.496 LAND SUITABILITY IN SHORELAND OR FLOODPLAIN DISTRICT.

(A) Each lot created through subdivision must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the local unit of government shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-base recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety or welfare of future residents, of the proposed subdivision or of the community.

(B) Adequate soils information to determine suitability for building and on-site 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.

(C) 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 storm water runoff and erosion, both during and after construction activities.

(Ord. passed - -2022)

§ 153.497 CONSISTENCY WITH OTHER CONTROLS.

Subdivisions must conform to all other official controls of this chapter. Local governments must not approve subdivisions that are designed so variances from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, subdivisions must not be approved by local governments unless domestic water supply is available and soil absorption sewage treatment can be provided for every lot. A lot shall meet the minimum lot size in part [*reserved*] including at least a minimum contiguous lawn area, that is free of limiting factors (location and type of water supply, soil type, depth to groundwater or impervious layer, slope, flooding potential and other limiting factors), sufficient for the construction of two standard soil treatment systems. Lots that would require use of holding tanks must not be approved.

(Ord. passed - -2022)

§ 153.498 MEETINGS AND PLATS; ADMINISTRATION.

Before dividing any tract of land into two or more lots or parcels with the county, the following procedures should be followed.

(A) *Pre-application meeting.*

(1) Prior to the preparation of a preliminary plat, the subdividers or owners may meet with the County Planning Commission, the County Zoning Administrator and other appropriate officials in order to be made fully aware of all applicable ordinances, regulations and plans in the area to be subdivided. At this time or at subsequent informal meetings, the subdivider may submit a general sketch plan of the proposed subdivision and preliminary proposals for the provisions of water supply and waste disposal. The sketch plan can be presented in simple form, but should show that consideration has been given to the relationship of the proposed subdivision to existing county facilities that would serve it, to neighboring subdivision and developments and to the topography of the site.

(2) The subdivider is urged to avail himself of the advice and assistance of the local planning commission and county planning staff at this point in order to save time and effort, and to facilitate the approval of the preliminary plat.

(B) *Preliminary plat.*

(1) After pre-application meeting, the subdividers or owners shall file with the Zoning Administrator five copies of a preliminary plat an a cash fee of \$50, plus \$2, for each lot. This fee will be used for the expenses of the county in connection with the review of said plat.

(2) The Zoning Administrator shall refer two copies to the County Planning Commission for its review and report.

(3) (a) Within 45 days after the plat was filed and after reports and certifications have been received as requested, the County Planning Commission shall hold a public hearing on the preliminary plat after notice of the time and place thereof has been published once in the official newspaper at least ten days before the day of the hearing. This shall constitute the public hearing on the plat as required by state law. Within 30 days of the date of the public hearing, the Planning Commission shall make its report to the Rock County Board.

(b) Written notice of public hearings on the proposed subdivision shall be sent to the governing bodies of all towns and municipalities located within the county. In unincorporated areas, property owners of record within one-half mile of the property in question shall be notified in writing of the proposed subdivision. In incorporated areas, property owners within 500 feet of the property in question shall be notified in writing of the proposed subdivision.

(c) Copies of all notices of public hearings in Shoreland or Floodplain Districts shall be sent to the DNR Commissioner or his designated representative and postmarked at least ten days prior to the hearing. This notice shall include a copy of the proposed subdivision/plat.

(4) The County Planning Commission and the County Zoning Administrator may forward to the County Board a favorable, conditional or unfavorable report and said report shall contain a statement or findings and recommendations.

(5) The County Board shall act to approve or disapprove. If the County Board disapproves the preliminary plat, the grounds for any such disapproval shall be set forth in the minutes of the Board meeting and reported to the owners or subdividers.

(6) The approval of a preliminary plat is an acceptance of the general layout as submitted, and indicates to the subdivider that he may proceed toward final plat in accordance with the terms of approval and provisions of the ordinance.

(7) During the intervening time between approval of the preliminary plat and the signing of the final plat, the subdivider must submit acceptable engineering plans for all required improvements.

(8) In the case of all subdivision, the Planning Commission shall recommend denial of, and the County Board shall deny, approval of a preliminary or final plat if it makes any of the following findings:

(a) The proposed subdivision is in conflict with adopted applicable general and specific plans of the county;

(b) The design or improvement of the proposed subdivision is in conflict with any adopted component of the Comprehensive Plan of the county;

(c) The physical characteristics of this site, including, but not limited to, topography, vegetation, susceptibility to erosion and siltation, susceptibility to flooding, water storage, drainage and retention, are such that the site is not suitable for the type of development or use contemplated;

(d) The site is not physically suitable for the proposed density of development;

(e) The design of the subdivision or the proposed improvements are likely to cause substantial environmental damage;

(f) The design of the subdivision or the type of improvements is likely to cause serious public health problems; and/or

(g) The design of the subdivision or the type of improvements will conflict with easements of record or with easements established by judgment of a court.

(C) *Final plat.*

(1) The owners or subdividers shall file five copies of the final plat with the Zoning Administrator. If this is not done within 90 days, the preliminary plat will be considered void unless for good cause an extension is requested in writing by the subdivider and granted by the Board. The owners or subdividers shall also submit at this time an up-to-date certified abstract of title or registered property report.

(2) The final plat shall have incorporated all changes recommended by the County Zoning Administrator, the County Board and the County Engineer regarding county roads as conditions to approval of the preliminary plat, but in all other respects it shall conform to the preliminary plat as approved. It may constitute only that portion of the approved preliminary plat which the subdivider proposed to record and develop at that time, provided that such a portion conforms with all requirements of this chapter.

(3) The Zoning Administrator shall refer two copies of the final plat to the Planning Commission for its review and report. The report of these agencies and persons shall be submitted to the County Board within 30 days of the date of submission of the plat and County Board shall act on the final plat within 60 days of submission of the plat.

(4) Upon approval of the final plat by the County Board the subdivider shall record such final plat with the County Recorder, as provided for by that office, within 60 days after the approval. Otherwise, the approval of the final plat shall be considered void. The subdivider shall, within 30 days of recording, furnish the Zoning Administrator with three black line prints and a reproducible print of the final plat showing evidence of the recording.

(5) A copy of the approved plats in the Shoreland or Floodplain district must be sent to the Commissioner or the Commissioner's designated representative and postmarked within ten days of the final action.

(6) All plats which are larger than ten lots need to be registered with the State Department of Commerce.

(Ord. passed - -2022)

§ 153.499 DATA FOR PRELIMINARY PLAT.

(A) Identification and description.

(1) Proposed name of subdivision, which shall not duplicate or be similar in pronunciation or spelling to the name of any plat heretofore in the county;

(2) Location by section, township, range and by legal description;

(3) Name of municipality or township;

(4) Names and addresses of the record owner and any agent having control of the land, subdivider, land surveyor, engineer and designer of the plan;

(5) Graphic scale not less than one inch to 100 feet;

(6) North point;

(7) Key map including area within one-mile radius of plat;

(8) Date of preparation;

(9) A current abstract of title or a registered property certificate along with any unrecorded documents and an opinion of title by the subdivider's attorney; and

(10) Surface water features required in M.S. § 505.02, subd. 1, as it may be amended from time to time, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources.

(B) Existing conditions.

(1) Boundary line of proposed subdivision, clearly indicated and to a close degree of accuracy;

(2) Existing zoning classifications for land within and abutting the subdivision;

(3) A general statement on the approximate acreage and dimensions of the lots;

(4) Location, right-of-way width and names of existing or platted streets, or other public ways, parks and other public lands, permanent buildings and structures, easements and section and corporate lines within the plan and to a distance 150 feet beyond shall also be indicated;

(5) Boundary lines of adjoining unsubdivided or subdivided land, within 150 feet, identified by name and ownership, including all contiguous land owned or controlled by the subdivider;

(6) Topographic data, including contours at vertical intervals of ten feet, watercourses, marshes, rock outcrops, power transmission poles and lines and other significant features shall also be shown. USGS datum shall be used for all topographic mapping where feasible. The County Board may require two foot contours if conditions warrant it;

(7) An accurate soil survey of the subdivision prepared by a qualified person. Soil percolation tests may also be required if conditions warrant it;

(8) A central water and sewer system feasibility study to be completed by a qualified engineer, if a central water and sewer system is determined to be feasible. Where a central sewer system is found to be unfeasible, a qualified soil scientist shall report on the feasibility of individual home sewer systems according to MPCA standards and shall include soils borings and percolation tests as needed to verify conclusions. All lots created after the effective date of this chapter shall show a primary and secondary site where a standard soil treatment area can be constructed. Lots that would require use of holding tanks must not be approved;

(9) The surface water features required in M.S. § 505.02, subd. 1, as it may be amended from time to time, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;

(10) Information regarding adequacy of domestic water supply, extent of anticipated vegetation and topographic alterations; near shore aquatic conditions, including depth, type of bottom sediments and aquatic vegetation; and proposed methods for controlling storm water runoff and erosion, both during and after construction activities; and

(11) Location of the 100-year floodplain areas from existing regional flood maps.

(C) *Subdivision design features.*

(1) Layout of proposed streets showing the right-of-way widths, centerline gradients, typical cross-sections and proposed names of streets. The name of any street heretofore used in the county or its environs shall not be used unless the proposed street is a logical extension of an already named street, in which even the same name shall be used;

(2) Locations and widths of proposed alleys and pedestrian ways;

(3) Layout, numbers and preliminary dimensions of lots and blocks;

(4) Minimum front and side street buildings setback lines;

(5) When lots are located on a curve, the width of the lot at the building setback line; and

(6) Areas, other than streets, alleys, pedestrian ways and utility easements, intended to be dedicated or reserved for public uses, including the size of such areas in acres.

(D) *Other information.*

(1) Statement of the proposed use of lots stating type of residential buildings with number of proposed dwelling units and type of business or industry, so as to reveal the effect of the development on traffic, fire hazards and congestion of population;

(2) Provision of surface water and sanitary sewage disposal, drainage and flood control;

(3) If any zoning changes are contemplated, the proposed zoning plan for the area;

(4) Where the subdivider owns property adjacent to that which is being proposed for the subdivision, the Planning Commission shall require that the subdivider submit a sketch plan of the remainder of the property so as to show the possible relationships between the proposed subdivision and the future subdivision. In any event, all subdivisions shall be shown to relate well with existing or potential adjacent subdivisions;

(5) Potential resubdivision and use of excessively deep or wide (over 200 feet) lots shall be indicated in a satisfactory manner;

(6) A plan for soil erosion and sediment control both during construction and after development has been completed. The plan shall include gradients of waterways, designs of velocity and erosion control measures and landscaping of the erosion and sediment control system;

(7) A vegetation preservation and protection plan that shows those trees proposed to be removed, those to remain, the types and locations of trees and other vegetation that are to be planted;

(8) A water feasibility study shall also be required to determine if water is readily available;
and

(9) Such other information as may be requested by the County Zoning Administrator or County Planning Commission.

(Ord. passed - -2022)

§ 153.500 DATA FOR FINAL PLAT.

(A) The plat shall be prepared by a land surveyor who is registered in the state and shall comply with the provisions of state statutes and of this regulation.

(B) Surveying requirements of the final plat shall be under the regulation of the County Surveyor.

(C) (1) The subdivider or owner shall provide a map showing location and sizes of existing sewers, water mains, culverts or other underground facilities within the preliminary plan area and to a distance of 150 feet beyond.

(2) Such data as grade, invert elevations and locations of catch basins, manholes, hydrants and street pavement width and type, shall also be shown.

(D) The subdivider or owner shall prepare a map showing all existing and proposed private restrictions.

(E) (1) Title opinion by a practicing attorney-at-law based upon an examination of an abstract of the records of the County Recorder for the lands included within the plat and showing the title to be in the name of the owner or subdivider.

(2) The date of continuation of the abstract examined or the date of the examination of the records shall be within 30 days prior to the date the final plat is filed with the County Auditor.

(3) The owner or subdivider shown in the title opinion shall be the owner of record of the platted lands on the date of recording of the plat with the County Recorder.

(F) Execution by all owners of any interest in the land and any holders of a mortgage therein of the certificate required by state statutes and which certificate shall include an accurate legal description of any area to be dedicated for public use and shall include a dedication to the county of sufficient easements to accommodate utility services in such form as shall be approved by the County Attorney. (Ord. passed - -2022)

§ 153.501 CERTIFICATIONS.

(A) Form for approval by signature of county officials concerned with the recording of the plat.

- a. Checked and approved as to compliance with Chapter 505, Minnesota Statutes.

Dated this _____ day of _____, _____.

Rock County Engineer

- b. No delinquent taxes and transfer entered this _____ day of _____, _____.

Rock County Auditor

- c. Document Number _____
I hereby certify this instrument was filed in the office of the County Recorder for record on this _____ day of _____, _____, at _____ o'clock _____ M., and was duly recorded in Book _____ of _____ on page _____.

County Recorder, Rock County

- d. Checked and approved as in compliance with the Rock County Zoning Ordinance and Subdivision Regulations.

Planning Commission, Rock County

County Board, Rock County

Township Board Chairperson

(B) Form for approval by the County Attorney:

I hereby certify that proper evidence of title has been presented to an examined by me, and I hereby approve this plat as to form and execution.

Dated this _____ day of _____, _____.

Rock County Attorney

(Ord. passed - -2022)

§ 153.502 METES AND BOUNDS AND CERTIFICATE OF SURVEY CONVEYANCES.

No metes and bounds conveyances shall be allowed without a certificate of survey from a licensed professional surveyor following the effective date of this chapter, except in the following instances:

(A) A trust designated by a conveyance of metes and bounds;

(B) The conveyance of a parcel which was a separate parcel of record at the effective date of this chapter;

(C) A description of a full government subdivision;

(D) A description of a simple fractional part of a full governmental subdivision not less than one-quarter, one-quarter, one-quarter (ten acres or greater); and

(E) A description by reference to a recorded survey filed in the County Recorder's office in accordance with M.S. Ch. 505, 508, 515 or 515A, as they may be amended from time to time.
(Ord. passed - -2022)

§ 153.503 ENFORCEMENT GENERALLY.

The County Recorder shall submit to the office of Zoning Administration copies of any documents presented for filing which appear to be in violation of this chapter. The Zoning Administrator shall examine each such instrument to determine whether the proposed conveyance complies with this chapter. If the conveyance does not comply with this chapter, the Zoning Administrator shall give notice by mail of the potential violation to the parties to the conveyance.
(Ord. passed - -2022)

§ 153.504 SALE OF LOTS FROM UNRECORDED PLATS.

It shall be unlawful to sell, trade or otherwise convey any lot or parcel of land in violation of this chapter.
(Ord. passed - -2022) Penalty, see § 153.999

§ 153.505 MISREPRESENTATIONS AS TO CONSTRUCTION, SUPERVISION OR INSPECTION OF IMPROVEMENT.

It shall be unlawful for any subdivider, person, firm or corporation owning an addition or subdivision of land within the county to represent that any improvement upon any of the highways, roads, streets or alleys of said addition or subdivision or any sewer in said addition or subdivision has

been constructed according to the plans and specifications approved by the Board, or has been supervised or inspected by the county, when such improvements have not been so constructed, supervised or inspected.

(Ord. passed - -2022) Penalty, see § 153.999

§ 153.506 CIVIL ENFORCEMENT.

The county, in addition to other remedies, may institute other appropriate actions or proceedings to prevent, restrain, correct or abate any violations or threatened violations, and it shall be the duty of the County Attorney to institute such action.

(Ord. passed - -2022)

§ 153.507 VALIDITY.

If any section, division, sentence, clause or phrase of this chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this chapter.

(Ord. passed - -2022)

§ 153.508 GENERAL DESIGN REQUIREMENTS.

(A) The Planning Commission, in its review of the preliminary plat, will take into consideration the requirements of the community and the best use of the land being subdivided.

(B) The arrangement, character, extent, width and location of all streets shall be considered in their relation to existing and planned streets, to reasonable circulation of traffic, to topographic conditions, to runoff of storm water, to public convenience and safety and in their appropriate relation to the proposed uses of the land to be served by such streets. Wherever possible and necessary, the arrangement of streets in new subdivisions shall provide for the continuation of existing streets in adjoining areas. Where adjoining unsubdivided areas may be subdivided, the arrangement of streets in a new subdivision shall make provision for the proper projection of streets into adjoining areas by carrying the new streets to the boundaries of the new subdivision at appropriate locations.

(Ord. passed - -2022)

§ 153.509 STREETS.

(A) *Widths.* Street right-of-way widths shall be as determined in the policies plan and official map and, where applicable, shall conform to county and state standards for trunk highways. If there is no such plan or standard, right-of-way widths shall conform to the following minimum dimensions:

Rock County - Land Usage

<i>Street</i>	<i>Right-of-Way Width</i>
Collectors	60-80 feet
Cul-de-sac streets	60 feet
Cul-de-sac turnaround radius	60 feet
Local	50 feet
Major arterial	250 feet
Marginal access roads	30 feet
Minor arterial	150 feet

(B) *Street intersections.* Insofar as practical, streets shall intersect at right angles. In no case shall the angle formed by the intersection of two streets be less than 60 degrees. Intersections having more than four corners shall be prohibited. Adequate land for future intersection and interchange construction needs shall be dedicated.

(C) *Tangents.* A tangent of at least 300 feet shall be introduced between reverse curves on arterial and collector streets.

(D) *Deflections.* When connecting street lines deflect from each other at one point by more than ten degrees they shall be connected by a curve with a radius adequate to ensure a sight distance of not less than 500 feet for arterial, 300 feet for collectors, 100 feet for all other streets.

(E) *Street jogs.* Street jogs with centerline offsets of less than 150 feet shall be avoided for local streets.

(F) *Local streets.* Minor streets shall be laid out so that their use by through traffic is discouraged.

(G) *Cul-de-sac.* The maximum length of a street terminating in a cul-de-sac shall be 500 feet, measured from the centerline of the street of origin to the end of the right-of-way.

(H) *Centerline gradients.* All centerline gradients shall be at least 0.5% and shall not exceed the following: arterial and collector streets, 5%; minor streets and marginal access streets, 8%.

(I) *Access to arterial streets.* In the case where a proposed plat is adjacent to a limited access highway (arterial), there shall be no direct vehicular or pedestrian access from individual lots to such highways. As a general requirement, access to arterials shall be at intervals of not less than one-fourth mile and through existing and established cross roads where possible.

(J) *Platting of small tracts.* In the platting of small tracts of land fronting on arterial streets where there is no convenient access to existing entrances and where access from such plat would be closer than one-fourth mile from an existing access point, a temporary entrance permit may be granted. Provision

shall be made in such plats for the connection of roads to neighboring land. As the neighboring land is platted and developed, and access becomes possible at a preferred location, such temporary entrance permits shall become void.

(K) *Half streets.* Half streets shall be prohibited, except where it will be practical to require the dedication of the other half when the adjoining property is subdivided, in which case the dedication of a half street may be permitted. The probable length of time elapsing before dedication of the remainder shall be considered in this decision.

(L) *Private streets.* Private streets may be permitted, however, they must conform to the same standards as public streets.

(M) *Hardship to owners of adjoining property.* The street arrangements shall not be such as to cause hardship to owners of adjoining property in platting their own land and providing convenient access to it.

(Ord. passed - -2022)

§ 153.510 BLOCKS.

The length, width and acreage of blocks shall be sufficient to provide for convenient access, circulation, control and safety of street design. Blocks may be longer than 1,300 feet or shorter than 300 feet only if the County Zoning Administrator and Highway Engineer agree that exceptions are warranted. Exceptions may be warranted in order to foster design originality; provided that, such exceptions do not violate sound planning principles. Pedestrian ways may be required on blocks longer than 900 feet or in other areas to provide access to schools, parks and other destinations. Pedestrian ways shall be at least ten feet wide and shall be located so as to minimize intersections with streets.

(Ord. passed - -2022)

§ 153.511 LOTS.

(A) *Size.* The lot dimensions shall be such as to comply with the minimum lot areas specified in this chapter.

(B) *Side lot lines.* Side lines of lots shall be substantially at right angles to straight street lines or radial to curved street lines.

(C) *Lots.* Lots shall be graded so as to provide drainage away from building locations.

(D) *Natural features.* In the subdividing of any land, due regard shall be shown for all natural features, such as tree growth, wetlands, steep slopes, watercourses, historic spots or similar conditions, and plans adjusted to preserve those which will add attractiveness, safety and stability to the proposed development.

(E) *Lot remnants*. All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots rather than allowed to remain as unusable parcels.

(F) *Double frontage lots*. Double frontage (lots with frontage on two parallel streets) or reverse frontage shall not be permitted, except where lots back on an arterial or collector street. Such lots shall have an additional depth of at least ten feet in order to allow for screen planting along the back lot line.

(G) *Septic tanks, drain fields*. On large lots (one acre or more), septic tanks and drain fields shall be located in such a way as to allow future subdivision of the land.

(Ord. passed - -2022) Penalty, see § 153.999

§ 153.512 SEWAGE DISPOSAL.

(A) This chapter adopts Minnesota Pollution Control Agency Minn. Rules Ch. 7080.

(B) Publicly-owned sewer systems must be used where available. Refer to Ch. 716 for additional details.

(Ord. passed - -2022)

§ 153.513 TREE REMOVAL AND CONSERVATION OF VEGETATION.

All subdivisions shall be planned, designed, constructed and maintained so that:

(A) Existing healthy trees and native vegetation on the site are preserved to the maximum extent feasible and are protected by adequate means during construction;

(B) Existing native vegetation is not disturbed, injured or removed prior to site development, except to the extent necessary for the preparation of a tentative map;

(C) Following construction, vegetation suitable to the site is planted. The type or species of tree planted shall be approved by the county. Trees with root structures that are less likely to interfere with utility lines, break up sidewalks and cause other nuisance damage are desirable. Trees shall have a trunk diameter (measured 12 inches above ground level) of not less than one and three-fourths inches and shall be planted in not less than one cubic yard of good growing soil with a suitable amount of fertilizer. Approved multiple varieties shall be used alternately. Trees shall be planted at intervals of at least one every 16 feet and at a distance of at least six feet outside of the road right-of-way. No tree shall be planted within the road right-of-way. Hedges shall be set back at least 100 feet from the centerline of any highway in order to prevent snow build up;

(D) Existing trees shall be preserved within any right-of-way when such trees are suitably located, healthy and when approved grading allows; and

(E) No slash, dead trees or uprooted stumps shall remain after development. Refer to § 612.8 for additional vegetation alterations.

(Ord. passed - -2022) Penalty, see § 153.999

§ 153.514 EROSION AND SEDIMENT CONTROL.

The following guidelines shall be applied in the subdivision and construction of land areas.

(A) The development shall conform to the natural limitations presented by topography and soil so as to create the least potential for soil erosion.

(B) Erosion and siltation control measures shall be coordinated with the different stages of development. Appropriate control measures shall be installed prior to development when necessary to control erosion.

(C) Land shall be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time.

(D) When soil is exposed, the exposure shall be for the shortest feasible period of time.

(E) Where the topsoil is removed, sufficient arable soil shall be set aside for respreading over the developed area. The soil shall be restored to a depth of four inches and shall be of a quality at least equal to the soil quality prior to development. Refer to § 612.9 for additional grading and filling considerations.

(Ord. passed - -2022) Penalty, see § 153.999

§ 153.515 DRAINAGE.

(A) The natural drainage system shall be sued as far as is feasible for the storage and flow of runoff.

(B) The following requirements shall also apply.

(1) (a) Storm water drainage shall be discharged to marshlands, swamps, retention basins or other treatment facilities. Diversion of storm water to marshlands or swamps shall be considered for existing or planned surface drainage.

(b) Marshlands and swamps used for storm water shall provide for natural or artificial water level control.

(2) No existing ditch, stream, drain or drainage canal shall be deepened, widened, filled, rerouted or filled without written permission from the County Board.

(3) Where artificial channels must be constructed to augment the natural drainage system, such channels as well as the natural drainage ways may be planned as part of a recreation trail system. Channels shall be designed to be aesthetically compatible for recreational trail use.

(4) The drainage system shall be constructed and operational as quickly as possible during construction. Refer to Ch. 613 for additional storm water standards.
(Ord. passed - -2022) Penalty, see § 153.999

§ 153.516 EASEMENTS.

All easements shall be dedicated by appropriate language on the plat as required by M.S. § 505.02, subd. 2, as it may be amended from time to time.

(A) *Provided for utilities.* Easements at least 12 feet wide, centered on rear and other lot lines, shall be provided for utilities where necessary. They shall have continuity of alignment for block to block.

(B) *Drainage.* Easements shall be provided along each side of the centerline of any watercourse or drainage channel, whether or not shown in the comprehensive plan, to a width sufficient to provide proper maintenance and protection and to provide for storm water runoff from a ten year storm of one hour duration. Where necessary, drainage easements corresponding with lot line shall be provided. Such easements for drainage purposes shall not be less than 20 feet in width.
(Ord. passed - -2022) Penalty, see § 153.999

§ 153.517 STEEP SLOPES.

Subdivision design shall be consistent with limitations presented by steep slopes. Subdivision shall be designed so that no construction or grading will be conducted on slopes steeper than 18% in grade.
(Ord. passed - -2022) Penalty, see § 153.999

§ 153.518 FLOODPLAIN SUBDIVISIONS.

(A) No land shall be subdivided which is held unsuitable by the County Planning Commission for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the floodplain districts shall contain a building site at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage disposal facilities that comply with the provisions of this chapter and have road access both to the subdivisions and to the individual building sites no lower than two feet below the regulatory flood protection elevation.

(B) In the General Floodplain District, applicants shall provide the information required in Section [reserved] of this chapter. The County Planning Commission shall evaluate the subdivision in accordance with procedures established in Section [reserved] of this chapter.
(Ord. passed - -2022)

§ 153.519 IMPROVEMENTS REQUIRED.

Prior to the approval of a final plat, the subdivider shall have agreed in the manner set forth below to install in conformity with construction plans approved by the County Engineer and in conformity with all applicable standards and ordinances, the following improvements on site.

(A) *Monuments.* Monuments of a permanent character, as required by M.S. § 505.02, as it may be amended from time to time, shall be placed at each corner or angle on the outside boundary of the subdivision; and pipes or steel rods shall be placed at each corner of each lot and each intersection of street centerlines.

(B) *Streets.* The full width of the right-of-way of each street and alley dedicated in the plat shall be graded. All streets and alleys shall have an adequate sub-base and shall be improved with an all-weather permanent surface in accordance with the design standards specified by the county. Except in areas where lot widths exceed 100 feet or topography or tree cover dictates otherwise, grading shall provide for easy installation of sidewalks at some future date.

(C) *Paving.* The County Board may require that all streets and alleys be improved with a concrete or bituminous surface. Paving shall be required if central sewer and water services are provided. If central sewer and water services will not be provided for at least ten years, paving may be required. If central sewer and water services are to be provided within ten years, paving should not be required until after the central sewer and water services are installed. The county may require a cash deposit to be used for paving streets after central sewer and water services are provided. Streets to be paved shall be surfaces for five-ton axle weight capacity.

(D) *Concrete curb and gutter.* Concrete curb and gutter may be required for all paved streets.

(E) *Sidewalks.* Sidewalks may be required along both sides of all streets in areas where residential density equals or exceeds three dwelling units per net acre of residentially used land or in commercial areas.

(F) *Water supply.*

(1) Where a municipal water supply is available within a reasonable distance, the subdivider may be required to provide a connection to the municipal system. The feasibility of this requirement shall be evaluated based on the cost of constructing the connection weighed against the cost of installing individual wells and the likelihood of an eventual municipal connection in the future.

(2) Where a municipal connection is determined to be unfeasible, the following standards shall apply:

(a) In all subdivision, the subdivider shall either:

1. Install a system providing each lot with an adequate supply of potable water; or
2. State on his final plat that purchasers of individual lots will be required to install their own approved wells.

(G) *Street lighting.* Street lighting of a type approved by the community may be required at all intersections within the subdivision.

(H) *Sewage disposal.*

(1) Sanitary sewer mains and service connections shall be installed to serve all the lots in the subdivision and shall be connected to the public system. When a subdivision cannot be connected immediately to a trunk line of the community system, but in the option of the county and County Engineer, a trunk line will be extended to serve the area within five years through the community disposal system, the county may require that sewer mains and service connections be installed within the subdivision and the entire system connected to a temporary package sewage treatment plant.

(2) In areas being platted for rural estate development with large lots, as specified in this chapter, individual on-site sewage disposal facilities shall be provided for each lot. On-site sewage disposal systems shall be so located as to permit easy and the least expensive connection to the sewer when it becomes available and useable. Where such on-site units are installed, the subdivider shall provide underground plumbing to extend three feet beyond the footing which plumbing shall be plugged. The area around the stack shall be scored so that the septic tank line can be disconnected and connection can be made with the public sanitary sewer system.

(3) When an individual sewage system is used and the septic tank is placed on a side other than that from which the public sewer would connect, it shall be required that a capped sewage disposal line shall be extended from the point of ground entrance of basement or house to a point five feet beyond and to the side from which the future sewer connection will be made. Inside the basement, the elbow shall be set up to be easily reversed for connection to the capped line.

(4) There shall be no overflow outlets from septic tanks or seepage pits allowing effluent to flow to any waterway, drainage way or roadside ditch.

(5) The subdivider or owner shall be required to provide appropriate soils borings and percolation tests in order to determine proper sewage system design. Where home sewer systems are to be installed the standards in [reserved] of the Zoning Ordinance shall be applicable.

(I) *Drainage.* A system that will adequately take care of the surface water runoff within the subdivision shall be provided. Storm sewers and culverts shall be installed where necessary in conjunction with the grading of streets. Cross-drains shall be provided to accommodate all natural water flow and shall be of sufficient length to permit full-width roadways and required side slopes. Drainage ditches shall be sodded to prevent erosion.

(J) *Street signs.* Street signs of standard design approved by the County Board shall be installed at each street intersection.

(K) *Public utilities.* All utility lines for telephone and electrical service shall be placed in rear line easements when carried on overhead poles.

(Ord. passed - -2022) Penalty, see § 153.999

§ 153.520 PAYMENT FOR INSTALLATION OF IMPROVEMENTS.

(A) *General.* The required improvements to be furnished and installed by the subdivider, which are listed and described above, are to be furnished and installed at the sole expense of the subdivider and at no expense to the public, provided, however, that, in the case of an improvement, the cost of which would be general policy of the governing body be assessed only in part to the improved property and the remaining cost paid out of general tax levy, the County Board may make provision for payment of a portion of the cost by the subdivider and the remaining portion of the cost by the subdivider. If any improvement installed within the subdivision will be of substantial benefit to lands beyond the boundaries of the subdivision, the County Board may make provision for causing a portion of the cost of the improvement representing the benefit to such lands to be assessed against the same; and in such case the subdivider will be required only to pay for such portions of the whole cost of said improvements as will represent the benefit to the property within the subdivision.

(B) *Required agreement providing for proper installment of improvements.*

(1) Prior to installation of any required improvements and prior to approval of the final plat, the subdivider shall enter into a contract in writing with the county requiring the subdivider to furnish and construct said improvements at his sole cost in accordance with the plans and specifications and usual contract conditions all approved by the County Board which shall include provisions for supervision of details of construction by the County Zoning Administrator and grant to the Administrator the authority to correlate the work to be done under said contract by any subcontractor authorized to proceed thereunder and with any other work being done or contracted by the county in the vicinity. The agreement shall require the subdivider to make an escrow deposit or in lieu thereof to furnish the performance bond as specified in division (C) below, which follows.

(2) The amount of the deposit and the penal amount of the bond shall equal the Administrator's estimate of the total cost of the improvements to be furnished under the contract, including the cost of inspection by the county. The time for completion of work and the several parts thereof shall be determined by the County Board upon recommendation of the County Zoning Administrator after consultation with the subdivider and shall be reasonable in relation to the work to be done, the season of the year, and the proper correlation with construction activity in the subdivision.

(C) *Financial guarantee.* The contract, provided by division (B) above, shall require the subdivider to make an escrow deposit or in lieu thereof furnish the performance bond as follows.

(1) *Escrow deposit.* An escrow deposit shall be made with the county, including cost of inspection by the county of all improvements to be furnished and installed by the subdivider pursuant to the contract, and which have not been completed prior to the approval of the final plat; but the county shall be entitled to reimburse itself out of said deposit for any cost and expense incurred by the county for completion of the work in case of default of the subdivider under said contract and for any damages sustained by the county on account of any breach thereof. Upon completion of the work and termination of any liabilities to the county or the subdivider under said contract, the balance remaining of said deposit shall be refunded to the subdivider.

(2) *Performance bond.* In lieu of making an escrow deposit above described, the subdivider may furnish the county with a public contract of performance bond, in the form prescribed by statute, with corporate surety in a penal sum equal to the total cost as estimated by the Zoning Administrator including cost of inspection of all improvements to be furnished and installed by the subdivider pursuant to the contract and which have not been completed prior to the approval of the final plat. The Bond shall be approved by the County Attorney and filed with the County Recorder.

(D) *Construction plans.* Construction plans for the required improvements, conforming in all respect to the standards of the county and the applicable ordinances, shall be prepared at the subdivider's expense by a professional engineer who is registered in the state; and said plans shall contain his seal. Such plans, together with the quantity of construction items, shall be submitted to the Zoning Administrator for his or her approval and for his estimate of total cost of the required improvements; upon approval they shall become a part of the contract required in division (B) above. The tracings of the plans approved by the county, plus two prints, shall be furnished to the county to be filed by the county.

(Ord. passed - -2022)

§ 153.521 MODIFICATIONS, EXCEPTIONS AND VARIANCES.

(A) *Hardship.* The County Board may grant a variance upon receiving a report from the Planning Commission in any particular case where the subdivider can show by reason of exceptional topography or any other physical conditions that strict compliance with these regulations would cause exceptional and undue hardship provided such relief may be granted without detriment to the public welfare and without impairing the intent and purpose of these regulations. The Planning Commission may recommend variations from the requirements of this chapter in specific which, in its opinion, do not affect the comprehensive plan or the intent of this chapter. Any modifications thus recommended shall be entered in the minutes of the Planning Commission in setting forth the reasons which justify the modifications. The County Board may approve variances from these requirements in specific cases which in its opinion meets the above requirements and do not adversely affect the purposes of this chapter.

(B) *Applicability.* Nothing herein shall be so construed as to direct or imply that these regulations apply only to residential subdivisions. All subdivisions, be they commercial, industrial, public land use or otherwise, shall be a subdivision regardless of the proposed land use if falling within the definition of a subdivision as defined herein.

(C) *Easements.*

(1) All easements required for public purposes shall be provided at locations approved by the governing body. Said easements may be for utilities, drainage, floodplain protection, lakeshore access, walking trails and the like. However, all easements other than utility and drainage easements must be conveyed and recorded at the County Recorder’s office prior to plat approval. No plat shall be approved that may for any reason be detrimental to local, county or regional utility plan.

(2) Over sizing of utilities to provide future service for more intense development of the land or to provide future service to other areas may be required.

(Ord. passed - -2022)

§ 153.522 LAND DIVISION.

(A) *General.*

(1) In any case where the division of a parcel of land into two or more lots or parcels for the purpose of transfer of ownership or building development does not come within the definition of subdivision as defined by this chapter, a description of such land division shall be filed with the County Zoning Administrator and reviewed by the County Engineer.

(2) No land use/building permit shall be issued until said description has been received by the Secretary of the County Planning Commission.

(B) *Small subdivisions.*

(1) Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the provisions of these regulations, the County Board, following consideration of the Planning Commission, shall have the power to vary the requirements established in harmony with the general purpose and intent thereof, so that the public health, safety and general welfare may be secured and substantial justice done.

(2) In particular, for small subdivisions of a minor nature in size or complexity, certain requirements of these regulations may be waived if the County Board, following consideration by the Planning Commission, so determines, and following compliance with procedures as follows.

(a) *Simple lot split.* When one parcel or lot of record is divided to result in two lots or parcels, the submission of topographic maps, soil tests and other data may be waived if approved by the Planning Commission. Transfer of title or the process of subdividing may be by filing of a final plat, certificate of survey or registered land survey.

(b) *Creation of three to five lots.* When any parcel of land is divided to result in three to not more than five lots, submission requirements such as soil tests and topography information shall be as required by the County Planning Commission. Transfer of title or the process of subdivision may be

by filing of a final plat or registered land survey. Additional information may, however, be required by the Planning Commission, or County Board following review of the preliminary plan. The County Board may require the filing of a final plat in lieu of a registered land survey.

(Ord. passed - -2022)

§ 153.523 REGISTERED LAND SURVEYS AND CONVEYANCE BY METES AND BOUNDS.

(A) *Registered land surveys.* New building sites shall be created by a registered land survey.

(B) *Conveyance by metes and bounds.* Land parcels may be conveyed by metes and bounds property description, however, no land use/building permit may be issued for any parcel that has not been surveyed.

(Ord. passed - -2022)

§ 153.524 LAND USE/BUILDING PERMITS.

No land use/building permits will be issued for the construction of any building or structure on any lot in the subdivision as defined herein which has been approved for platting until all requirements of this chapter have been fully complied with.

(Ord. passed - -2022)

§ 153.999 PENALTY.

(A) *General.*

(1) *Violations and penalties.* Any person, firm or corporation who shall violate any of the provisions hereof or who shall fail to comply with any of the provisions hereof or who shall make any false statement in any document required to be submitted under the provisions thereof, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed seven one-thousand dollars (\$1,000) and/or by imprisonment not to exceed 90 days. Each day that a violation continues shall constitute a separate offense.

(2) *Enforcement.*

(a) This chapter shall be administered and enforced by the Zoning Administrator, who is hereby designated the enforcing officer.

(b) In the event of a violation or a threatened violation of this chapter, the Board of County Commissioners or any member thereof, in addition to other remedies, may institute appropriate actions

or proceedings to prevent, restrain, correct or abate such violations or threatened violations, and it shall be the duty of the County Attorney to institute such action.

(c) Any taxpayer or taxpayers of the county may institute mandamus proceedings in the District Court to compel specific performance by the proper official or officials of any duty required by this chapter.

(d) Nothing herein contained shall prevent the Board of County Commissioners from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include, but are not limited to:

1. 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 county must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program;

2. When an ordinance violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources and Federal Emergency Management Agency Regional Office along with the community's plan of action to correct the violation to the degree possible;

3. The Zoning Administrator shall notify the suspected party of the requirements of this chapter and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the county. If the construction or development is already completed, then the Zoning Administrator may either:

- a. Issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or

- b. Notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30 days.

4. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this chapter 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 chapter.

(3) *Validity.* Should any section or provision of this chapter be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this chapter as a whole or any part thereof other than the part so declared to be invalid.

(B) *Feedlots.* Every person violates §§ 153.380 through 153.387 of this chapter when he or she performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful and, upon conviction thereof, shall be guilty of a misdemeanor punishable by a fine of up to \$1,000, 90 days in jail, or both. A violation of §§ 153.380 through 153.387 of this chapter shall be deemed continuing in nature such that each 24-hour period during which the violation exists shall constitute a new and separate offense.

(C) *Subdivisions.*

(1) Anyone violating any of the provisions of §§ 153.495 through 153.524 of this chapter shall be guilty of a misdemeanor. Refusal to comply with §§ 153.495 through 153.524 of this chapter, after notice from the county that a violation exists, shall constitute a separate offense.

(2) Anyone violating any of the provisions of §§ 153.495 through 153.524 of this chapter shall be guilty of an offense, punishable by a fine of not more than \$700 or by commitment to jail for a period not to exceed 90 days and any permit or governmental approval may be revoked or denied for said violation. Each day during which compliance is delayed shall constitute a separate offense.

(Ord. passed - -2022)