

Clay County Land Development Ordinance

June 3rd, 2025

Contents ~~CLAY COUNTY~~ ~~DEVELOPMENT CODE~~ ~~TABLE OF CONTENTS~~

~~CHAPTER 1 TITLE; AUTHORITY; GENERAL PROVISIONS — 1~~

~~8-1-1: TITLE 1~~

~~8-1-2: STATUTORY AUTHORIZATION — 1~~

~~8-1-3: PURPOSE — 1~~

~~8-1-4: INTENT AND FUNCTIONS — 2~~

~~8-1-5: JURISDICTION/RELATIONSHIP TO OTHER JURISDICTIONS — 2~~

~~8-1-6: COMPLIANCE REQUIRED FOR ALL DEVELOPMENT — 3~~

~~8-1-7: INTERPRETATION — 4~~

~~CHAPTER 2 LOTS OF RECORD; NONCONFORMITIES — 1~~

~~8-2-1: LOTS OF RECORD — 1~~

~~8-2-2: NONCONFORMING USES AND STRUCTURES IN ALL DISTRICTS — 1~~

~~8-2-3: NONCONFORMING USES AND STRUCTURES IN FLOOD HAZARD ZONES — 4~~

~~8-2-4: NONCONFORMING USES AND STRUCTURES IN SHORELAND DISTRICTS — 5~~

~~CHAPTER 3 GENERAL PROVISIONS APPLYING IN ALL DISTRICTS — 1~~

~~8-3-1: MINIMUM LOT SIZE 1~~

~~8-3-2: YARD EXCEPTIONS 1~~

~~8-3-3: HIGHWAY SETBACKS — 2~~

~~8-3-4: PIPELINE RIGHT-OF-WAY SETBACKS — 2~~

~~8-3-5: FENCES — 2~~

~~8-3-6: TRAFFIC CONTROL AND ACCESS MANAGEMENT — 3~~

~~8-3-7: MANUFACTURED HOMES 10~~

~~8-3-8: TREES; TREE PLANTING — 10~~

~~8-3-9: HOME OCCUPATIONS, STANDARDS FOR APPROVAL — 11~~

~~8-3-10: ESSENTIAL SERVICES — 13~~

~~8-3-11: FLOODPROOFING MEASURES — 14~~

~~8-3-12: GENERAL PARKING REQUIREMENTS — 15~~

~~8-3-13: SIGNS 17~~

~~8-3-14: STORAGE OF MANURE — 18~~

~~8-3-15: PROVISIONS FOR KEEPING ANIMALS ON RESIDENTIAL PARCELS — 18~~

~~CHAPTER 4 ADMINISTRATION AND ENFORCEMENT — 1~~

~~8-4-1: ADMINISTRATIVE OFFICERS — 1~~

~~8-4-2: BOARD OF COUNTY COMMISSIONERS — 2~~

~~8-4-3: PLANNING COMMISSION — 2~~

~~8-4-4: BOARD OF ADJUSTMENT — 3~~

~~8-4-5: VARIANCES — 3~~

~~8-4-6: AMENDMENTS — 6~~

~~8-4-7: CONDITIONAL USE PERMITS — 7~~

~~8-4-8: DEVELOPMENT PERMITS AND APPLICATIONS 12~~

~~8-4-9: VIOLATION, PENALTIES AND ENFORCEMENT — 14~~

~~CHAPTER 5 ZONING DISTRICTS, LAND USE AND REQUIREMENTS — 1~~

~~8-5-1: CLASSIFICATION OF DISTRICTS — 1~~

~~8-5-2: ZONING MAP 2~~

~~8-5-3: DISTRICT BOUNDARIES — 3~~

~~8-5-4: SHORELAND CLASSIFICATION SYSTEM AND SHORELAND LAND USE DISTRICTS — 4~~

~~8-5-5: PERMITTED, CONDITIONAL AND ACCESSORY USES — 9~~

~~8-5-6: INTERIM USE PERMITS — 9~~

ARTICLE 5A. FLOOD HAZARD ZONE AND DISTRICTS (GFP, FW, FF) 18

~~8-5A-1: PURPOSE — 18~~

~~8-5A-2: INFORMATION PROVIDED BY COUNTY 18~~

~~8-5A-3: WARNING AND DISCLAIMER OF LIABILITY — 18~~

~~8-5A-4: DISTRICTS AND AREA INCLUDED 18~~

~~8-5A-5: RELATIONSHIP OF FLOOD HAZARD OVERLAY DISTRICTS TO OTHER ZONING DISTRICTS — 19~~

~~8-5A-6: FLOODWAY DISTRICT (FW) — 19~~

~~8-5A-7: FLOOD FRINGE DISTRICT (FF) — 23~~

~~8-5A-8: GENERAL FLOOD PLAIN DISTRICT (GFP) AND ZONE A LAKES AND WETLANDS — 27~~

~~8-5A-9: STANDARDS FOR UTILITIES, RAILROADS, ROADS AND BRIDGES AND ON-SITE SEWAGE TREATMENT SYSTEMS AND WATER SUPPLY SYSTEMS IN FW, FF AND GFP DISTRICTS — 29~~

ARTICLE 5B. SHORELAND ZONE LAND USE DISTRICTS (SP, RD, SP-LD) — 31

~~8-5B-1: PURPOSE — 31~~

~~8-5B-2: DISTRICTS ESTABLISHED (SP, RD, SP-LD) — 31~~

~~8-5B-3: TIERS RIPARIAN AND NON RIPARIAN — 32~~

~~8-5B-4: PERMITTED, CONDITIONAL AND ACCESSORY USES — 32~~

~~8-5B-5: DIMENSIONAL STANDARDS FOR SP, RD AND SP-LD DISTRICTS — 32~~

~~8-5B-6: CONTROLLED ACCESS LOTS FOR NON RIPARIAN LOTS — 33~~

~~8-5B-7: GENERAL STANDARDS FOR STRUCTURES AND USES IN SP, RD AND SP-LD DISTRICTS — 34~~

~~8-5B-8: SIGNIFICANT HISTORIC SITES — 35~~

~~8-5B-9: STEEP SLOPES — 36~~

~~8-5B-10: SHORELAND ALTERATIONS — 36~~

~~8-5B-11: VEGETATION ALTERATIONS 36~~

~~8-5B-12: TOPOGRAPHIC ALTERATION; GRADING AND FILLING 36~~

~~8-5B-13: STORM WATER MANAGEMENT 38~~

~~8-5B-14: STANDARDS FOR COMMERCIAL, INDUSTRIAL, PUBLIC AND SEMI-PUBLIC USES 39~~

~~8-5B-15: AGRICULTURAL USE STANDARDS 40~~

~~8-5B-16: FOREST MANAGEMENT STANDARDS 40~~

~~8-5B-17: MINING OF PEAT 40~~

~~8-5B-18: WATER SUPPLY 40~~

~~8-5B-19: SEWAGE TREATMENT 41~~

~~8-5B-20: PRIVATE STORAGE BUILDINGS 41~~

ARTICLE 5C. RESOURCE PROTECTION OVERLAY DISTRICTS (RP-WHP, RP-BIO, RP-AGG) 43

~~8-5C-1: PURPOSE 43~~

~~8-5C-2: DESCRIPTION OF RESOURCE PROTECTION OVERLAY DISTRICTS 44~~

~~8-5C-3: RELATIONSHIP OF RESOURCE PROTECTION OVERLAY DISTRICTS TO OTHER ZONING DISTRICTS 44~~

~~8-5C-4: PERMITTED, CONDITIONAL AND ACCESSORY USES 45~~

~~8-5C-5: SPECIFIC STANDARDS FOR RP-WHP RESOURCE PROTECTION OVERLAY DISTRICT WELLHEAD PROTECTION 45~~

~~8-5C-6: SPECIFIC STANDARDS FOR RP-BIO RESOURCE PROTECTION OVERLAY DISTRICT BIOLOGICALLY SIGNIFICANT AREAS 45~~

~~8-5C-7: SPECIFIC STANDARDS FOR RP-AGG RESOURCE PROTECTION OVERLAY DISTRICT AGGREGATE RESOURCES 47~~

ARTICLE 5D. AGRICULTURAL GENERAL DISTRICT (AG) 48

~~8-5D-1: PURPOSE 48~~

~~8-5D-2: PERMITTED, CONDITIONAL AND ACCESSORY USES 48~~

~~8-5D-3: LAND USE NOTIFICATION 48~~

~~8-5D-4: DENSITY AND DIMENSIONAL STANDARDS IN AG DISTRICTS 49~~

~~ARTICLE 5E. AGRICULTURAL SERVICE CENTER DISTRICT (ASC) 52~~

~~8-5E-1: PURPOSE 52~~

~~8-5E-2: PERMITTED, CONDITIONAL AND ACCESSORY USES 52~~

~~8-5E-3: DIMENSIONAL STANDARDS IN ASC DISTRICTS 52~~

~~ARTICLE 5F. URBAN EXPANSION DISTRICT (UED) 54~~

~~8-5F-1: PURPOSE 54~~

~~8-5F-1.5: COMPOSITION OF THE UED URBAN EXPANSION DISTRICT 54~~

~~8-5F-2: PERMITTED, CONDITIONAL AND ACCESSORY USES 54~~

~~8-5F-3: DIMENSIONAL STANDARDS IN UED DISTRICTS 54~~

~~8-5F-4: ADDITIONAL REQUIREMENTS IN UED DISTRICTS 55~~

~~ARTICLE 5G. HIGHWAY COMMERCIAL DISTRICT (HC) 56~~

~~8-5G-1: PURPOSE 56~~

~~8-5G-2: PERMITTED, CONDITIONAL AND ACCESSORY USES 56~~

~~8-5G-3: DIMENSIONAL STANDARDS IN HC DISTRICTS 56~~

~~ARTICLE 5H. LIMITED HIGHWAY COMMERCIAL (LHC) 58~~

~~8-5H-1: PURPOSE 58~~

~~8-5H-2: PERMITTED, CONDITIONAL AND ACCESSORY USES 58~~

~~8-5H-3: DIMENSIONAL STANDARDS IN LHC DISTRICTS 58~~

~~8-5H-4: ADDITIONAL STANDARDS IN LHC DISTRICTS 59~~

~~ARTICLE 5I. LANDING FIELD OVERLAY DISTRICT (LF) 60~~

~~8-5I-1: INTENT 60~~

~~8-5I-2: STRUCTURE AND USE REGULATIONS 60~~

~~8-5I-3: AIRPORT HAZARD ZONING MAP AND HEIGHT LIMITATIONS 60~~

~~CHAPTER 6 STANDARDS FOR SPECIFIC LAND USES 1~~

~~8-6-1: PURPOSE 3~~

~~8-6-2: APPLICABILITY 3~~

AGRICULTURAL AND RELATED USES	3
8-6-3: STANDARDS FOR ANIMAL FEEDLOTS	3
RESIDENTIAL AND RELATED USES	4
8-6-4: STANDARDS FOR TWO-FAMILY DWELLINGS	4
8-6-5: STANDARDS FOR DAY CARE IN A PRIMARY RESIDENCE, ADULT OR CHILD	4
8-6-6: STANDARDS FOR SUPERVISED RESIDENTIAL PROGRAMS	5
8-6-7: STANDARDS FOR MANUFACTURED HOMES IN A FLOOD HAZARD ZONE	5
RECREATIONAL USES, PUBLIC AND PRIVATE	5
8-6-8: STANDARDS FOR CAMPGROUNDS	5
8-6-9: STANDARDS FOR SHOOTING RANGE	5
COMMERCIAL AND INDUSTRIAL USES	6
8-6-10: STANDARDS FOR ALL COMMERCIAL AND INDUSTRIAL USES	6
8-6-11: STANDARDS FOR ADULT ENTERTAINMENT USES	7
8-6-12: STANDARDS FOR AGRICULTURAL SERVICE ESTABLISHMENTS	7
8-6-13: STANDARDS FOR AIRPORTS, PRIVATE	7
8-6-14: STANDARDS FOR ASPHALT BATCH PLANTS AND ASSOCIATED USES	8
8-6-15: STANDARDS FOR BUILDING MATERIAL SALES YARDS	8
8-6-16: STANDARDS FOR EXTRACTIVE USES	8
8-6-17: STANDARDS FOR KENNELS	11
8-6-18: STANDARDS FOR RED-MIX CEMENT PLANT AND ASSOCIATED USES	13
8-6-19: STANDARDS FOR SALVAGE YARDS	13
8-6-20: RETREAT CENTERS	13
PUBLIC SERVICE AND UTILITY USES	14
8-6-21: STANDARDS FOR TOWERS	14
STRUCTURES AND USES ACCESSORY TO PRINCIPAL USES	19
8-6-22: STANDARDS FOR ABOVE-GROUND STORAGE OF PETROLEUM PRODUCTS	19

~~8-6-23:STANDARDS FOR OUTDOOR STORAGE OF AUTOMOBILES—19~~

~~8-6-24:STANDARDS FOR ACCESSORY ENERGY SYSTEMS—WIND GENERATORS—20~~

~~8-6-25:STANDARDS FOR FARM STANDS; SEASONAL AGRICULTURAL PRODUCT SALES—20~~

~~8-6-26:STANDARDS FOR HORSES IN PLATTED SUBDIVISIONS—20~~

~~8-6-27:STANDARDS FOR SWIMMING POOLS—20~~

~~8-6-28:STANDARDS FOR ACCESSORY RECREATIONAL VEHICLES—20~~

~~8-6-29:STANDARDS FOR STORAGE YARDS FOR EQUIPMENT, MACHINERY, OR MATERIALS
ACCESSORY TO COMMERCIAL USES—20~~

TEMPORARY USES—21

~~8-6-30:STANDARDS FOR TEMPORARY USES—21~~

ADDITIONAL USES—21

~~8-6-31:STANDARDS FOR PRECAST CONCRETE PLANTS—21~~

~~8-6-32:STANDARDS FOR INTENTIONAL LIVING COMMUNITIES—21~~

~~8-6-33:STANDARDS FOR SERVICE BUSINESS IN THE URBAN EXPANSION TIER 1 ZONING
DISTRICT—22~~

~~8-6-34:STANDARDS FOR AUTOMOBILE, TRUCK, TRAILER, AND GARDEN AND FARM
EQUIPMENT SALES 23~~

~~8-6-35:STANDARDS FOR THE CULTIVATION, MANUFACTURE, WHOLESALE AND RETAIL
OF CANNABIS—23~~

~~8-6-36:STANDARDS FOR STORAGE UNITS—24~~

CHAPTER 7 SUBDIVISION REGULATIONS—1

~~8-7-1: PURPOSE—1~~

~~8-7-2: WHEN REQUIRED—1~~

~~8-7-3: SUBDIVISION APPROVAL PRIOR TO ISSUANCE OF BUILDING PERMITS—1~~

~~8-7-4: COMPLIANCE WITH ZONING PROVISIONS—2~~

~~8-7-5: SUBDIVISION REVIEW WITHIN EXTRATERRITORIAL JURISDICTION OF CITIES—2~~

~~8-7-6: TOWNSHIP REVIEW AND APPROVAL OF NEW ROADS 2~~

~~8-7-7: ENVIRONMENTAL REVIEW 2~~

~~8-7-8: TRANSFER AND DIVISION OF LAND DESCRIBED BY METES AND BOUNDS 3~~

~~8-7-9: SITE SUITABILITY REQUIRED 3~~

~~8-7-10: ADDITIONAL STUDIES 4~~

LAND DIVISION AND DEVELOPMENT REVIEW PROCESS 5

~~8-7-11: PRE-APPLICATION MEETING 5~~

~~8-7-12: STAFF REVIEW OF LAND DIVISION AND DEVELOPMENT PERMIT APPLICATIONS 5~~

~~8-7-13: LAND DIVISION BY MINOR SUBDIVISION 5~~

~~8-7-14: LAND DIVISION BY REGISTRATION OF A PLAT OF SUBDIVISION/MAJOR SUBDIVISION 6~~

~~8-7-15: CLUSTER SUBDIVISION REQUIREMENTS 14~~

~~8-7-16: LAND DIVISION BY COMMON INTEREST COMMUNITY PLAT 15~~

~~8-7-17: UNITED STATES PUBLIC LAND SURVEY MONUMENT RECORD 15~~

CHAPTER 8 DEFINITIONS 1

~~8-8-1: RULES OF CONSTRUCTION 1~~

~~8-8-2: DEFINITIONS 1~~

CHAPTER 1
TITLE, AUTHORITY, GENERAL PROVISIONS

- 8-1-1: TITLE**
- 8-1-2: STATUTORY AUTHORIZATION**
- 8-1-3: PURPOSE**
- 8-1-4: INTENT AND FUNCTIONS**
- 8-1-5: JURISDICTION/RELATIONSHIP TO OTHER JURISDICTIONS**
- 8-1-6: COMPLIANCE REQUIRED FOR ALL DEVELOPMENT**
- 8-1-7: INTERPRETATION**

8-1-1: TITLE:

Chapter 8-1. Introductory Provisions	1
8-1-1. Title	1
8-1-2. Statutory Authorization	1
8-1-3. Purpose and Function	1
8-1-4. Jurisdictional Authority	2
8-1-5. Interpretation	3
8-1-6. Development Defined	3
8-1-7. Development Required to Conform	4
8-1-8. Nonconformities	4
8-1-9. Establishment of Districts	7
8-1-10. Zoning Map	7
Chapter 8-2. Base Districts	9
8-2-1. Agricultural General District (AG)	9
8-2-2. Agricultural Service Center District (ASC)	13
8-2-3. Highway Commercial District (HC)	14
8-2-4. Limited Highway Commercial District (LHC)	15
Chapter 8-3. Flood Hazard Districts	16
8-3-1. Statutory Authorization and Purpose	16
8-3-2. Definitions	17
8-3-3. Information Provided by County; Disclaimer of Liability	20

8-3-4. Flood Hazard Zone Boundaries..... 20

8-3-5. Flood Hazard Districts 21

8-3-6. Requirements for all Flood Hazard Districts..... 22

8-3-7. Floodway District (FW) 24

8-3-8. Flood Fringe District (FF) 27

8-3-9. General Floodplain District (GFP) and Zone A Lakes and Wetlands..... 31

8-3-10. Transportation Facilities and Utilities 32

8-3-11. Manufactured Homes and Recreational Vehicles 33

8-3-12. Administration..... 33

8-3-13. Nonconforming Uses and Structures in Flood Hazard Districts 36

8-3-14. Violations and Penalties 37

Chapter 8-4. Shoreland Districts 38

8-4-1. Statutory Authorization, Policy, and Purpose 38

8-4-2. General Provisions 38

8-4-3. Definitions 39

8-4-4. Administration..... 46

8-4-5. Shoreland Classification System 11

8-4-6. Districts Established (SP, RD, SP-LD, GD) 15

8-4-7. Permitted, Conditional, and Accessory Uses 16

8-4-8. Special Use Provisions 16

8-4-9. Dimensional Standards; Placement and Design of Structures 19

8-4-10. Performance Standards for Public and Private Facilities 23

8-4-11. Vegetation and Land Alterations..... 25

8-4-12. Stormwater Management 28

8-4-13. Subdivision Standards 29

8-4-14. Planned Unit Developments..... 30

Chapter 8-5. Resource Protection Districts 36

8-5-1. Purpose 36

8-5-2. Description of Resource Protection Districts 37

8-5-3. Relationship of Resource Protection Overlay Districts to Other Zoning Districts 37

8-5-4. Compliance with Use Regulations 37

8-5-5. Wellhead Protection District (RP-WHP) 38

8-5-6. Biologically Significant Areas District (RP-BIO) 38

8-5-7. Aggregate Resource Protection District (RP-AGG) 39

Chapter 8-6. Urban Expansion District..... 40
 8-6-1. Purpose..... 40
 8-6-2. General Provisions..... 40
 8-6-3. Development Standards..... 41
 8-6-4. Use Regulations..... 41
Chapter 8-7. Landing Field District..... 42
 8-7-1. Purpose..... 42
 8-7-2. Relationship of Landing Field District to Other Districts..... 42
 8-7-3. Relationship to Municipal Airport Zoning Ordinances..... 42
 8-7-4. Structure and Use Regulations..... 42
Chapter 8-8. Use Regulations..... 44
 8-8-1. Allowed Uses..... 44
 8-8-2. Agricultural Uses..... 50
 8-8-3. Residential Uses..... 60
 8-8-4. Commercial and Industrial Uses..... 62
 8-8-5. Recreational Uses..... 75
 8-8-6. Public Service and Utility Uses..... 76
 8-8-7. Accessory Uses..... 101
 8-8-8. Temporary Uses..... 107
Chapter 8-9. Development Standards..... 1
 8-9-1. Density, Lot, and Setback Requirements..... 2
 8-9-2. County Roadway Access Standards..... 6
 8-9-3. Fences..... 19
 8-9-4. Trees, Shelterbelts, and Windbreaks..... 11
 8-9-5. Parking and Loading Areas..... 12
 8-9-6. Signs..... 27
 8-9-7. Site Plans..... 30
Chapter 8-10. Subdivision Regulations..... 31
 8-10-1. Purpose..... 32
 8-10-2. Required Conformity and Approvals..... 32
 8-10-3. Subdivision Review Within Extraterritorial Jurisdiction of Cities..... 32
 8-10-4. Environmental Review..... 32
 8-10-5. Township Approval Required..... 32
 8-10-6. Subdivision of Land Described by Metes and Bounds..... 32

8-10-7. Methods of Subdivision	33
8-10-8. Pre-application Meeting	33
8-10-9. Administrative Subdivision Procedures	34
8-10-10. Major Subdivision Preliminary Plat Procedures	34
8-10-11. Major Subdivision Final Plat Procedures	36
8-10-12. Plat Specifications	37
8-10-13. Major Subdivision Design Standards	39
8-10-14. Subdivision Improvements	41
8-10-15. Common Interest Communities	44
8-10-16. United States Public Land Survey Monuments	44
Chapter 8-11. Administration and Procedures	1
8-11-1. Zoning Administrator	1
8-11-2. County Board	2
8-11-3. Planning Commission	2
8-11-4. Board of Adjustment	4
8-11-5. Development Permits	5
8-11-6. Variances	7
8-11-7. Conditional Use Permits	10
8-11-8. Interim Use Permits	15
8-11-9. Land Development Ordinance Text Amendments	15
8-11-10. Zoning Map Amendments	18
8-11-11. Environmental Review	20
8-11-12. Violation, Penalties, and Enforcement	21
Chapter 8-12. Rules and Definitions	15
8-12-1. Rules	20
8-12-2. Definitions	1

Tables

<u>Table 3-1. Summary of Permitting Requirements and Floodproofing Options for Structures in Flood Hazard Districts</u>	<u>23</u>
<u>Table 4-2. Classification of Lakes</u>	<u>12</u>
<u>Table 4-3. Classification of Rivers and Streams</u>	<u>14</u>
<u>Table 4-4. Controlled Access Lot Frontage</u>	<u>18</u>

Table 4-5. Shoreland District Lot Standards..... 19

Table 4-6. Shoreland District Setback Requirements 21

Table 4-7. Floor Area and Dwelling Site ratios for Commercial Planned Unit Developments 32

Table 8-1. Use Table..... 46

Table 8-2. Required Setbacks for Animal Feedlots 55

Table 8-3. Setback Requirements for Wind Energy Conversion Systems 96

Table 9-1. Density, Lot Standards, and Setback Requirements for Base Districts..... 5

Table 9-2. Minimum Access Spacing Requirements..... 14

Table 9-3. Minimum Off-Street Parking Requirements 25

Chapter 8-1. Introductory Provisions

Chapter Contents:

8-1-1. Title

8-1-2. Statutory Authorization

8-1-3. Purpose and Function

8-1-4. Jurisdictional Authority

8-1-5. Interpretation

8-1-6. Development Defined

8-1-7. Development Required to Conform

8-1-8. Nonconformities

8-1-9. Establishment of Zoning Districts

8-1-10. Zoning Map

8-1-1. Title

This Ordinance shall be known, ~~cited, and referred to~~ as the *Clay County Land Development Ordinance: Zoning and Subdivision Regulations*; ~~and may be referred to as~~ *the Land Development Ordinance or this Ordinance hereinafter. The Land Development Ordinance is Title 8 of the Clay County Code.*

~~8-1-2: STATUTORY AUTHORIZATION:~~

8-1-2. Statutory Authorization

This Ordinance is adopted pursuant to the authority granted in Minnesota Statutes Annotated Chapter 394, as amended; ~~“Statewide Standards and Criteria for Management of Flood Plain Areas in Minnesota”;~~ in accordance with the authority granted in Minnesota Statutes Annotated Chapter 103F; and Minnesota Regulations parts 6120.5000 through 6120.6200, as amended; and ~~“Statewide Standards and Criteria for Management of shoreland Areas of Minnesota”;~~ in accordance with the authority granted in Minnesota Statutes Annotated Chapter 103G; and Minnesota Regulations parts 6120.2500 through 6120.3900, as amended.

~~8-1-3: PURPOSE:~~

8-1-3. Purpose and Function

- A. This Ordinance is enacted ~~for the general purposes of promoting to promote~~ the public health, safety, morals, and general welfare; provide for adequate light, air, and water; provide for safety from fire, flood, and other dangers; prevent undue concentration of population; preserve property values; preserve prime agricultural land; facilitate the provision of adequate public facilities; and preserve and enhance the quality of surface and ground water. ~~In addition, this Ordinance is enacted for the following specific purposes:~~

B. This Ordinance is further enacted to promote orderly, aesthetic development and a logical sequence of development in unincorporated areas of the County. Clay County's zoning regulations are intended to reduce potential land use conflicts by separating or buffering incompatible land uses, thereby promoting public health, safety, and welfare, and enhancing the County's tax base. Clay County finds that it is in the best interest of the public to provide for the wise subdivision, use, and development of the lands of the County.

C. The purposes of this Ordinance are primarily to be achieved by regulating the following:

1. The development and use of land and structures for trade, industry, residences, recreation, public activities, agriculture, and other uses;
2. The location, density, and dimensions of structures;
3. The separation of structures and uses from lot lines, existing development, and other features, and;
4. The development of shorelands, Flood Hazard Areas, and other sensitive areas within Clay County.

D. Regulation shall be accomplished by:

1. Dividing the unincorporated areas of the County into zoning districts (Chapter 8-1);
2. Establishing regulations for base zoning districts and overlay zoning districts (Chapter 8-2 through Chapter 8-7);
3. Establishing regulations for specific uses (Chapter 8-8);
4. Controlling the manner in which development occurs (Chapter 8-9);
5. Providing for the orderly subdivision of land (Chapter 8-10); and
6. Defining the duties of Ordinance administration, providing for amendments to this Ordinance, and prescribing mechanisms for enforcement of regulations (Chapter 8-11)

8-1-4. Jurisdictional Authority

The provisions of this Ordinance shall apply to all areas of the County outside the corporate limits of municipalities, except as follows:

A. **Municipal Extraterritorial Jurisdiction.** Applications for the subdivision of land that lies within the Extraterritorial Jurisdiction of a municipality that has exercised Extraterritorial Jurisdiction shall be subject to the subdivision regulations of such municipality, which may vary from the subdivision regulations of Clay County. However, the zoning regulations of Clay County as contained in this Ordinance shall remain in effect within any municipal Extraterritorial Jurisdiction.

B. **Township Zoning.** Land within Clay County may be subject to zoning and subdivision regulations adopted by the township in which the land is located. Where townships have adopted regulations that conflict with the provisions of this Ordinance, the most restrictive provisions shall apply. It shall be the responsibility of the developer to secure necessary permits from the township zoning official or township Board. Clay County is not responsible for the administration of township regulations. Clay County is not the sole zoning authority in townships that administer and enforce zoning regulations.

C. **Joint Powers Agreements.** Land within Clay County may be subject to zoning and subdivision regulations as adopted by Joint Powers Agreements between the County, municipalities, and townships. Clay County is not the sole zoning authority in areas with Joint Powers Agreements.

8-1-5. Interpretation

A. **General Interpretation.** In the interpretation and application of this Ordinance, the provisions thereof shall be held to be the minimum requirements, shall be liberally construed in favor of the governing body, and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

B. **Abrogation and Greater Restrictions.** This Ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions than other covenants, easements, or deed restrictions, the provisions of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

C. **Warning and Disclaimer of Liability.** This Ordinance does not imply that areas located outside of Flood Hazard Districts or uses permitted within such districts will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the County or any official or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

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

8-1-6. Development Defined

A. **Development Activities.** Except as otherwise provided, the definition of development shall include the following activities, which shall be subject to the permitting requirements and procedures of *Chapter 8-11 (Administration and Procedures)*:

1. The construction, reconstruction, or structural alteration of any structure, including signs, requiring a building permit, excluding certain accessory structures as provided in 8-1-6(B), below;
2. Any increase in the intensity of the use of land, such as an increase in the number of establishments or dwelling units within a lot or structure; or any lot line adjustment to facilitate said development;
3. Commencement or expansion of mining or excavation;
4. Deposit of refuse, soils, or other materials to fill an area of land;
5. Alteration of a shore, bank, or floodplain of a river, stream, lake, pond or artificial body of water;
6. Re-establishment of a use which has been abandoned for one (1) year;
7. Any subdivision for the purpose of effecting a non-agricultural use; and
8. The construction, modification, or alteration of any permanent or temporary access onto a County highway or public right-of-way, including any field access, driveway, or road

connection. See 8-9-2 (County Roadway Access Standards) for additional access provisions.

B. Non-Development Activities. The following activities do not constitute development for the purposes of this Ordinance and are exempt from the permitting requirements and procedures of Chapter 8-11 (Administration and Procedures):

1. The placement of any accessory structure with a foundation and a floor area of 144 square feet or less or an accessory structure without a foundation and a floor area of 400 square feet, so long as the accessory structure is not located within a Shoreland or Flood Hazard District. Accessory structures meeting these criteria must adhere to building setback requirements for the zoning district in which they are located.
2. The maintenance or improvement of a public road or railroad that does not require engineering design if all work is conducted within the right-of-way;
3. Work by any utility, which does not involve engineering design, for the purpose of inspection, repair, renewal or construction within the established right-of-way of any conduits, cables, utility tunnels, power lines, towers, pole tracks, or the like;
4. Any maintenance or improvement of a structure that is not a structural alteration or expansion;
5. A transfer of title to land that does not involve the subdivision of land;
6. The creation of lease agreements or other agreements of possession for existing lots of record; and
7. The creation or termination of easements or covenants concerning development of land or other rights in land not otherwise involving development.

8-1-7. Development Required to Conform

A. Beginning on the effective date of this Ordinance or any amendment thereto, all development in the County, as defined under 8-1-6(A), above, shall conform with the provisions of this Ordinance and other applicable regulations. Any development existing prior to the effective date that does not conform with the provisions of this Ordinance shall be regarded as nonconforming but may be continued, subject to the regulations of this Ordinance.

8-1-8. Nonconformities

A. **Nonconforming Lots.** Any lot legally recorded in the Office of the County Recorder prior to the effective date of this Ordinance is a lot of record. Any lot of record that does not fully conform to the provisions of this Ordinance may be built upon, provided all of the following requirements are met:

1. The lot has separate ownership from abutting lands;
2. The lot conforms with all setback requirements of this Ordinance or, if the lot does not conform with said setback requirements, a variance has been obtained.
3. The lot area and lot width occupy no less than 75 percent of the minimum lot area and minimum lot width as required for the district in which the lot is located. However, any nonconforming lot with an existing structure thereon is exempt from these requirements;

4. The proposed use is an allowed use within the applicable district; and
5. Within any Flood Hazard District, the proposed use must be elevated on fill or floodproofed to the Regulatory Flood Protection Elevation according to the standards of this Ordinance.

B. Nonconforming Uses and Structures

1. **Discontinued or Abandoned.** If a nonconforming use or nonconforming structure is discontinued or abandoned for a period of 12 consecutive months or longer, further use of the property shall conform to this Ordinance. The Zoning Administrator may be made aware of discontinuance or abandonment by staff observation or other evidence. In addition, the County Assessor shall notify the Zoning Administrator in writing of all instances in which a nonconforming use or nonconforming structure has been discontinued or abandoned for a period of 12 consecutive months or longer.
2. **Change in use.** Any change to a nonconforming use shall comply with the following provisions:
 - a. Any nonconforming use may be changed to a use that is allowed by zoning.
 - b. If a nonconforming use is replaced by a conforming use, no nonconforming use shall be resumed on the lot.
 - c. Any nonconforming use may be changed to another nonconforming use of lesser intensity than the original use. Such change requires approval of a Conditional Use Permit, which shall only be granted if the new use is of lesser intensity than the original use.
3. **Increase in nonconformity Prohibited.** No nonconforming use or nonconforming structure shall be expanded, intensified, or altered in any way that increases its nonconformity.
4. **Normal repairs and Structural Alterations.** Normal repairs and structural alterations are permissible, provided they do not increase the floor area of the structure. Such activities shall include but may not be limited to the following:
 - a. Replacement of siding;
 - b. Replacement of roof or shingles;
 - c. Installation or replacement of windows;
 - d. Painting;
 - e. Interior renovations;
 - f. Replacement or conversion of HVAC systems;
 - g. Repairs to plumbing or electrical systems;
 - h. Installation of insulation;
 - i. Alterations necessary to accommodate the needs of a disabled person residing in a nonconforming dwelling, including the installation of unenclosed access ramps or widening of doorways;
 - j. Construction, relocation, or reinforcement of walls; and

k. Foundation repairs.

- 5. Nonconforming Uses and Structures in Flood Hazard Districts and Shoreland Districts.** Nonconforming uses and structures in Flood Hazard Districts and Shoreland Districts are regulated by the provisions of 8-3-13 (*Nonconforming Uses and Structures in Flood Hazard Districts*) and 8-4-4 (*Administration*), respectively. In the event of a conflict between the provisions of 8-3-13, 8-4-4, and this section, the stricter provisions shall prevail.
 - 6. Substantial Damage.** If any nonconforming structure sustains substantial damage or cumulative damages exceeding 50 percent or more of the structure's market value or replacement cost, whichever is less, within any three (3)-year period, said structure shall not be re-established, nor shall any new structure be established on the lot, except in conformance with the provisions of this Ordinance.
 - 7. Disaster.** Following a flood, fire, or other disaster, Clay County shall make substantial damage determinations and shall notify all owners of substantially damaged property following the procedures required for flood-damaged properties under 8-3-13 (*Nonconforming Uses and Structures in Flood Hazard Districts*). Before rebuilding commences, the owner must apply for and receive approval of a Zoning Certificate within 180 days of the disaster. All owners of nonconforming structures that are not substantially damaged shall be notified in writing that repairs may commence pending the issuance of all necessary permits.
 - 8. Declared Hazard.** When any nonconforming structure or portion of a nonconforming structure becomes physically unsafe or unlawful due to lack of repairs, maintenance, or abandonment, the Environmental Health Director may declare such structure to be a health or safety hazard in violation of the public nuisance provisions of Title 5, Chapter 1 of the Clay County Code by virtue of the structure's physical condition alone. repairs shall be made as ordered by the Environmental Health Director. If the structure has sustained substantial damage, the repaired or replacement structure must conform with all provisions of this Ordinance. If the property owner is unable to make the necessary repairs, the structure may be condemned or demolished as ordered by the Clay County Environmental Health Director.
 - 9. Residential Real Estate Exemptions.** For homestead and non-homestead residential real estate and seasonal residential real estate occupied for recreational purposes, except as otherwise provided by law, a nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an official control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion. Substantially damaged structures must follow procedures set forth in 8-1-8(B)(7). If a nonconforming building or structure is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, the board may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly created impact on adjacent property or water body.
- C. Nonconforming Sewage Treatment Systems.** Sewage treatment systems installed according to all applicable shoreland standards adopted under Minnesota Statutes Annotated Section 103F.201 in effect at the time of installation shall be considered conforming unless they are

determined to be failing. Systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above ground water than required by the Minnesota Pollution Control Agency's Chapter 7080 for design of on-site sewage treatment systems, shall be considered nonconforming.

8-1-9. Establishment of Districts

To classify and regulate the use of land, to control the location of uses, and to regulate the size of structures and intensity of development, Clay County is hereby divided into districts, which are established as follows:

A. Base Districts

1. AG, Agricultural General District (8-2-1)
2. ASC, Agricultural Service Center District (8-2-2)
3. HC, Highway Commercial District (8-2-3)
4. LHC, Limited Highway Commercial District (8-2-4)

B. Overlay Districts

1. Flood Hazard Districts (Chapter 8-3)
 - a. FW, Floodway District (8-3-7)
 - b. FF, Flood Fringe District (8-3-8)
 - c. GFP, General Floodplain District (8-3-9)
2. Shoreland Districts (Chapter 8-4)
 - a. SP, Shoreland Special Protection District (8-4-6)
 - b. RD, Shoreland Residential District (8-4-6)
 - c. SP-LD, Shoreland Special Protection District (8-4-6)
 - d. GD, General Use District (8-4-6)
3. Resource Protection Districts (Chapter 8-5)
 - a. RP-WHP, Wellhead Protection District (8-5-5)
 - b. RP-BIO, Biologically Significant Areas District (8-5-6)
 - c. RP-AGG, Aggregate Resources Protection District (8-5-7)
4. UE, Urban Expansion District (Chapter 8-6)
5. LF, Landing Field District (Chapter 8-7)

8-1-10. Zoning Map

A. Adoption of Official Zoning Map. The Official Zoning Map, together with all materials attached thereto, is hereby adopted by reference and declared to be part of this Ordinance. The attached material includes the Flood Insurance Study, Clay County, Minnesota and Incorporated

Areas; Flood Insurance Rate Map Index (Map Number 27027CIND2A); and all Flood Insurance Rate Map panels as indicated on the Flood Insurance Rate Map Index that have been printed for the unincorporated areas of Clay County, all of these documents being dated April 17, 2012, and prepared by the Federal Emergency Management Agency (FEMA).

B. Identification; Copies on File. The Official Zoning Map is available online on the Clay County website. Copies of the original Zoning Map shall be filed in the Office of the County Recorder and shall remain without changes to be used for reference purposes when there is a need to determine the original zoning.

C. Zoning Map Revisions. Revisions to the Official Zoning Map shall be recorded in the minutes of the County Board and shall be filed at the Planning and Zoning Office. The Official Zoning Map shall be republished periodically to incorporate amendments.

D. Electronic Copies. The Official Zoning Map and original Zoning Map may be kept and distributed in electronic format. A verification by the County Auditor shall be placed in the electronic file attesting to the identity of the Official Zoning Map.

E. Detachments.

1. Any land detached from an incorporated municipality and placed under the jurisdiction of this Ordinance shall initially be placed in the Agricultural General District until it is placed in another district by action of the County Board upon recommendation from the Planning Commission.
2. The Flood Insurance Rate Map panels adopted by reference under 8-1-10(A), above, include floodplain areas that lie within the incorporated boundaries of municipalities. If any such area is detached from an incorporated municipality and placed under the jurisdiction of Clay County after the effective date of this Ordinance, the newly detached floodplain lands shall be subject to the provisions of this Ordinance immediately upon the date of the detachment.

F. Zoning District Boundaries. Zoning district boundaries shall be interpreted as follows:

1. The location and boundaries of zoning districts are set forth on the Official Zoning Map. Unless otherwise specified, zoning district boundaries shall follow the centerlines of streets, highways, railroad rights-of-way, or waterways; and section lines, subdivision lines, lot lines, city boundaries, or such lines extended.
2. Boundaries for Flood Hazard Districts and Shoreland Districts shall be determined as provided in Chapter 8-3 and Chapter 8-4, respectively.
3. Where uncertainty exists as to the alignment of zoning district boundaries as shown on the Official Zoning Map, the County Board shall determine the zoning district boundaries. Any dispute regarding the determination of the County Board may be appealed to the appropriate court pursuant to state law.

Chapter 8-2. Base Districts

Chapter Contents:

8-2-1. Agricultural General District (AG)

8-2-2. Agricultural Service Center District (ASC)

8-2-3. Highway Commercial District (HC)

8-2-4. Limited Highway Commercial District (LHC)

8-2-1. Agricultural General District (AG)

A. Purpose. The purpose of the Agricultural General District (AG District) is to implement the following goals and objectives of the Clay County 2045 Comprehensive & Transportation Plan:

- 1. Agriculture Goal #1.** Support the long-term protection of the County's strong and diverse agricultural economy.
 - a. Objective C.** Ensure that all new development is compatible with the character and quality of the County's agricultural areas.
- 2. Land Use – Agricultural Goal #1.** Recognize and protect the agricultural character of Clay County.
 - a. Objective B.** Protect prime agricultural soils from commercial, industrial, and residential development.
 - b. Objective C.** Preserve large tracts of farmland while allowing farmland owners to benefit from development through the use of transfer of development rights (TDR) for concentrated residential development.
- 3. Land Use – Commercial and Industrial Goal #1.** Encourage commercial and industrial development that is in harmony with the agricultural and rural character of Clay County.
 - a. Objective C.** Avoid or mitigate commercial and industrial development that increases the potential for land use conflicts with rural residential or agricultural uses.

B. Allowed Uses. Uses allowed in the AG District are specified in *Table 8-1 (Use Table)*.

C. Use Standards. All uses shall meet the minimum requirements of the AG District. Certain uses, due to their unique potential to impact the natural environment or surrounding properties, are subject to additional use standards. See applicable sections of this Ordinance, as listed in *Table 8-1 (Use Table)*.

D. Land Use Notification. No permit shall be issued for the construction of a dwelling unit in the AG District until a Land Use Notification is signed by the landowner and recorded, at the landowner's expense, against the subject property. The Land Use Notification shall apply to all subsequent permits on the property. The Land Use Notification shall inform the landowner that:

- 1.** The subject property is in an area where agricultural uses are prioritized over all other uses.
- 2.** Agricultural uses may be accompanied by noise, dust, odor, light, smoke, and other off-site impacts at any time of day and year.

3. Agricultural uses may include new or expanded feedlots that conform to all state or federal standards, operation of machinery, storage and disposal of manure, and application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides areas of Clay County, or pesticides.

4. Residents who live near agricultural uses may experience inconveniences or discomfort associated with agricultural practices as a normal and necessary aspect of living near agricultural areas.

E. Development Location. To preserve working farmland and avoid development compatibility issues, Clay County encourages residential development to be located on sites that are unsuitable for economical agricultural uses due to the presence of forest cover, poor soils, rough topography, or other natural features.

F. Subdivision Types. There are four (4) options for residential development in the AG District:

1. Administrative subdivisions, or single-lot divisions of land; and

2. Major subdivisions, or multi-lot divisions of land, including standard subdivisions, cluster subdivisions, and agricultural or natural resources subdivisions.

G. Maximum Density, Entitlements, and Transfer of Development Rights within a Quarter

Section. The maximum density in the AG District is eight (8) single-family dwellings per quarter section (160 acres) unless a density bonus is granted through an agricultural or natural resources subdivision as described in 8-2-2(K). Each quarter-quarter section (40 acres) is entitled to two (2) single-family dwellings. However, equivalent development rights may be transferred within the quarter section from land under ownership by the same person or entity through a document recorded against the property sending the development rights and property receiving the development rights. Development rights may also be conveyed within the quarter section between land under separate ownership. The maximum density per quarter-quarter section (40 acres) is contingent on the subdivision type, as further described in this section.

H. Administrative Subdivisions.

1. Purpose and Procedure. The purpose of administrative subdivisions is to simplify the subdivision process for single-lot divisions of land, lot combinations, and lot line adjustments in the AG District. The administrative subdivision process may be used to create two (2) developable lots per quarter-quarter section (40 acres). Administrative subdivisions shall be processed according to the procedures of 8-10-9 (*Administrative Subdivision Procedures*). Any subdivision resulting in more than two (2) residential lots or for any non-residential or non-agricultural use shall follow the procedures for major subdivisions outlined in 8-10-10 (*Major Subdivision Preliminary Plat Procedures*) and 8-10-11 (*Major Subdivision Final Plat Procedures*).

2. Development Standards.

a. All development within administrative subdivisions shall conform with the minimum dimensional standards and yard setbacks listed in Table 9-1 (*Density, Lot Standards, and Setback Requirements for Base Districts*) and with all other applicable provisions of Chapter 8-9 (*Development Standards*).

b. Residential lots created by administrative subdivision shall have a minimum of 66 feet in direct road access owned in fee. Road access necessary to meet the

requirements of this section shall not be met through an access easement.

I. Standard Subdivisions.

- 1. Purpose and Procedure.** The purpose of standard subdivisions is to allow for the subdivision of land into three or more lots with frontage on an existing public right-of-way. Standard subdivisions shall be processed according to the major subdivision procedures outlined in 8-10-10 (Major Subdivision Preliminary Plats) and 8-10-11 (Major Subdivision Final Plats).
- 2. General Requirements.** All development within standard subdivisions shall conform with the minimum dimensional standards and yard setbacks listed in Table 9-1 (Density, Lot Standards, and Setback Requirements for Base Districts), and with all other applicable provisions of Chapter 8-9 (Development Standards).
- 3. Subdivision Density.** Standard subdivisions may contain up to five (5) single-family dwellings or developable lots per quarter-quarter section (40 acres) through the transfer of development rights, provided access conforms with the minimum spacing of 8-9-2 (County Roadway Access Standards). Any single-family dwelling or buildable lot within the quarter section existing upon the date of application for major subdivision shall be deducted from the maximum density of the standard subdivision.

J. Cluster Subdivisions.

- 1. Purpose and Procedure.** Cluster subdivisions are intended to facilitate increased density within a portion of a quarter section (160 acres) while preserving the remainder of the quarter section from development. Cluster subdivisions shall be processed according to the major subdivision procedures outlined in 8-10-10 (Major Subdivision Preliminary Plats) and 8-10-11 (Major Subdivision Final Plats) and shall conform with all applicable provisions of this Ordinance.
- 2. General Requirements.** All development within cluster subdivisions shall conform with the minimum dimensional standards and yard setbacks listed in Table 9-1 (Density, Lot Standards, and Setback Requirements for Base Districts) and with all other provisions of Chapter 9 (Development Standards).
- 3. Subdivision Density.** Cluster subdivisions may contain up to eight (8) single-family dwellings or developable lots per quarter-quarter section (40 acres) through the transfer of development rights. Any single-family dwelling or buildable lot within the quarter section existing upon the date of application for major subdivision shall be deducted from the maximum density of the cluster subdivision.
- 4. Subdivision Access.** No lot within a cluster subdivision shall have driveway access on a public highway. All lots must be served by an internal street providing two (2) points of ingress/egress to the cluster subdivision or a turnaround that meets the design standards in 8-10-13 (Major Subdivision Design Standards).

K. Agricultural or Natural Resource Subdivisions.

- 1. Purpose and Procedure.** The purpose of agricultural or natural resource subdivisions is to encourage an organized pattern of residential development that limits impacts to prime farmland, natural woodlands, prairies, wetlands, lakes, rivers, streams, wildlife habitats, and/or other natural features and resources. A density bonus is permitted to encourage preservation or restoration of these areas. Agricultural or natural resource subdivisions shall be processed according to the major subdivision procedures outlined in 8-10-10 (*Major Subdivision Preliminary Plat Procedures*) and 8-10-11 (*Major Subdivision Final Plat Procedures*).
- 2. General Requirements.** All development within agricultural or natural resource subdivisions shall conform with the minimum dimensional standards and yard setbacks listed in *Table 9-1 (Density, Lot Standards, and Setback Requirements for Base Districts)*, and with all other applicable provisions of *Chapter 8-9 (Development Standards)*.
- 3. Subdivision Density.** Agricultural or natural resource subdivisions may contain eight (8) or more single-family dwellings or developable lots per 40 acres through the transfer of development rights and a density bonus as described herein. Any single-family dwelling or buildable lot within the quarter section existing upon the date of application for major subdivision shall be deducted from the maximum density of the agricultural or natural resources subdivision.
- 4. Minimum Conservation Area and Density Bonus.** A minimum of 50 percent of total land in an agricultural or natural resources subdivision shall be platted as an outlot reserved in perpetuity as agricultural land or natural resources. An agricultural or natural resource subdivision may increase density by one developable lot per quarter-quarter section (40 acres) for each additional two (2) acres of subdivision land area permanently reserved for agricultural use or natural resources protection beyond the minimum requirement of 50 percent.
- 5. Uses.**

 - a.** Acceptable uses for reserved agricultural land include farming by subdivision property owners, farming by a tenant who leases the land from the owner, community gardens managed by subdivision property owners, small-scale livestock operations managed by subdivision property owners, or a combination thereof.
 - b.** Acceptable uses for reserved natural resource areas include protection of natural or restored woodlands, prairies, wetlands, lakes, rivers, streams, wildlife habitats, or other natural features, or compatible recreational uses.
- 6. Inventory of Natural Resources.** Natural resources to be conserved or restored shall be identified in a natural resource inventory submitted with the Preliminary Plat application.
- 7. Management.** Land preserving natural resources or agricultural areas shall be reserved as an out lot and managed through a developer's agreement, homeowners' association,

easement, or similar arrangement to be recorded against the property. If the reserved land has recreational potential, public or semi-private access shall be granted.

8. Design Considerations. Agricultural or natural resource subdivisions shall be designed such that they:

- a. Avoid interference with agricultural operations.
- b. Minimize fragmentation of agricultural and natural land.
- c. Minimize disturbance to woodlands or other significant stands of vegetation.
- d. Avoid encroaching upon or disturbing native plant communities identified in the DNR's County Biological Survey for Natural Communities and Rare Species.
- e. Result in contiguous tracts of residential property unless, in the judgement of the Planning Commission, noncontiguous tracts would result in less fragmentation of tillable farmland or natural lands, and
- f. Protect scenic views of open land from adjacent roads.
- g. Residential lots in an agricultural subdivision shall be platted on land with the lowest Crop Productivity Index rating within the subdivision's boundaries to the extent possible. Subdivision of property containing land with Crop Productivity Index rating of 90.0 or higher shall be platted as an agricultural subdivision with an emphasis on reserving the most agriculturally productive portion of the property for agricultural use.

8-2-2. Agricultural Service Center District (ASC)

A. Purpose. The purpose of the Agricultural Service Center District (ASC District) is to implement the following goals and objectives of the Clay County 2045 Comprehensive & Transportation Plan:

1. Land Use – Commercial and Industrial Goal #1. Encourage commercial and industrial development that is in harmony with the agricultural and rural character of Clay County.

- a. **Objective A.** Promote value-added agricultural, commercial, and industrial development in Agricultural Service Center areas and along transportation corridors and hubs.

B. Allowed Uses. Uses allowed in the ASC District are specified in 8-1 (Use Table).

C. Use Standards. All uses shall meet the minimum requirements of the ASC District. Certain uses, due to their unique potential to impact the natural environment or surrounding properties, are subject to additional use standards. See applicable sections of this Ordinance, as listed in Table 8-1 (Use Table).

D. Development Standards.

1. All development shall conform with the minimum dimensional standards and setback requirements for the ASC District as listed in Table 9-1 (Density, Lot Standards, and Setback Requirements for Base Districts), and with all other applicable provisions of Chapter 9 (Development Standards).

2. Commercial and industrial uses shall be located and designed so that they do not create a nuisance or potential trespass concerns for nearby residential uses.

E. Subdivision Procedures. The administrative subdivision process may be used in the ASC District for lot line adjustments, lot combinations, or to create two (2) agricultural or residential lots. Administrative subdivisions shall be processed according to the procedures of 8-10-9 (Administrative Subdivisions). Any subdivision resulting in more than two (2) residential lots or for any non-residential or non-agricultural use shall follow the procedures for major subdivisions outlined in 8-10-10 (Major Subdivision Preliminary Plat Procedures) and 8-10-11 (Major Subdivision Final Plat Procedures).

8-2-3. Highway Commercial District (HC)

A. Purpose. The purpose of the Highway Commercial District (HC District) is to implement the following goals and objectives of the Clay County 2045 Comprehensive & Transportation Plan:

1. **Land Use – Commercial and Industrial Goal #1.** Encourage commercial and industrial development that is in harmony with the agricultural and rural character of Clay County.
 - a. **Objective C.** Avoid or mitigate against commercial and industrial development that increases the potential for land use conflicts with rural residential or agricultural uses.

B. Allowed Uses. Uses allowed in the HC District are specified in Table 8-1 (Use Table).

C. Use Standards. All uses shall meet the minimum requirements of the HC District. Certain uses, due to their unique potential to impact the natural environment or surrounding properties, are subject to additional use standards. See applicable sections of this Ordinance, as listed in Table 8-1 (Use Table).

D. Development Standards.

1. All development shall conform with the minimum dimensional standards and yard setback requirements for the HC District as listed in Table 9-1 (Density, Lot Standards, and Setback Requirements for Base Districts), and with all other applicable provisions of Chapter 8-9 (Development Standards).
2. All developable lots shall have access owned in fee to a public right-of-way of the county or state roadway system or an internal township road intended to serve a Highway Commercial subdivision.

E. Subdivision Procedures. Lot line adjustments and lot combinations are permitted and shall follow the procedures for administrative subdivisions in 8-10-9 (Administrative Subdivisions). All other subdivision requests shall follow the procedures for major subdivisions outlined in 8-10-10 (Major Subdivision Preliminary Plat Procedures) and 8-10-11 (Major Subdivision Final Plat Procedures).

8-2-4. Limited Highway Commercial District (LHC)

A. Purpose. The purpose of the Limited Highway Commercial District (LHC District) is to implement the following goals and objectives of the Clay County 2045 Comprehensive & Transportation Plan:

1. Land Use – Commercial and Industrial Goal #1. Encourage commercial and industrial development that is in harmony with the agricultural and rural character of Clay County.

a. **Objective C.** Avoid or mitigate against commercial and industrial development that increases the potential for Land use conflicts with rural residential or agricultural uses.

2. Natural Resources – Environmental Health Goal #3. Protect groundwater resources in Clay County to ensure safe and clean drinking water as well as adequate supply for people and agriculture during times of drought.

a. **Objective A.** Continue to implement Land use controls to guide development over or near major aquifers.

3. Natural Resources – Prairies and Woodlands Goal #1. Protect and enhance remnant tracts of native forests for the benefit and enjoyment of Clay County residents and visitors.

a. **Objective B.** Protect native and high-quality prairie and woodland tracts from residential, commercial, and industrial development.

B. Allowed Uses. Uses allowed in the LHC District are specified in *Table 8-1 (Use Table)*.

C. Use Standards. All uses shall meet the minimum requirements of the LHC District. Certain uses, due to their unique potential to impact the natural environment or surrounding properties, are subject to additional use standards. See applicable sections of this Ordinance, as listed in *Table 4-1*.

D. Development Standards.

1. All development shall conform with the minimum dimensional standards and yard setbacks for the LHC District as listed in *Table 5-1 (Density, Lot Standards, and Setback Requirements for Base Districts)*, and with all other applicable provisions of *Chapter 8-9 (Development Standards)*.

2. All developable lots shall have access owned in fee to a public right-of-way of the county or state roadway system or an internal township road intended to serve a Limited Highway Commercial subdivision.

E. Subdivision Procedures. Lot line adjustments and lot combinations are permitted and shall follow the procedures for administrative subdivisions in *8-10-9 (Administrative Subdivisions)*. All other subdivision requests shall follow the procedures for major subdivisions outlined in *8-10-10 (Major Subdivision Preliminary Plat Procedures)* and *8-10-11 (Major Subdivision Final Plat Procedures)*.

Chapter 8-3. Flood Hazard Districts

Chapter Contents:

- 8-3-1. Statutory Authorization and Purpose
- 8-3-2. Definitions
- 8-3-3. Information Provided by County; Disclaimer of Liability
- 8-3-4. Flood Hazard Zone Boundaries
- 8-3-5. Flood Hazard Districts
- 8-3-6. Requirements for all Flood Hazard Districts
- 8-3-7. Floodway District (FW)
- 8-3-8. Flood Fringe District (FF)
- 8-3-9. General Floodplain District (GFP) and Zone A Lakes and Wetlands
- 8-3-10. Transportation Facilities and Utilities
- 8-3-11. Manufactured Homes and Recreational Vehicles
- 8-3-12. Administration
- 8-3-13. Nonconforming Uses and Structures in Flood Hazard Districts
- 8-3-14. Violations and Penalties

8-3-1. Statutory Authorization and Purpose

- A. **Statutory Authorization.** This Chapter is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F; Minnesota Rules, parts 6120.5000 – 6120.6200; and the rules and regulations of the National Flood Insurance Program (NFIP), codified as 44 Code of Federal Regulations Parts 59 -78.
- B. **Purpose.** This Chapter regulates development in the Flood Hazard Areas of Clay County. Flood Hazard Areas are subject to periodic inundation ~~that results, which may result in potential~~ loss of life, ~~loss of~~ and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures ~~on~~for flood protection and relief, and impairment of the tax base, ~~all of which adversely affect.~~ This Article is adopted to promote the public health, safety, and general welfare by minimizing flood impacts; to maintain eligibility in the National Flood Insurance Program; and to preserve the natural characteristics and functions of watercourses and floodplains to moderate flood and stormwater impacts. In addition, these regulations are adopted to implement the following goals and objectives of the 2045 Clay County Comprehensive & Transportation Plan:
 - 1. **Floodplains Goal #1.** Foster a community resilient to the impacts of flooding through related mitigation planning and implementation for the benefit of Clay County residents, agriculture, and industry.
 - a. **Objective a.** Discourage inappropriate development in Flood Hazard Areas.
 - b. **Objective b.** Continue to assess Flood risk by determining past and future damage potential.
 - c. **Objective c.** Coordinate with FEMA and the Minnesota Department of Natural Resources, watershed districts, and other entities on flood mitigation efforts.

8-3-2. Definitions

Accessory structure. A structure, as defined in this ordinance, that is on the same parcel of property as, and is incidental to, the principal structure or use; an accessory structure specifically excludes structures used for human habitation.

Agricultural structure. Includes structures related to the growing of crops or raising of livestock, such as machine sheds, storage buildings, and garages for the storage of farming machinery and equipment. This definition does not include a principal or accessory structure to a residential, commercial, or other use not needed for the growing of crops or raising of livestock and shall specifically not include a structure used for human habitation or for parking of non-farming related vehicles.

Base flood. The flood having a one-percent chance of being equaled or exceeded in any given year. “Base flood” is synonymous with “100-year flood” and “regional flood.”

Base flood elevation. The elevation of surface water resulting from the base flood, as defined in the Flood Insurance Study.

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

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

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

Critical facilities. Buildings and structures that contain essential facilities and services necessary for emergency response and recovery, or that pose a substantial risk to the public in the event of failure, disruption of function, or damage by flooding. Specifically, this includes facilities identified as Flood Design Class 4 in ASCE 24-14, Flood Resistant Design and Construction, as amended. Examples include health care facilities, facilities required for emergency response, power generating stations, communications towers, or electrical substations.

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

Development. Any man-made change to improved or unimproved real estate, including, but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials

Farm fence. An open type of fence consisting of posts and horizontally run wire, further specified in Minnesota Statutes, section 344.02, Subd. 1(a-d).

FEMA. Federal Emergency Management Agency.

Flood. A temporary rise in the stream flow or water surface elevation from any source that results in the inundation of normally dry land areas

Flood fringe. The portion of the one-percent annual floodplain located outside of the floodway. Flood fringe is synonymous with the term “floodway fringe” used in the Flood Insurance Study for Clay County, Minnesota and Incorporated Areas.

Flood Insurance Rate Map (FIRM). The Flood Insurance Rate Map, “Clay County, Minnesota and Incorporated Areas,” dated April 17, 2012 and prepared by the Federal Emergency Management Agency, which delineates the Special Flood Hazard Areas and risk premium zones applicable to Clay County.

Flood Insurance Study (FIS). The Flood Insurance Study, “Clay County, Minnesota, and Incorporated Areas,” dated April 17, 2012, and prepared by the Federal Emergency Management Agency, which is an examination, evaluation, and determination of flood hazards and corresponding water surface elevations.

Floodplain. The beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be inundated by the base flood.

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

Floodway. The bed of a wetland or lake and to minimize the channel of a watercourse and those portions of the adjoining floodplain which must be reserved to carry or store the base flood discharge without cumulatively increasing the water surface elevation more than one-half (0.5) foot.

General floodplain. Those floodplains designated on the Flood Insurance Rate Maps referenced in 8-4-4 (Flood Hazard Zone Boundaries), but which do not have a delineated floodway.

Habitable space. Space in a structure used for living, sleeping, eating, or cooking. Bathrooms, toilet compartments, closets, halls, storage rooms, laundry or utility space, and similar areas, are not considered habitable space. No space within an agricultural structure constructed in accordance with this Chapter with a floor below the Regulatory Flood Protection Elevation (RFPE) shall be used as habitable space.

Light duty truck. Any motor vehicle that has all three of the following: A. 8,500 pounds Gross Vehicle Weight Rating or less; B. vehicle curb weight of 6,000 pounds or less; and C. basic vehicle frontal area less than 45 square feet.

Lowest floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR § 60.3.

Manufactured home. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include the term “recreational vehicle.”

New construction. structures for which the start of construction commenced on or after the effective date of an adopted floodplain management regulation, and includes any subsequent improvements to such structures.

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

Ordinary high-water level. The boundary of public waters and wetlands, and the elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon

the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high-water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high-water level is the operating elevation of the normal summer pool.

Principal structure. The main building or other structure on a lot that is utilized for the property's principal use.

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

Recreational vehicle. A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. ~~losses described~~ Those vehicles not meeting this definition shall be considered a structure for the purposes of this ordinance. For the purposes of this ordinance, the term recreational vehicle is synonymous with the term "travel trailer/travel vehicle."

Regulatory flood protection elevation (RFPE). An elevation that is one (1) foot above the elevation of the base flood plus any increases in the water surface elevation caused by encroachments on the floodplain that result from designation of a floodway. These increases in water surface elevations are typically identified in the Floodway Data Tables, found in the Flood Insurance Study.

Repetitive loss. Flood-related damages sustained by a structure on two (2) separate occasions during a 10-year period for which the cost of repairs at the time of each flood event on average equals or exceeds 25 percent of the market value of structure before the damage occurred.

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

Special Flood Hazard Areas. Any of the areas delineated on Flood Insurance Rate Maps as Zone AE or Zone A.

Stage increase. Any increase in the water surface elevation during the base flood caused by encroachments on the floodplain.

Start of construction. Includes substantial improvement, and means the date the permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure. A roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Recreational vehicles not considered travel ready shall also be considered a

structure for the purposes of this ordinance.

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

Substantial damage. Damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either: A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or B. Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.” For the purpose of this ordinance, “historic structure” is defined in 44 CFR § 59.1.

Variance. “Variance” means the same as that defined in 44 CFR § 59.1 and Minnesota Statutes, Section 394.27, Subd. 7.

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

Wetland. “Wetland” has the meaning given under Minnesota Rule, part 8420.0111.

8-3-3. Information Provided by County; Disclaimer of Liability

- A. Flood Hazard Information.** The Flood Insurance Study (FIS), Flood Insurance Rate Map (FIRM) panels, and additional information is available on Clay County’s website. This information is derived directly from the Federal Emergency Management Agency (FEMA). Clay County does not guarantee the accuracy of such information.
- B. ~~by provisions contained herein.~~Disclaimer of Liability.** This Ordinance does not imply that areas outside Flood Hazard Districts or land uses permitted within such districts will be free from flooding or flood damages. This Ordinance will not create any liability on the part of Clay County or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decisions lawfully made thereunder.

8-3-4. Flood Hazard Zone Boundaries

A. Boundary Determination and Interpretation.

- 1. Floodplain District boundary lines shall be determined by the Federal Emergency Management Agency (FEMA) as provided on Flood Insurance Rate Maps (FIRM) developed for Clay County. When necessary, this subsection shall be amended by addition of the proper Flood Hazard District boundaries as provided for in 8-3-4(C), below.**
- 2. Boundaries of the Flood Hazard Districts shall be determined by scaling distances on the FIRM. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the FIRM, as for example where there appears to be a conflict**

between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary interpretation. ~~is based upon a~~ In such a case, the base flood elevation (BFE) shall be the governing factor in locating the outer boundaries of the 100-year floodplain. Persons contesting the location of the district boundaries shall be given reasonable ~~method of analyzing opportunity~~ to present their case to the Board of Adjustment and submit technical evidence to support the appeal.

B. Removal of Floodplain Designation.

1. 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 base 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 is requested.
2. The floodplain designation on the FIRM 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 Regulatory Flood Protection Elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if it is determined that, through other measures, lands are adequately protected for the intended use.

C. **Amendments.** Any revisions to the floodplain maps by the Federal Emergency Management Agency require an ordinance amendment to update the map references in 8-3-4(A), above. All amendments to this Section must be submitted to the Department of Natural Resources for review and approval prior to adoption, for compliance with State and Federal rules and requirements. Amendments shall not be considered valid until approved by the Department of Natural Resources.

8-3-5. Flood Hazard Districts

A. **Areas Included.** This article applies to all lands within the jurisdiction of Clay County and within the boundaries of the Flood Hazard Zone, including all areas designated as Zone AE or Zone A on the Flood Boundary and Floodway Map, Official Zoning Map, and/or attachments thereto as adopted under 8-3-4 (Flood Hazard Zone Boundaries). Clay County's Flood Hazard Districts correspond to Zone AE and Zone A as follows:

1. The FW Floodway District includes those areas within Zone AE delineated within floodway areas as shown on the FIRM.
2. The FF Flood Fringe District includes those areas within Zone AE located outside of the delineated floodway as shown on the FIRM.
3. The GFP General Floodplain District includes those areas within Zone A or Zone AE that do not have a floodway delineated as shown on the FIRM.

B. **Relationship of Flood Hazard Districts to Other Districts.** The Flood Hazard Districts are Overlay districts. The standards imposed by these districts are in addition to the regulations of the underlying base districts and other overlay districts (e.g., Shoreland Districts). Where requirements in this Section impose greater restrictions than the underlying base district or

another overlay district, the provisions of this Section shall apply.

8-3-6. Requirements for all Flood Hazard Districts

A. Permit Required. A permit must be obtained from the Zoning Administrator to verify compliance with all applicable standards outlined in this Ordinance prior to the following activities:

1. The construction of a fence, pool, deck, or placement of anything that may cause a potential obstruction. Farm fences, as defined under 8-3-2 (Definitions), are not considered to be an obstruction and are exempt from the permit requirement.
2. Relocation or alteration of a watercourse, including stabilization projects or construction of new or replacement dams, culverts, and bridges. A local permit is not required if a public waters work permit has been obtained from the Department of Natural Resources, unless a significant area above the ordinary high-water level is also to be disturbed.
3. Any other type of development, as defined under 8-1-6 (Development Defined).

B. Minimum Development Standards.

1. All developments must:
 - a. Be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - b. Be constructed with materials and equipment resistant to flood damage;
 - c. Be constructed with ventilation, duct work, and HVAC equipment, and other service facilities elevated at least up to the Regulatory Flood Protection Elevation (RFPE). Water, sewage, electrical, and other utility lines below the RFPE shall be constructed so as to prevent water from entering or accumulating within them during conditions of flooding.
 - d. Be assured to provide adequate drainage to reduce exposure to flood hazards;
 - e. Not be detrimental to the uses in adjoining areas; and
 - f. Not adversely affect or restrict the flood carrying capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.
2. Materials that, in time of flooding, are buoyant, flammable, explosive, or could be injurious to human, animal, or plant life shall be stored at or above the Regulatory Flood Protection Elevation (RFPE), floodproofed, or protected by other measures as approved by the Zoning Administrator. Storage of materials likely to cause pollution of waters, such as sewage; sand; rock; wrecked and discarded equipment; dredged spoil; agricultural or industrial waste; and other wastes as defined in Minnesota Statutes, section 115.01, are prohibited unless adequate safeguards approved by the Minnesota Pollution Control Agency are provided.
3. Critical facilities shall be located so that the lowest floor is not less than two feet above the base flood elevation (BFE), or the 0.2% annual chance flood elevation, whichever is higher.

4. Table 3-1 below summarizes the permitting requirements for structures in Flood Hazard Districts. See 8-3-7 (Floodway District) and 8-3-8 (Flood Fringe District) for applicable standards.

Table 3-1. Summary of Permitting Requirements and Floodproofing Options for Structures in Flood Hazard Districts

<u>Floodproofing Type</u>	<u>FW District Requirements</u>	<u>FF District Requirements</u>	<u>Floodproofing Standards</u>
<u>Residential structures</u>			
<u>Elevation on fill</u>	<u>Prohibited</u>	<u>Allowed with Floodplain Permit</u>	<u>8-3-8(B)(1)(a)</u>
<u>Alternative elevation methods</u>	<u>Prohibited</u>	<u>Allowed with Conditional Use Permit</u>	<u>8-3-8(B)(2)(b) (same as non-residential principal structures)</u>
<u>Non-residential principal structures</u>			
<u>Elevation on fill</u>	<u>Prohibited</u>	<u>Allowed with floodplain Development Permit</u>	<u>8-3-8(B)(1)(a) (same as residential structures)</u>
<u>Alternative Elevation methods</u>	<u>Prohibited</u>	<u>Allowed with Floodplain Permit</u>	<u>8-3-8(B)(2)(b)</u>
<u>Dry (watertight) floodproofing and/or basement Construction below RFPE</u>	<u>Prohibited</u>	<u>Allowed with Floodplain Permit</u>	<u>8-3-8(B)(2)(c)</u>
<u>Accessory structures</u>			
<u>Elevation on fill</u>	<u>Only specific uses and types allowed with Conditional Use Permit</u>	<u>Allowed with floodplain Development Permit</u>	<u>8-3-8(B)(1)(a) (same as residential structures)</u>
<u>Alternative elevation methods</u>	<u>Only specific uses and types allowed with Conditional Use Permit</u>	<u>Allowed with floodplain Development Permit</u>	<u>8-3-3(B)(3)(d)(iii)</u>
<u>Dry (watertight) floodproofing</u>	<u>Only specific uses and types allowed with Conditional Use Permit</u>	<u>Allowed with floodplain Development Permit</u>	<u>8-3-3(B)(3)(d)(iv)</u>

<u>Floodproofing Type</u>	<u>FW District Requirements</u>	<u>FF District Requirements</u>	<u>Floodproofing Standards</u>
<u>Wet floodproofing</u>	<u>Only specific uses and types allowed with Conditional Use Permit</u>	<u>Allowed with Floodplain Permit</u>	<u>8-3-8(B)(3)(d)(i)</u>

8-3-7. Floodway District (FW)

A. Uses. Because of the potential for flood damage in the FW, Floodway District, development is limited to that which has low flood damage potential and will not obstruct flood flows, increase velocities, or increase the water surface elevations of the one-percent annual chance flood. Permitted and conditional uses in the FW, Floodway District are those specified in Table 8-1 (Use Table). All other uses shall be prohibited.

B. Standards for Permitted Uses. Within the FW, Floodway District, permitted uses shall conform to the listed standards:

1. The use shall have a low flood damage potential.
2. The use shall be permissible in the base district.
3. The use shall not obstruct flood flows, increase flood elevations, or increase flood velocities. This shall be demonstrated through hydrologic and hydraulic analysis performed by a professional engineer, or using other standard engineering practices (e.g., projects that restore the site to the previous cross-sectional area). This is commonly documented through a “no-rise certification.”
4. Any development that would result in a stage increase may be allowed with a permit if the applicant has applied for and received approval for a Conditional Letter of Map Revision (CLOMR) in accordance with 44 CFR § 65.12. Map revisions must follow the procedures in 8-3-4(C).
5. Any development resulting in decreases to the water surface elevation of the base flood identified in the Flood Insurance Study (FIS) requires a Letter of Map Revision (LOMR) following the procedures in 8-3-4(C).
6. Any development in the beds of public waters that will change the course, current, or cross section is required to obtain a public waters work permit in accordance with Minnesota Statutes, Section 103G.245, or a utility crossing license in accordance with Minnesota Statutes, Section 84.415, from the Department of Natural Resources, or demonstrate that no permit is required, before applying for a local permit.
7. Any facility used by employees, or the general public must be designed with a flood warning system acceptable to the Zoning Administrator that provides adequate time for evacuation or be designed to ensure that within the area inundated during the base flood event, the depth (in feet) multiplied by the velocity (in feet per second) is less than four (4).
8. Fill and other land alteration activities must offer minimal obstruction to the flow of flood

waters and be protected from erosion and sediment entering surface waters by the use of vegetative cover, riprap, or other methods as soon as possible.

C. Standards for Conditional Uses. In addition to the applicable standards detailed in 8-11-6 (Variances) and 8-11-7 (Conditional Use Permits), the following standards shall apply to conditional uses in the FW, Floodway District:

1. Storage of Materials and Equipment

- a. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
- b. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the governing body.

2. Recreational Vehicles. Recreational vehicles either on individual lots of Record or in existing or new subdivisions or commercial or condominium type campgrounds, shall meet the requirements of 8-3-11(B) or 8-8-7(G) of this Ordinance.

3. Accessory structures. Accessory structures, if permitted in the FW District, shall comply with the floodproofing requirements of 8-3-8(B)(3).

4. Agricultural structures

- a. Agricultural structures with the lowest floor below the Regulatory Flood Protection Elevation (RFPE) must be located within the confines of a farmstead ring levee system meeting the criteria of 8-3-7(C)(5), below.
- b. Agricultural structures exceeding 500 square feet in floor area may be constructed with the lowest floor below the Regulatory Flood Protection Elevation (RFPE) provided structures are internally wet floodproofed as outlined in 8-3-8(B)(3).
- c. **Application Requirements.** The application materials for the Conditional Use Permit must clearly indicate the floodproofing classification that is being proposed and shall include a set of floodproofing plans and specifications prepared by a registered professional engineer or architect.
- d. **CUP Requirements.** The Conditional Use Permit issued must specify the floodproofing classification that is authorized and the Regulatory Flood Protection Elevation (RFPE) for the site.
- e. **Engineering Certification.** After construction of an agricultural structure, the applicant shall be required to provide certification by a registered professional engineer or architect that the agricultural structure was constructed in accordance with the construction/floodproofing specifications authorized in 8-3-8(B).
- f. **Certificate of Zoning Compliance.** Upon completion, Clay County must issue a Certificate of Zoning Compliance prior to the use of the structure.
- g. **Flood Insurance Coverage and Cost Notification.** The applicant shall be advised in writing by Clay County that the internal (wet) floodproofing techniques authorized herein will not be credited for insurance rating purposes by the National Flood Insurance Program (NFIP). Therefore, the lowest floor for flood insurance rating purposes will be the base or floor level of the internally

flooded space. Should flood insurance be purchased, the premiums may be extremely expensive.

h. **Property Record.** A document must be prepared and recorded that references the property in question such that it would appear in the chain of title and clearly states all of the conditions that have been stipulated in the Conditional Use Permit.

5. **Farmstead Ring Levees.** Permanent structural works designed to protect farmsteads, agricultural structures, or cropland may be permitted in the Floodway District subject to the following conditions:

a. **Part of Watershed District Program.** The farmstead ring levee system must be constructed as part of a cost share program of a watershed district established pursuant to Minnesota Statute, Chapter 103D.

b. **Design Certification.** A registered professional engineer or qualified watershed district staff person must certify the design of farmstead ring levees.

c. **Elevation.** The low point of the ring levee system must be at least two (2) feet above the flood of record or one (1) foot above the base flood elevation, whichever is greater. A registered professional engineer or land surveyor must establish the elevation of the low point of the ring levee system in a datum as specified by the County. A qualified hydrologist, watershed district staff person, or registered professional engineer must establish the **base flood elevation and flood of record elevation for the location of the farmstead ring levee system.** A farmstead ring levee constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

d. **Floodproofing.** The structure must be designed to the FP-3/FP-4 Floodproofing Classification (W-4 spaces only) found in the 1995 version of the US Army Corps of Engineers document titled "Flood Proofing Regulations," a copy of which is hereby adopted by reference and declared to be a part of this Ordinance. If there is a conflict of terms found in Flood Proofing Regulations and the definition of terms used in this Ordinance, the latter shall prevail.

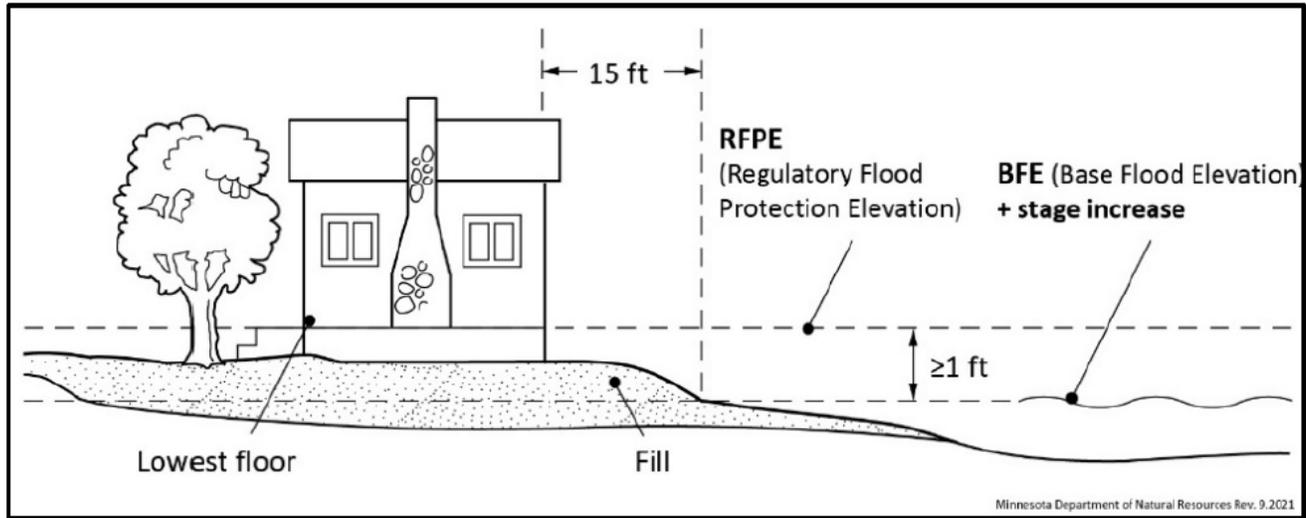
e. **Structure Openings.** The design of the structure must include a minimum of two (2) "automatic" openings in the outside walls of the structure to allow for the equalization of hydrostatic flood forces on all spaces inside the outer walls of the structure. The automatic openings shall be placed on at least two (2) sides of the structure and the bottom of all openings shall be placed no higher than one (1) foot above the lowest adjacent grade of the structure. The automatic openings shall have a minimum net area of not less than one (1) square inch for every one (1) square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. Opening a garage door during flooding is not considered an automatic opening and shall not meet the requirement for automatic openings. The sizing of the automatic openings shall be in accordance with a design certified by a registered professional engineer or architect. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the

automatic entry and exit of flood waters without any form of human intervention. In the design of the openings, the engineer or architect may consult the Federal Emergency Management Agency’s publication entitled “Openings in Foundation Walls for Buildings in Special Flood Hazard Areas in accordance with the National Flood Insurance Program,” a copy of which is hereby adopted by reference and declared to be a part of this Ordinance.

~~which is~~ **8-3-8. Flood Fringe District (FF)**

- A. Uses.** Permitted, conditional and accessory uses in the FF, Flood Fringe District shall be those permitted, conditional, and accessory uses allowed in the base district and as indicated in *Table 8-1 (Use Table)*.
- 1. Permitted Uses.** Any uses or activities allowed in any applicable underlying zoning districts may be allowed with a permit, subject to the standards set forth in *8-3-8(B)*.
 - 2. Conditional Uses.** The following uses and activities may be permitted as conditional uses, subject to the standards in *8-3-8(C)*.
 - a. Alternative Elevation Methods – Residential structures.** Residential structures with their lowest floor elevated above the Regulatory Flood Protection Elevation (RFPE) using methods alternative to the fill requirements in *8-3-8(B)(1)*.
 - b. Fill.** The cumulative placement of more than 1,000 cubic yards of fill or other materials, when the fill is not being used to elevate a structure or for a transportation project.
- B. Standards for Permitted structures and uses in the FF, Flood Fringe District.** The following standards shall apply to structures and uses in the FF, Flood Fringe District:
- 1. Residential structures.**
 - a. Elevation on Fill.** All structures to be erected, constructed, reconstructed, altered, or moved on fill within the FF, Flood Fringe District shall be placed so that the lowest floor is at or above the Regulatory Flood Protection Elevation (RFPE). The finished fill elevation for structures shall be no lower than one (1) foot below the RFPE and the fill shall extend at such elevation at least 15 feet beyond the outside limits of the structure erected thereon. Elevations must be certified by a registered professional engineer, land surveyor, or other qualified person designated by the Zoning Administrator. Elevation methods alternative to these standards are subject to a Conditional Use Permit, as provided in *8-3-8(B)(2)(b)*.

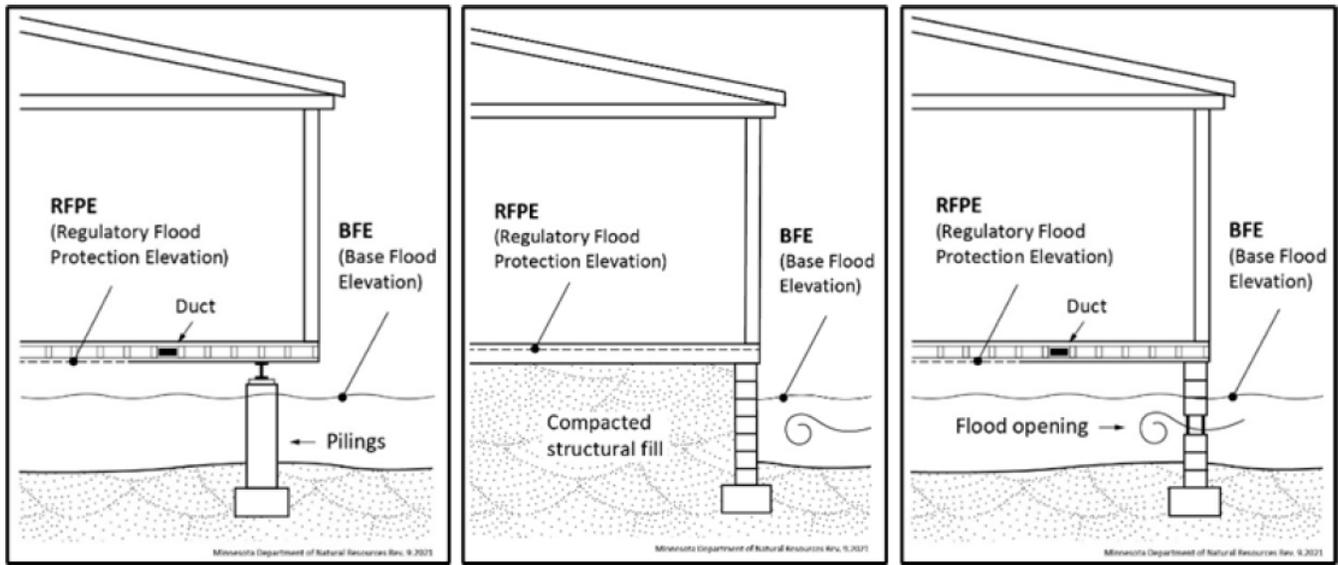
Elevation on Fill



2. Non-Residential Principal Structures. Non-residential principal structures must meet one of the following construction methods:

- a. **Elevation on Fill.** structures may be elevated on fill, meeting the standards of 8-3-8(B)(1)(a). Fill for non-residential structures is not required to be extended 15 feet beyond the outside limits of the structure.
- b. **Alternative Elevation Methods.** Structures may have their lowest floor elevated above the RFPE using methods alternative to the fill standards in subsection a, above. Such methods include the use of blocks, pilings, filled stem walls, or internally flooded enclosed areas, such as crawl spaces, attached garages, or tuck-under garages. Designs accommodating for internally flooded enclosed areas must be certified by a registered professional engineer or architect, or meet or exceed the standards detailed in *FEMA Technical Bulletin 1*, as amended, as well as the following standards:
 - i. The floor of the enclosed area must be at or above the exterior grade on at least one (1) side of the structure.
 - ii. To allow for the equalization of hydrostatic pressure, there shall be a minimum of two (2) openings below the base flood elevation on at least two (2) sides of the structure. The bottom of all openings shall be no higher than one (1) foot above grade. The openings shall have a minimum net area of not less than one (1) square inch for every one (1) square foot of enclosed area subject to flooding, and shall allow automatic entry and exit of floodwaters without human intervention.
 - iii. Internally flooded enclosed areas shall only be used for the parking of vehicles, structure access, or storage. Bathrooms and toilet rooms shall not be allowed. Such areas shall be subject to a deed-restricted non-conversion agreement as well as periodic inspections with the issuance of any permit.

Alternative Elevation Methods



c. **Dry Floodproofing.** structures having watertight enclosed basements or spaces below the Regulatory Flood Protection Elevation (RFPE) must meet the following standards:

- i. Walls must be substantially impermeable to the passage of water, with structure components having the capacity of resisting hydrostatic and hydrodynamic loads and effects of buoyancy, at least up to the RFPE.
- ii. Must meet the standards of *FEMA Technical Bulletin 3*, as amended; and
- iii. A registered professional engineer or architect shall be required to certify that the design and methods of construction meet the standards detailed in this section.

3. **Accessory Structures.** All accessory structures must meet the following standards:

- a. Structures shall not be designed for human habitation.
- b. Structures will have a low flood damage potential.
- c. Structures with fewer than two (2) rigid walls, such as carports, gazebos, and picnic pavilions, may be located at an elevation below the Regulatory Flood Protection Elevation (RFPE).
- d. Structures with two (2) or more rigid walls must meet one of the following construction methods:
 - i. **Wet Floodproofing.** Structures may be floodproofed in a way to accommodate internal flooding. Such structures shall constitute a minimal investment not to exceed 576 square feet in size and one (1) story in height and shall only be used for parking and storage. To allow for the equalization of hydrostatic pressure, there shall be a minimum of two (2) openings below the base flood elevation on at least two (2) sides of the structure. The bottom of all openings shall be no higher than 1 foot above

grade. The openings shall have a minimum net area of not less than one (1) square inch for every one (1) square foot of enclosed area subject to flooding, and shall allow automatic entry and exit of floodwaters without human intervention.

ii. **Elevation on Fill.** Structures may be elevated on fill, meeting the standards of 8-3-8(B)(1)(a). Fill is not required to be extended beyond the outside limits of the structure.

iii. **Alternative Elevation Methods.** Structures may have their lowest floor elevated above the RFPE through methods meeting the standards of 8-3-8(B)(2)(b).

iv. **Dry Floodproofing.** structures may be dry-floodproofed, or watertight, meeting the standards of 8-3-8(B)(2)(c).

4. **Fill.** The cumulative placement of fill or other materials for any purpose, up to 1,000 cubic yards, is permitted. Additional fill over 1,000 cubic yards is only permitted if the fill is specifically intended to elevate a structure in accordance with 8-3-8(B)(1)(a) or 8-3-8(B)(2)(a) or for a transportation project in accordance with 8-3-10(A). Fill over 1,000 cubic yards for other purposes requires a Conditional Use Permit as provided in 8-3-8(C)(2). Materials must be protected from erosion, discharge, and sediment entering surface waters by the use of vegetative cover or other methods as soon as possible.

5. **Vehicular access.** All new principal structures must provide for vehicular access no lower than 1 foot below the base flood elevation (BFE) unless a flood warning/emergency evacuation plan has been approved by Clay County.

6. **Flood Warning System.** Any facilities used by the general public must be designed with a flood warning system acceptable to Clay County that provides adequate time for evacuation, or be designed to ensure that within the area inundated during the base flood event, the depth (in feet) multiplied by the velocity (in feet per second) is less than four (4).

7. **Manufactured Homes and Recreational Vehicles.** Manufactured homes and recreational vehicles must meet the standards of 8-3-11 (*Manufactured Homes and Recreational Vehicles*).

C. **Standards for Conditional uses in the FF, Flood Fringe District.** In addition to the applicable standards detailed in 8-11-7 (*Conditional Use Permits*), the following standards shall apply to conditional uses in the FF, Flood Fringe District:

1. **Alternative Elevation Methods – Residential Structures.** Residential structures with their lowest floor elevated above the Regulatory Flood Protection Elevation (RFPE) using methods alternative to the fill requirements in 8-3-8(B)(1)(a).

2. **Placement of Fill.** The placement of more than 1,000 cubic yards of fill or other materials (other than for the purpose of elevating a structure or for a transportation project) must comply with a site development and restoration plan approved by the Zoning Administrator. The plan must detail the anticipated topographic alterations and identify actions to be taken to mitigate environmental impacts, particularly erosion.

8-3-9. General Floodplain District (GFP) and Zone A Lakes and Wetlands

A. General Floodplain District.

- 1. Permitted Uses.** Until the floodway is delineated, permitted uses are limited to those listed for the FW, Floodway District in *Table 8-1 (Use Table)*. All other uses shall be subject to the following floodway/flood fringe evaluation criteria.
- 2. Standards for Determining Flood Elevations.**
 - a.** All development requires a determination of the base flood elevation (BFE). Exceptions to this requirement include projects that restore the site to the previous cross-sectional area, such as shore stabilization or culvert replacement projects. base flood elevations may be found using best available data from any Federal, State, or other source, including the Lake and Flood Elevations Online (LFEO) Viewer from the Minnesota Department of Natural Resources.
 - b.** The Regulatory Flood Protection Elevation (RFPE) can be determined by assuming a one-half (0.5) foot stage increase to accommodate for future cumulative impacts. A stage increase does not need to be assumed along lakes, wetlands, and other basins that are not affected by velocities.
- 3. Encroachment Analysis.** Encroachments due to development may not allow stage increases more than one-half (0.5) foot at any point. This evaluation must include the cumulative effects of previous encroachments and must be documented with hydrologic and hydraulic analysis performed by a professional engineer or using other standard engineering practices. A lesser water surface elevation increase than one-half (0.5) foot is required if, due to the water surface level increase, increased flood damages would potentially result.
- 4. Standards for the Analysis of Floodway Boundaries.**
 - a. Requirements for Detailed Studies.** Any development, as requested by the Zoning Administrator, shall be subject to a detailed study to determine the Regulatory Flood Protection Elevation (RFPE) and the limits of the Floodway District. This determination must be consistent with the standards established by the Minnesota Department of Natural Resources: minimum standards for hydrologic and hydraulic mapping standards and techniques, as detailed in Minnesota Rules, part 6120.5600, Subp. 4 and *FEMA Guidelines and Standards for Flood Risk Analysis and Mapping*, as revised. Additionally:
 - i. Shorelands:** A regulatory floodway necessary to carry the discharge of the base flood must be selected to meet the standards of the Encroachment Analysis in 8-3-9(A)(3), above.
 - ii.** An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries, unless topography, existing development patterns, or the Comprehensive Plan justify a modified approach, as approved by the Department of Natural Resources.
 - b. Other Acceptable Methods.** For areas where a detailed study is not available or required:

- i. development prohibited in floodways (e.g., most structures) requires a floodway/flood fringe determination to verify the development is within the flood fringe. This determination must be done by a professional engineer or utilize other accepted engineering practices. The uncontrolled Department of Natural Resources may also provide technical assistance and must approve any alternative methods used to determine floodway boundaries.
- ii. For areas where the floodway has not been determined in and along lakes, wetlands, and other basins, the following methodology may be used as an alternative to item i., directly above, provided these areas are not affected by velocities and the lot is able to accommodate a development site above the Regulatory Flood Protection Elevation (RFPE): All areas that are at or below the ordinary high-water level, as defined in Minnesota Statutes, section 103G.005, Subd. 14, will be considered floodway, and all areas below the base flood elevation (BFE) but above the OHWL will be considered Flood fringe, provided that within 25 feet of the OWHL, or within the shore impact zone as defined in 8-3B-3 (Definitions), whichever distance is greater, land alterations shall be restricted to the minimum necessary to accommodate beach areas, access areas, and accessory structures as permitted, not to exceed a volume greater than 10 cubic yards. Projects involving volumes exceeding 10 cubic yards require floodway/flood fringe determination in accordance with the procedures outlined in item i., directly above. In addition, land alterations shall be the minimum required to accommodate shoreline stabilization projects to correct an identified erosion problem, as verified by a qualified resource agency or the Zoning Administrator.

B. Zone A Lakes and Wetlands. Procedures for determining the one-percent annual chance flood elevations for lakes and wetlands located in Zone A are established as follows:

1. Upon receipt of an application for a Development Permit or other approval within a Zone A lake or wetland, the Zoning Administrator will use of shorelands of the County affects the base flood elevation for that basin that was previously determined in accordance with approved FEMA methods, if available. If the base flood elevation has not been previously determined, the applicant shall be required to furnish all information as deemed necessary by the Zoning Administrator for determination of the base flood elevation in accordance with approved FEMA methods.
2. The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining the base flood elevation. Evaluation procedures shall follow Minnesota Regulations, Parts 6120.5000 through 6120.6200, and 44 Code of Federal Regulations Part 65. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources Area Hydrologist prior to commencing the analysis.

8-3-10. Transportation Facilities and Utilities

A. Public Transportation Facilities. Railroad tracks, roads, and bridges shall be elevated to the

Regulatory Flood Protection Elevation (RFPE) where such facilities are essential to the orderly functioning of the area, or where failure or interruption of these transportation facilities would result in danger to the public health, or safety. Minor roads, auxiliary roads, or railroads may be constructed at a lower elevation than the base flood elevation (BFE) where failure or interruption of transportation services would not endanger the public health or safety. All public transportation facilities should be designed to minimize increases in flood elevations.

B. Public Utilities. All public utilities and facilities such as gas, electrical, sewer, and water supply systems located in a Flood Hazard Zone shall be floodproofed in accordance with the State Building Code or elevated above the Regulatory Flood Protection Elevation (RFPE), be located to minimize or eliminate flood damage, and be designed to eliminate infiltration of flood waters into the systems and discharges into flood waters. All public utilities should be designed to minimize increases in flood elevations. New solid waste management facilities, as defined in Minnesota Rules, part 7035.0300, are prohibited in the one (1)-percent annual chance floodplain. Water supply systems are subject to the provisions in Minnesota Rules, part 4725 for wells.

8-3-11. Manufactured Homes and Recreational Vehicles

A. Manufactured Homes. Manufactured homes are subject to applicable standards for each Flood Hazard District. In addition:

1. New and replacement manufactured homes must be placed and elevated in compliance with 8-3-8 (Flood Fringe District) and must be securely anchored to a system that resists flotation, collapse, and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

B. Recreational Vehicles.

1. New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in all Flood Hazard Districts.
2. Recreational vehicles placed in existing recreational vehicle parks, campgrounds, or lots of record in the floodplain must either:
 - a. Meet the requirements for manufactured homes in 8-3-11(A), above, or;
 - b. Be travel-ready, meeting the minimum criteria for highway-readiness established under 8-8-7(G).
3. Accessory structures may be permitted in the FF, Flood Fringe District, provided they do not hinder the removal of the vehicle should flooding occur, and meet the standards outlined in 8-3-6 (Requirements for All Flood Hazard Districts) and 8-3-8 (Flood Fringe District).

8-3-12. Administration

A. Duties. The Zoning Administrator or a delegated staff member must administer and enforce this Article.

1. Permit Application Requirements. Permit applications must be submitted to the Zoning Administrator. The permit application must include all items as required by this Ordinance and the following, as applicable:
 - a. Location and detail of grading, fill, or storage of materials.

- b. Copies of any required local, State, or Federal permits or approvals.
 - c. Other relevant information requested by the Zoning Administrator as necessary to properly evaluate the permit application.
2. **Record Keeping.** The Zoning Administrator must maintain applicable records in perpetuity documenting:
- a. All certifications for dry floodproofing and alternative elevation methods, where applicable.
 - b. Analysis of no-rise in the Floodway District, as detailed in 8-3-7(B)(3), and encroachment analysis ensuring no more than one-half (0.5) foot of rise in the General Floodplain District, as detailed in 8-3-9(A)(3).
 - c. Final elevations, as applicable, detailing the elevation to which structures and improvements to structures are constructed or floodproofed. Elevations shall be determined by an engineer, architect, surveyor, or other qualified individual, as approved by the Zoning Administrator.
 - d. Substantial damage and substantial improvement determinations, as detailed in 8-3-13 (Nonconforming Uses in Flood Hazard Districts), including the cost of improvements, repairs, and market value.
 - e. All variance actions, including justification for their issuance, which must be reported to FEMA upon request.
3. **Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use.** No land or structure may be occupied or used in any manner until a Certificate of Zoning Compliance has been issued by the Zoning Administrator stating that the finished fill and building floor elevations or other flood protection measures comply with the requirements of this Chapter.
4. **Notifications for Watercourse Alterations.** Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator must notify adjacent communities. If the applicant has applied for a permit to work in public waters in accordance with Minnesota Statutes, section 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to FEMA.
5. **Notification to FEMA When Physical Changes Increase or Decrease Base Flood Elevations.** Where physical changes affecting flooding conditions may increase or decrease the water surface elevation of the base flood, Clay County must notify FEMA of the changes in order to obtain a Letter of Map Revision (LOMR), by submitting a copy of the relevant technical or scientific data as soon as practicable, but no later than six (6) months after the date such supporting information becomes available.

B. Conditional Uses and Variances.

- 1. **Process.** Applications for Conditional use Permits shall be processed and reviewed in accordance with the provisions of 8-11-7 (Conditional Use Permits). Applications for variances to the provisions of this Article shall be processed and reviewed in accordance with the provisions of 8-11-6 (Variances) and 8-3-12(B)(2), immediately below.
- 2. **Adherence to State and Federal Standards.** Variances must be consistent with the

general purpose of these standards and the intent of applicable provisions in state and federal law. Though variances may be used to modify permissible methods of flood protection, no variance shall permit a lesser degree of flood protection than the Regulatory Flood Protection Elevation (RFPE). variances must not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

3. Flood Insurance Notice. The Zoning Administrator must notify the applicant for a variance in writing 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 base flood level increases risks to life and property. Such notification must be maintained with a record of all variance actions.

4. Considerations for Approval. Clay County must consider all relevant factors specified in other sections of this Ordinance in granting variances and Conditional Use Permits, including the following:

- a. The potential danger to life and property due to increased flood heights or velocities caused by encroachments.
- b. The danger that materials may be swept onto other lands or downstream to the injury of others.
- c. The safety of access to the property in times of flood for ordinary and emergency vehicles.

5. Conditions of Approval. Clay County may attach such conditions to the granting of variances and Conditional Use Permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:

- a. Limitations on period of use, occupancy, and operation.
- b. Imposition of operational controls, sureties, and deed restrictions.
- c. ~~welfare not only by contributing to~~ The prevention of soil erosion and other possible pollution of public waters, but also both during and after construction.
- d. ~~Other conditions as deemed appropriate by impairing the local tax base. Therefore, it is in~~ Planning Commission or the best interests of County Board.

C. Notifications to the Department of Natural Resources.

1. All notices of ~~public health, safety and welfare to provide for~~ hearings to consider variances or conditional uses under this Article must be sent via electronic mail to the ~~wise~~ Department of Natural Resources respective area hydrologist at least 10 days before the hearings. Notices of hearings to consider ~~subdivision, use and development~~ plats must include copies of ~~shoreland~~ the plat.
2. A copy of all decisions granting variances and conditional uses under this Article must be sent via electronic mail to the Department of Natural Resources respective area hydrologist within 10 days of final action.

8-3-13. Nonconforming Uses and Structures in Flood Hazard Districts

A. Continuance of Nonconformities. A use, structure, or occupancy of land that was lawful before the passage or amendment of this Ordinance, but which is not in conformity with the provisions of this Ordinance, may be continued subject to the provisions of 8-1-8 (*Nonconformities*) and the following conditions:

1. Within the Floodway District or the General Floodplain District, expansion or enlargement of uses or structures is prohibited.
2. Within all districts, any addition, modification, rehabilitation, repair, or alteration shall be in conformance with the provisions of this Ordinance, shall not increase the flood damage potential or increase the degree of obstruction to flood flows, and where applicable, must be protected to the Regulatory Flood Protection Elevation (RFPE).
3. If any nonconforming structure is determined to be Substantially Damaged or Substantially Improved based on the procedures in 8-3-13(B), immediately below, it may not be reconstructed except in conformity with the provisions of this Ordinance.

B. Substantial Improvements and Substantial Damage Determinations. Prior to issuing any permits for additions, modifications, rehabilitations, repairs, alterations, or maintenance to nonconforming structures, the Zoning Administrator is required to determine if such work constitutes substantial improvement or repair of a Substantially Damaged structure. A determination must be made in accordance with the following procedures.

1. Estimate the Market Value of the Structure. In cases where the property has sustained damage, the market value of the structure shall be the market value before the damage occurred and before any restoration or repairs are made.
2. Estimate the Cost of the Project. The property owner shall accommodate for inspection and furnish other documentation needed by the Zoning Administrator to evaluate costs.
 - a. Improvement costs shall be comprised of the market rate of all materials and labor, as well as the costs of all ordinary maintenance and upkeep carried out over the past one (1) year.
 - b. Costs to repair damages shall be comprised of the market rate of all materials and labor required to restore a building to its pre-damaged condition regardless of the work proposed, as well as associated improvement costs if the structure is being restored beyond its pre-damaged condition.
3. Compare the cost of the project and/or repairs to the estimated market value of the structure and determine whether the proposed work constitutes substantial improvement or repair of a Substantially Damaged structure.
 - a. For the purposes of determining whether the proposed work would constitute substantial improvement, the evaluation shall also include all rehabilitations, additions, or other improvements completed since Clay County has adopted floodplain standards impacting the structure.
 - b. If any nonconforming structure experiences a repetitive loss, it shall be considered Substantially Damaged and must not be reconstructed except in conformity with the provisions of this Ordinance.

4. Based on this determination, the Zoning Administrator shall prepare a determination letter and notify the landowner accordingly. structures determined to be substantially damaged or substantially improved may not be reconstructed except in conformity with the provisions of this Ordinance.

8-3-14. Violations and Penalties

- A. Uses in Violation of this Ordinance. Every structure, fill, deposit, or other use placed or maintained in a Flood Hazard District in violation of this Ordinance shall be considered a public waters. The Statenuisance.
- B. Civil Remedies. The creation of a public nuisance may be enjoined and the maintenance of a public nuisance may be abated by an action brought by Clay County or the Department of Natural Resources.
- C. Enforcement. The Zoning Administrator may utilize the full array of enforcement actions authorized under 8-11-12 (*Violations, Penalties, and Enforcement*) or submit a request to the National Flood Insurance Program (NFIP) for denial of flood insurance. Clay County must act in good faith to enforce the provisions of this article and correct violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

Chapter 8-4. Shoreland Districts

Chapter Contents:

- 8-4-1. Statutory Authorization, Policy, and Purpose
- 8-4-2. General Provisions
- 8-4-3. Definitions
- 8-4-4. Administration
- 8-4-5. Shoreland Classification System
- 8-4-6. Districts Established (SP, RD, SP-LD)
- 8-4-7. Permitted, Conditional, and Accessory Uses
- 8-4-8. Special Use Provisions
- 8-4-9. Dimensional Standards; Placement and Design of Structures
- 8-4-10. Performance Standards for Public and Private Facilities
- 8-4-11. Vegetation and Land Alterations
- 8-4-12. Stormwater Management
- 8-4-13. Subdivision Standards
- 8-4-14. Planned Unit Developments

8-4-1. Statutory Authorization, Policy, and Purpose

- A. **Statutory Authorization.** Shoreland regulations are adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F; Minnesota Rules, Parts 6120.2500 through 6120.3900; and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 394.
- A.B. **Policy.** The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use, and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by the Clay County.
- C. **Purpose.** Clay County's shoreland regulations are designed to implement the following goals and objectives of the 2045 Clay County Comprehensive & Transportation Plan:
 - 1. **Shoreland and Stormwater Goal #1.** Protect and enhance the health and vitality of Clay County surface waters including lakes, rivers, and streams for the enjoyment of Clay County residents and visitors.
 - a. **Objective A.** Reduce development pressure on Natural Environment Lakes.
 - b. **Objective B.** Maintain and enhance riparian areas of public waters, especially within shore impact zones.
 - c. **Objective C.** Continue to enforce shoreland regulations on Clay County lakes, rivers, and streams.

8-4-2. General Provisions

- A. **Jurisdiction.** The provisions of this Article apply to the shorelands of the public water bodies as classified under 8-4-5 (*Shoreland Classification System*). Pursuant to Minnesota Rules, Parts 6120.2500 through 6120.3900, no lake, pond, or flowage less than 25 acres in size in unincorporated areas need be regulated in a local government’s shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of Clay County, be exempt from the provisions of this article.
- B. **Enforcement.** The Zoning Administrator is responsible for the administration and enforcement of this article. Any violation of the provisions of this article or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) constitutes a misdemeanor and is punishable as defined by law. Violations can occur regardless of whether a permit is required.

8-4-3. Definitions

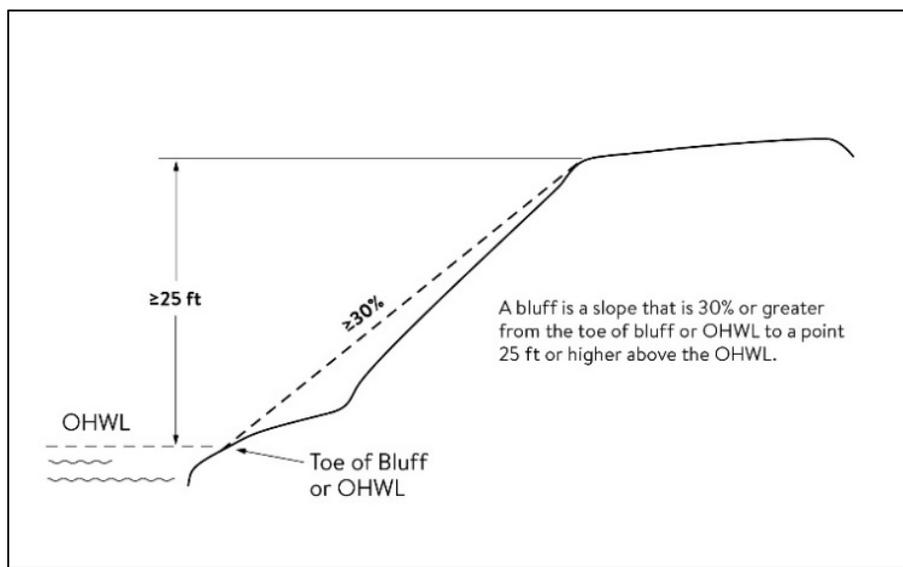
Accessory structure or facility. Any building or improvement subordinate to a principal use which, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks. Examples include: swimming pools, saunas, detached garages, and storage sheds.

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

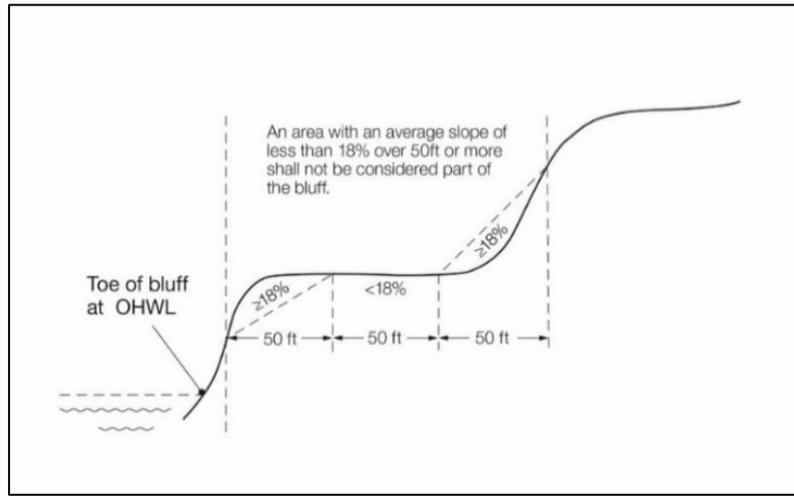
Bluff. A topographic feature such as a hill, cliff, or embankment having the following characteristics:

- A. Part or all of the feature is located in a shoreland area.
- B. The slope must drain toward the waterbody.
- C. The slope rises at least 25 feet above the Ordinary High-water Level.
- D. The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater, except that an area with an average slope of less than 18 percent over a distance of at least 50 feet shall not be considered part of the bluff.

Bluff

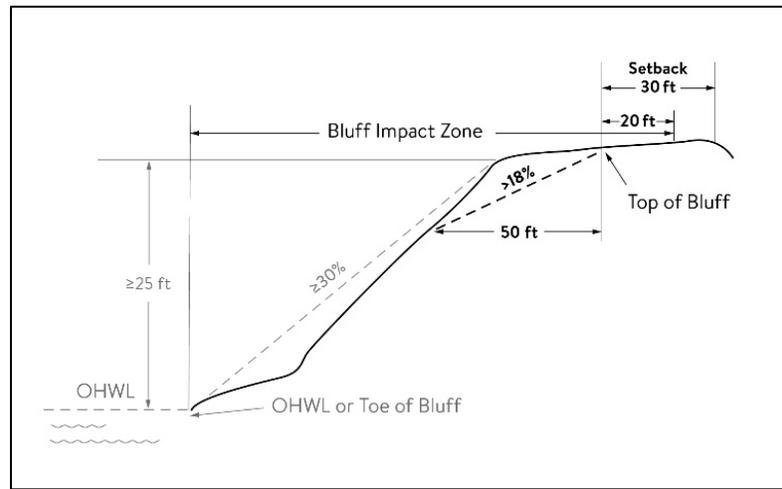


Bluff Exception



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

Bluff Impact Zone



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

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

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

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

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

Conditional use. A land use or development as defined by ordinance that would not be appropriate

generally but may be allowed with appropriate restrictions upon a finding that certain conditions as detailed in the zoning ordinance exist, the use or development conforms to the comprehensive land use plan of the community, and the use is compatible with the existing neighborhood.

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

Commissioner. In this article, “Commissioner” shall refer to the Commissioner of the Department of Natural Resources or their designated representative, unless otherwise noted.

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 3 feet above ground.

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

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

Expansion. Any increase in a dimension such as number of units or size, area, volume, or height of an existing structure or accessory structure or facility.

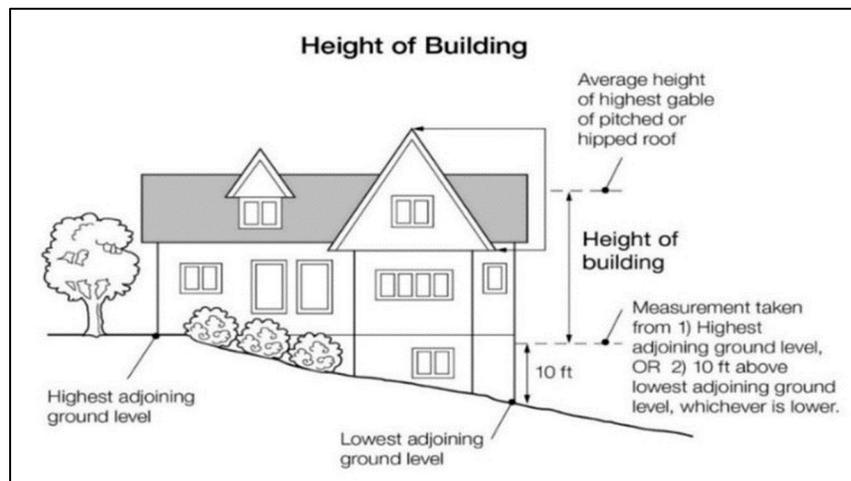
Extractive use. The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes, Sections 93.44 to 93.51.

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

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

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

Height of Building



Impervious surface. A constructed hard surface that prevents or slows entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development, including but not limited to, rooftops, decks, sidewalks, patios, swimming pools, parking lots, and other areas covered with gravel, concrete, bituminous, or other surfaces that substantially reduce or prevent the infiltration of water.

Improvement. Making an existing structure or accessory structure or facility of better quality, more efficient, or more aesthetically pleasing, that does not replicate what pre-existed, but does not include an expansion, enlargement, or intensification.

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

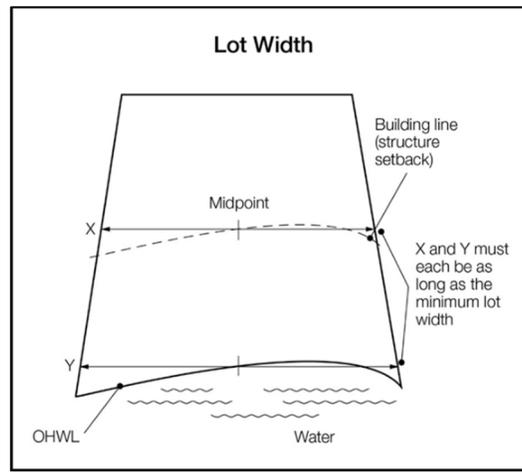
Intensive vegetation clearing. The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

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

Lot width. The minimum distance between:

- A. Side lot lines measured at the midpoint of the building line.
- B. Side lot lines at the ordinary high-water level, if applicable.

Lot Width



Maintenance; repair. Upkeep or preservation of an existing structure or accessory structure or facility against normal wear and tear or degradation over time that does not change exterior dimensions. Examples include the rehabilitation or replacement of windows, siding, a roof, or exterior finishes such as paint or stain.

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

Nonconformity. Any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments to those controls that would not

have been permitted to become established under the terms of the official controls as now written.

Peat mining. “Peat mining” has the meaning given under Minnesota Statutes, Section 93.461.

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

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

Planned unit development, commercial. A planned unit development that provides transient, short-term lodging spaces, rooms, or lots, such as hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities.

Planned unit development, residential. A planned unit development where the nature of residency is non-transient, and the primary focus of the development is not service-oriented. For example, time-share condominiums, cooperatives, and full fee ownership residences would be considered as residential planned unit developments. To qualify as a residential planned unit development, a development must contain at least five (5) dwelling units or sites.

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

Replacement and restoration. Reconstruction of part or all of an existing structure or accessory structure or facility that closely matches or replicates the preexisting structure or facility.

Resort. Any resort as defined in Minnesota Statutes, Section 103F.227, and subject to the standards therein.

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

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

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

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.

A.—Development in Unincorporated Area: The control of land use in the unincorporated area of the County will promote orderly, aesthetic development and a logical sequence of

development. Incompatible land uses should be separated, thereby promoting the health, safety, and public welfare and enhancing the local tax base. It is in the best interest of the public to provide for the wise subdivision, use, and development of the lands of the County.

8-1-4: INTENT AND FUNCTIONS:

The purposes of this Ordinance are to be achieved by regulating the following: the location, height, bulk, number of stories, and size of buildings and other structures; the percentage of lot area which may be occupied, the size of yards and other open spaces; the density and distribution of population; the uses of land, buildings, and structures for trade, industry, residences, recreation, public activities, and agriculture; the development of shorelands and flood hazard areas.

~~B.A. Regulation shall be accomplished by:~~

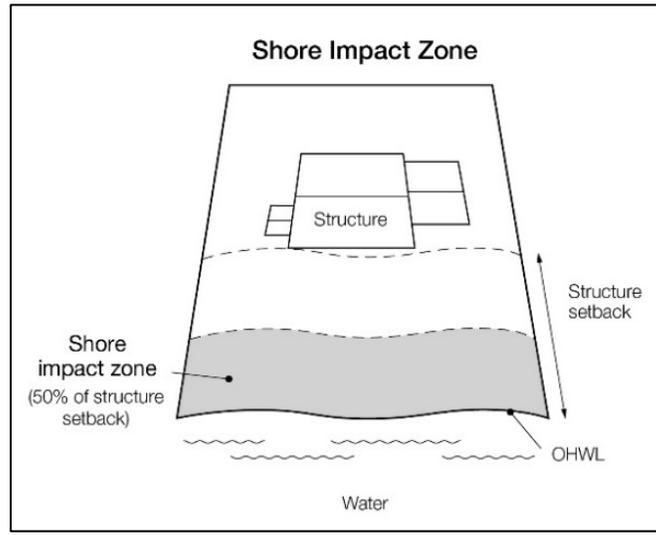
~~A. **Standards and Procedures:** Establishing standards and procedures regulating such uses;~~

~~B. **Subdivision:** Providing for the subdivision of land;~~

~~C. **Zoning Districts:** Dividing the unincorporated areas of the County into zones or districts;~~

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

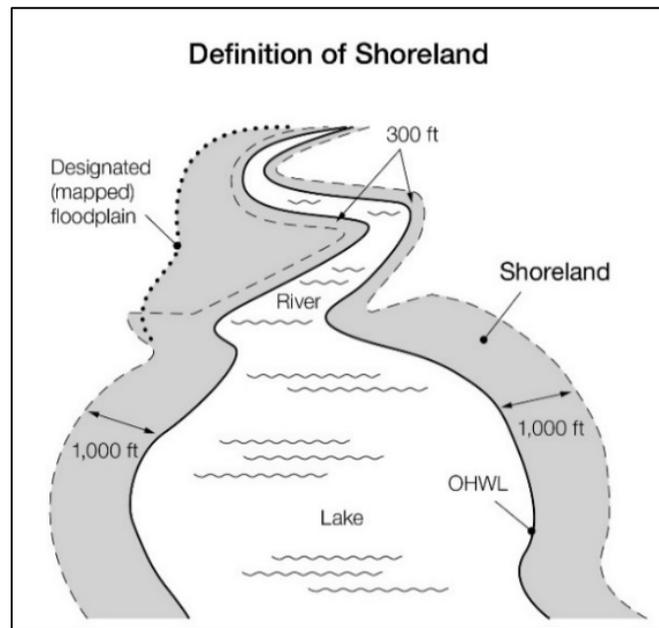
Shore Impact Zone



Shoreland. Land located within the following distances from public waters:

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

Shoreland



Shoreland buffer. An area consisting of perennial vegetation, excluding invasive plants and noxious weeds, adjacent to all bodies of water within the state, and that protects the water resources of the state from runoff pollution; stabilizes soils, shores, and banks; and protects or provides riparian corridors, as defined by Minnesota Statutes, Section 103F.48.

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

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

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

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

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

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

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

Wetland. As defined under Minnesota Rule, part 8420.0111.

8-4-4. Administration: Defining duties of the administrating officers;

~~D.—**Amendment:** Providing for amendments; and~~

~~E.—**Enforcement:** Prescribing penalties for the violation of the provisions of this Ordinance or amendments thereto.~~

8-1-5 : JURISDICTION/RELATIONSHIP TO OTHER JURISDICTIONS:

~~The provisions of this Ordinance shall apply to all the area of the County outside the corporate limits of municipalities except:~~

~~**A.—Municipal Extraterritorial Jurisdiction:** Applications for development within Clay County where the development parcel lies within the extraterritorial jurisdiction area of a municipality that has exercised extraterritorial jurisdiction shall be subject to the subdivision review of such municipality which may vary from county subdivision provisions. However, the zoning regulations of Clay County as contained in this Ordinance shall remain in effect~~

~~within any municipal Extraterritorial Jurisdiction.~~

~~A. **Township Zoning:** Land within Clay County may be subject to zoning and subdivision regulations adopted by the township where the parcel is located. Where townships have adopted regulations that conflict with the provisions of this Ordinance, the most restrictive provisions shall apply. Where Townships have adopted an ordinance pursuant to applicable statutes, it shall be **Permits.**~~

- ~~1. A permit is required for the responsibility construction of structures or structure additions (including construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by 8-4-11(C).~~
- ~~2. A Certificate of Zoning Compliance, consistent with Minnesota Rules Chapter 7082.0700 Subp. 3, is required whenever a permit or variance of any type is required for any improvement on or use of the property owner to secure necessary.~~
- ~~3. Applications for Development Permits (8-11-5), Conditional Use Permits (8-11-7), variances (8-11-6), or other required permits shall be made to the Zoning Administrator on the forms provided and shall follow the established procedures of this Ordinance.~~

~~B. **Certificate of Zoning Compliance.** The Zoning Administrator shall issue a Certificate of Zoning Compliance for each activity requiring a permit as specified in 8-4-4(A), immediately above. This certificate will specify that the use of land conforms to the requirements of this Ordinance. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this Ordinance and shall be punishable as provided in 8-11-12 (Violation, Penalties, and Enforcement).~~

~~C. **Variances.**~~

- ~~1. Variances may only be granted in accordance with Minnesota Statutes, Section 394.27.~~
- ~~2. A variance may not circumvent the general purposes and intent of this ordinance.~~
- ~~3. For properties with existing sewage treatment systems, a certificate of compliance, consistent with Minnesota Rules Chapter 7082.0700 Subp. 3, is required for variance approval. A sewage treatment system shall be considered compliant if the only deficiency is the system's improper setback from the township ordinary high-water level.~~

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

- ~~1. The prevention of soil erosion or other possible pollution of public waters, both during and after construction.~~
- ~~2. The visibility of structures and other facilities as viewed from public waters is limited.~~
- ~~3. There is adequate water supply and on-site sewage treatment.~~
- ~~4. The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate the~~

watercraft.

E. Mitigation Considerations.

1. In evaluating all variances, conditional uses, zoning official or township board. Clay County is not responsible for the administration of township regulations, and Development Permit applications, the Planning Commission, Board of Adjustment, or Zoning Administrator shall require the property owner to address the following conditions, as related and proportional to the impact, to protect adjacent properties and the public interest:

~~8-1-6 : COMPLIANCE REQUIRED FOR ALL DEVELOPMENT:~~

- a. Beginning on the effective date of this ordinance, advanced storm water runoff management treatment.
 - b. Reducing impervious surfaces.
 - c. Increasing setbacks from the ordinary high-water level.
 - d. Restoration of wetlands.
 - e. Limiting vegetation removal and/or riparian vegetation restoration.
 - f. Provisions for the location, design, and use of structures, sewage treatment systems, water supply systems, watercraft launching and docking areas, and parking areas.
 - g. Other conditions the Planning Commission, Board of Adjustment, or Zoning Administrator deems necessary.
2. In evaluating plans to construct sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes, conditions shall be attached to permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters assuming summer, leaf-on vegetation.

F. Nonconformities.

All legally established nonconformities as of the date of this ordinance and subsequent amendments, all development of land in the County shall be in conformance with the provisions may continue, but will be managed according to Minnesota Statutes, Sections 394.36 Subd. 5 and other regulations of this Ordinance and other applicable regulations. Any development not in conformity with these regulations shall be regarded as nonconforming, but may be continued, subject to the regulations provided in Chapter 2 of this Ordinance.

~~A. community~~ **Definition-Development Defined:** Except as otherwise provided, "development" means the commencement of any building or mining operation, the making of a change in the use or appearance of any structure or land, the parceling of land into one or more lots, the creation or termination of rights of access in any form and under all conditions and the creation or termination of riparian rights. Development includes all other activities customarily associated with it unless otherwise specified. Reference to any specific operation as not involving development is not intended to mean that the operation or activity when part of other operations or activities are not development. Reference to particular operations is not intended to limit the generality of subsection 1, below.

1. ~~Activities or Uses Considered Development:~~ The following activities or uses shall be considered "development" as defined in this Section:
 1. ~~Change in Use:~~ A change in the use of a structure or land;
 2. ~~Reconstruction or Alteration of a Structure:~~ Reconstruction or alteration of a structure, including, but not limited to alteration of the size of the structure;
 3. ~~Increase in Intensity of Use:~~ An increase in the intensity of use of land such as an

- increase in the number of businesses, manufacturing establishments, office or dwelling units in a structure or on a parcel of land, or expansion of the area of a structure or a parcel of land that is dedicated to a land use;
4. ~~**Mining or Excavation:**~~ Commencement or expansion of mining or excavation on a parcel of land;
 5. ~~**Fill:**~~ Deposit of refuse, soils or other materials to fill a parcel of land;
 6. ~~**Alteration of Shore, Bank or Flood Plain:**~~ Alteration of a shore, bank or flood plain of a river, stream, lake, pond or artificial bodies of water;
 7. ~~**Reestablishment of Use:**~~ Reestablishment of a use which has been abandoned for one year;
 8. ~~**Subdivision:**~~ Residential, commercial or industrial subdivisions;
 9. ~~**Departure from Normal Use:**~~ Departure from the normal use for which development permission has been granted or failure to comply with the conditions of this Ordinance or order granting the development permission under which the development was commenced or is continued.
 10. ~~**Access:**~~ Any request for an Access Connection (new, changed, modified, altered, re-constructed, etc.) onto a County highway or public right-of-way which includes any field entrance, driveway or public/private roadway (see Section 8.3.6 for further details). This includes any type of access such as permanent, temporary or alterations and additions; ~~**Field access/opening.**~~
2. ~~**Operations Not Considered Development:**~~ The following operations or uses do not constitute development for the purposes of this Ordinance:
1. ~~**Maintenance or Improvement of Public Road or Railroad:**~~ The maintenance or improvement of a public road or railroad track not involving engineering redesign if the work is carried out on land within the boundaries of the right of way;

- ~~2. **Work by Utility:** Work by any utility not involving engineering redesign for the purpose of inspection, repair, renewal or construction on established right of ways of any sewer, mains, pipes, cables, utility tunnels, power lines, towers, poles tracks or the like;~~
- ~~3. **Work on Interior of Structure; Change of Exterior Color:** Work for the maintenance, renewal, improvement or alteration of any structure if the work affects only the interior, or the color of the structure or decoration of the exterior of the structure but does not otherwise result in a structural alteration. Nonstructural roofing and window replacement are not considered development;~~
- ~~4. **Transfer of Title:** A transfer of title to land not involving the division of land into parcels;~~
- ~~5. **Agreements:** The creation of lease agreements or other agreements of possession for existing parcels of land;~~
 - ~~1. **Easements; Covenants:** The creation or termination of easements or covenants concerning development of land or other rights in land not otherwise involving development.~~

8-17: INTERPRETATION:

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

~~A. **Abrogation and Greater Restrictions:** This Ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.~~

~~A. **Warning and Disclaimer of Liability:** This Ordinance does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This Ordinance 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 Ordinance or any administrative decision lawfully made thereunder.~~

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

CHAPTER 2

LOTS OF RECORD, NONCONFORMITIES

~~8 2 1 : LOTS OF RECORD~~

~~8 2 2 : NONCONFORMING USES AND STRUCTURES IN ALL DISTRICTS~~

~~8 2 3 : NONCONFORMING USES AND STRUCTURES IN FLOOD HAZARD ZONES~~

~~8 2 4 : NONCONFORMING USES AND STRUCTURES IN SHORELAND DISTRICTS~~

~~8 2 1 : LOTS OF RECORD:~~

~~All lots legally recorded in the office of the County Recorder prior to the effective date of this Ordinance are considered to be lots of record and, therefore, buildable even though such lots may not conform to the provisions of this Ordinance, provided all of the following requirements are met:~~

- ~~A. **Separate Ownership:** Such lots have separate ownership from abutting lands;~~
- ~~B. **Sanitary, Setback Requirements:** All sanitary and setback requirements of the County are complied with insofar as practical;~~
- ~~C. **Lot Frontage, Area:** Such lots occupy no less than seventy five percent (75%) of the minimum requirements of the appropriate district for lot frontage and minimum lot area. This provision shall not apply to nonconforming, substandard lots of record with existing structures thereon;~~
- ~~D. **Permissible Use:** The proposed use is an allowed use within the applicable zoning district; and~~
- ~~E. **Floodproofing:** Within any flood plain zone, the proposed use must be elevated on fill or floodproofed to the regulatory flood protection elevation according to the standards contained in this Ordinance.~~

~~8 2 2 : NONCONFORMING USES AND STRUCTURES IN ALL DISTRICTS:~~

~~In all zoning districts, a structure or the use of a structure or premises which was lawful before the passage or amendment hereof but which is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions:~~

- ~~A. **Discontinued or Abandoned:** If a nonconforming use or nonconforming structure is discontinued or abandoned for a period of one year, further use of the structure shall conform to this Ordinance. The Zoning Administrator may be made aware of after damage; discontinuance or abandonment by staff observation or other evidence, in addition however, the County Assessor shall notify the Zoning Administrator in writing of all instances where a nonconforming use or structure has been discontinued or abandoned for a period in excess of twelve (12) consecutive months.~~
- ~~B. **Change in Use:** Changes in nonconforming uses shall comply with the following provisions:
 - ~~1. **Change to Allowed Use:** A nonconforming use may be changed to a permitted or conditional use that is allowed in the zoning district where the use is located.~~~~

- ~~2.—**Change to Use of Lesser Intensity:** The nonconforming use of a structure and land may be changed to another nonconforming use if approved by the Planning Commission as a conditional use. Such change shall be allowed only if the new use is of lesser intensity than the original nonconforming use.~~
- ~~3.—**Cannot be Re-established:** In every instance where a nonconforming use is replaced by a~~

~~conforming use, no nonconforming use on that site shall be resumed.~~

~~**C. Increase in Nonconformity Prohibited:** Nonconforming use of a structure, nonconforming use of land, or nonconforming structures shall not be expanded, enlarged, intensified, or altered in a way that increases its nonconformity.~~

~~**D. Maintenance and Nonstructural Repairs:** Normal maintenance and nonstructural repairs and alterations and structural alterations necessary for the safety of a structure are permissible. Such activities, however, shall not expand or intensify the nonconforming use of a structure or land. Normal maintenance and nonstructural repairs and alterations shall be limited to the following:~~

- ~~1. Residing;~~
- ~~2. Reshingling and/or reroofing;~~
- ~~3. Installation of storm windows;~~

~~**a. Painting;**~~

- ~~4. Redecorating; limited to interior painting, wallpapering, and/or installation of carpeting;~~
- ~~5. Replacement or conversion of heating systems; and~~
- ~~6. Repairs to plumbing or electrical systems.~~

~~**E. Health and Safety:** Repairs and alterations necessary to comply with health and safety provisions of the County sanitary or public nuisance ordinances are permissible. Such repairs and alterations shall include the following:~~

- ~~1. Installation of indoor plumbing;~~
- ~~2. Rewiring to comply with the electrical code; or~~
- ~~3. Insulating a structure.~~

~~**F. Access for Disabled Persons:** Alteration necessary to accommodate the needs of a disabled person residing in a nonconforming residence are allowed but shall not include an expansion in the exterior dimensions of the nonconforming structure. Allowed alterations may include unenclosed access ramps, widening of doors, and other nonstructural alterations.~~

~~**G. Limitation on Repairs and Alterations:** Normal maintenance and nonstructural alterations and repairs and structural alterations necessary for the safety of the building as permitted in subsections~~

~~D. and E. of this Section 8-2-2 shall not exceed fifty percent (50%) of the market value or replacement cost of said structure, whichever is less, within any given three (3) year period.~~

~~**H. Damaged Over Fifty Percent of Value:** If a nonconforming structure is damaged to an extent exceeding fifty percent (50%) of its market value or replacement cost, whichever is less, any future structure or rebuilding of the structure on the site shall conform to the applicable regulations of this Ordinance. Additionally, the reestablishment of a nonconforming use of a structure or land is disallowed when damages are in excess of the aforementioned fifty percent (50%) figure, and the status of the lot upon which such structures sit, whether it be a conforming lot or a nonconforming substandard lot of record, shall have no bearing on this determination.~~

~~I. **Fire, Flood, or Other Natural Disaster:** In the event of a fire, flood or other natural disaster leading to the damage or destruction of nonconforming uses and structures, the following procedures shall be initiated by the Zoning Administrator on behalf of the County:~~

~~1. **Identification; Notice:** The Zoning Administrator, with the assistance of the County Civil Defense Director and/or County Engineer, shall identify all nonconforming structures or uses~~

~~sustaining appreciable levels of damage. Following the identification of damaged nonconforming structures, the Zoning Administrator shall inform all affected parties by mail that no repair or rebuilding activities shall be initiated until notification from the Zoning Administrator.~~

~~2.—**Determination of Damage:** The Zoning Administrator shall determine the percentage of damage to a nonconforming use or structure by survey and by the use of either or all of the following indices:~~

~~a.—County Assessor's records;~~

~~b.—Insurance adjuster's damage survey;~~

~~c.—Appraisal of replacement or market value, as appropriate, by a qualified appraiser subject to final approval by the County; or~~

~~d.—National Flood Insurance Program proof of loss statement, if available.~~

~~3.—**Repair and Maintenance Permit for Nonconforming Structures:** Those nonconforming structures not damaged in excess of fifty percent (50%) of the market value or replacement cost of the structure, whichever is less, will be notified in writing that repairs can commence pending the approval and issuance of a repair and maintenance permit for nonconforming structures, as long as the structure is not expanded in any way.~~

~~4.—**Damage Over Fifty Percent:** Nonconforming structures damaged to a level in excess of fifty percent (50%) of the structure's market value or replacement cost, whichever is less, shall be ticketed and the ticket shall state that:~~

~~a.—**Conformance Required:** The use or structure is nonconforming and cannot be rebuilt or repaired except in conformance with provisions of this Ordinance. The applicable provisions will be stated on the ticket.~~

~~b.—**Zoning Certificate:** The owners of the nonconforming structure must apply for and receive approval of a zoning certificate before such rebuilding can be initiated and must commence rebuilding within ninety (90) days of the date of ticketing. The structures must be rebuilt within one year of the issuance of a zoning certificate.~~

~~c.—**Occupancy Permit:** Occupancy of a nonconforming structure will not be permitted until an inspection by the Zoning Administrator reveals that substantial repairs as identified on the ticket have been done in a manner consistent with the provisions of this Ordinance and an occupancy permit is issued.~~

~~d.—**Rebuilding Prohibited:** Nonconforming structures and uses in floodway areas damaged in excess of fifty percent (50%) of the structure's market value or replacement costs, whichever is less, cannot be rebuilt. Nor can nonconforming structures in flood fringe areas, damaged in excess of fifty percent (50%) of the structures market value or replacement cost, whichever is less, that cannot be elevated on fill or floodproofed to County floodproofing standards and the regulatory flood protection elevation (RFPE) be rebuilt. Such structures must be removed or demolished.~~

~~j.—**Declared Hazard:** When nonconforming structures or portions of a structure containing nonconforming uses become physically unsafe or unlawful due to lack of repairs, maintenance, or general neglect (as in the case of abandonment,) the Zoning Administrator~~

~~may declare such structures health or safety hazards and, therefore, violations of the public nuisance provisions of Title 5, Chapter 1 of this Code by virtue of the structure's physical condition alone. Repairs shall be made as ordered by the Zoning Administrator and in the case such structures are damaged in excess of fifty~~

~~percent (50%) of their market value or replacement cost, whichever is less, the repairs shall conform to the provisions of subsection G, above.~~

~~8-2-3: NONCONFORMING USES AND STRUCTURES IN FLOOD HAZARD ZONES~~

~~In addition to the provisions 8-2-2, the following provisions shall apply to nonconforming uses and structures in flood hazard zones:~~

~~2.1 **Intensification of Nonconforming Uses:** There shall be no use; and intensification in use of an existing nonconforming use that would result in a structural alteration to the existing structure or increase its flood damage potential of use.~~

~~1. **Dimensional Area:** A nonconforming use of a structure or land within a flood hazard zone shall not be enlarged, increased, or extended to occupy a greater dimensional area than was occupied on the effective date of adoption hereof.~~

~~B. **Enlargement or Structural Alteration of Nonconforming Structures:** A nonconforming structure may be enlarged or altered so long as such enlargement or alteration does not increase the existing degree of nonconformity or flood damage potential. Any structural alteration or addition to a nonconforming structure that would increase its flood damage potential shall be subject to the following provisions:~~

~~1. **Floodproofing/Elevation on Fill:** Such alteration or enlargement shall be elevated on fill or floodproofed to the regulatory flood protection elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 through FP-4 Floodproofing Classifications) allowable in the State Building Code, except as further restricted in B.2.C and D. below.~~

~~2. **Cost of Structural Alterations or Additions Limited:**~~

~~a. **Limit Imposed:** The cost of structural alterations or additions to any nonconforming structure shall not, over the life of the structure, exceed fifty percent (50%) of the current market value of the structure unless the entire structure is made to conform to this Ordinance.~~

~~b. **Calculation of Cost:** The cost of all structural alterations and/or additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor.~~

~~c. **Exceeds Limit:** If the cost of all previous and proposed alterations and additions exceeds fifty percent (50%) of the current market value of the structure then the entire structure must meet the standards of Section 8-5A-6 and 8-5A-7 of this Ordinance for new structures depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.~~

~~3. **Increase in Stage of Regional Flood:** There shall be no alteration or enlargement of an existing nonconforming structure in the Floodway District that would result in an increase in the stage of the regional flood.~~

~~C. **Damage to Nonconforming Uses and Structures in a Flood Hazard Zone:** The following shall apply to nonconforming structures in the Flood Fringe District that area damaged:~~

~~Nonconforming uses and structures in a Flood Hazard Zone that are substantially damaged,~~

~~as defined in Section 8-8-2 shall not be reconstructed except in conformity with the provisions of this Ordinance. The applicable provisions for establishing new uses or new structures in Section 8-5A-6 and 8-5A-8 will apply depending upon whether the use or structure is in the Floodway Flood Fringe or General Flood Plain District, respectively.~~

~~**D. Substantial Improvements to Nonconforming Uses and Structures in a Flood Hazard**~~

~~**Zone:** If a substantial improvement occurs, as defined in Section 8-8-2 of this Ordinance, from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition and the existing nonconforming building must meet the requirements of Sections 8-5A-6 and 8-5A-7 of this Ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.~~

~~**E.** For substantially damaged and substantially improved structures as described in C. and D. above and the enlargement or alteration of structures as described in B-1 above, the following provisions shall be required:~~

- ~~1. Floodproofing Requires a Conditional Use Permit: Such floodproofing requirements, including diking, are considered conditional uses and must receive approval by the appropriate watershed board as well as the Clay County Planning Commission.~~
- ~~2. Standard for Approving a Conditional Use Permit: Approval of such a conditional use is contingent upon certification by a registered professional engineer or architect that the flood proofing techniques to be employed will not result in any increase whatsoever in flood heights, and that the structure will be protected to the regulatory flood protection elevation.~~
- ~~3. Removal of Nonconforming Status: If the elevating on fill or floodproofing measures for such structures are feasible, complied with, and if the certifications required in subsection 2., immediately above are received, the structure in question may be eliminated from the County's nonconforming use category.~~

~~**8-2-4: NONCONFORMING USES AND STRUCTURES IN SHORELAND DISTRICTS**~~

~~In addition to the provisions 8-2-2, the following provisions shall apply to nonconforming uses and structures in Shoreland Districts:~~

~~**A. Construction on Lots of Record:**~~

- ~~1. **Allowed:** Lots of record that do not meet the lot area and width requirements of Chapter 5, Article 3B of this Ordinance may be allowed as building sites without variances from lot size requirements provided that all of the following provisions are met:
 - ~~a. The proposed use is a permitted use in the zoning district in which the lot of record is located;~~
 - ~~b. The lot has been in separate ownership from abutting lands at all times since it became substandard;~~
 - ~~c. The lot was created compliant with official controls in effect at the time;~~
 - ~~d. All sewage treatment requirements of this Ordinance are met; and~~
 - ~~e. All setback requirements for the Shoreland District where the lot of record is located are met.~~~~

~~2. **Variance Required if Setbacks Not Met:** If a proposed structure does not meet the setback requirements for the Shoreland District where the lot of record is located, a variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued. In evaluating the variance, the Board of Adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.~~

~~3. **Combining Lots:** If, in a group of two (2) or more contiguous lots under the same ownership, any individual lot does not meet the requirements of subsection A.1., above, the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of subsection A.1., above, as much as possible.~~

~~**B. Additions/Expansions to Nonconforming Structures:**~~

~~**3.2. Outside Dimensions:** All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, lowest floor elevations, and other requirements of ~~Chapter 5, Article 3B~~ of this ~~Ordinance~~ article. Any deviation from these requirements ~~must~~ may only be authorized by a variance ~~pursuant to Section 8-4-5 of this Ordinance.~~~~

3. Existing Nonconforming Lots in Shoreland Areas.

- a. This subdivision applies to shoreland lots of record in the Office of the County Recorder on the date of adoption of local shoreland controls that do not meet the requirements for lot size or lot width.
- b. A nonconforming single lot of record located within a shoreland area may be allowed as a building site without variances from lot size requirements, provided that:
 - i. All structure and septic system setback distance requirements can be met.
 - ii. A Type 1 sewage treatment system consistent with Minnesota Rules, Chapter 7080, can be installed or the lot is connected to a public sewer.
 - iii. The impervious surface coverage does not exceed 25 percent of the lot.
- c. In a group of two (2) or more contiguous lots of record under a common ownership, an individual lot must be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements:
 - i. The lot must be at least 66 percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, Chapter 6120.
 - ii. The lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type 1 sewage treatment system consistent with Minnesota Rules, Chapter 7080.
 - iii. Impervious surface coverage must not exceed 25 percent of each lot.
 - iv. Development of the lot must be consistent with an adopted Comprehensive Plan.
- d. A lot subject to 8-4-4(F)(3)(C) not meeting the requirements of 8-4-4(F)(3)(C) must be combined with one or more contiguous lots, so they equal one or more conforming lots as much as possible.
- e. Notwithstanding 8-4-4(F)(3)(C), contiguous nonconforming lots of record in shoreland areas under a common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a

sewage treatment system consistent with the requirements of Minnesota Rules, Chapter 7080, or connected to a public sewer.

- f. A portion of a conforming lot may be separated from an existing parcel as long as the remainder of the existing parcel meets the lot size and sewage system requirements of the zoning district for a new lot and the newly created parcel is combined with an adjacent parcel.

G. Notifications to the Department of Natural Resources.

1. All amendments to these shoreland regulations must be submitted to the Department of Natural Resources for review and approval for compliance with the statewide shoreland management rules. Clay County shall submit the proposed Ordinance amendments to the Commissioner at least 30 days before any scheduled hearing.
2. All notices of public hearings to consider subdivisions, variances, ordinance amendments, or conditional uses under shoreland management controls must be sent to the Commissioner at least 10 days before the hearings. Notices of hearings to consider proposed subdivisions must include copies of the subdivision plat.
3. All approved ordinance amendments and subdivisions, and final decisions approving variances or conditional uses under local shoreland management controls, must be sent to the commissioner, and postmarked within 10 days of final action. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance shall also include the summary of public testimony and the findings of facts and conclusions that supported the issuance of the variance.
4. Any request to change the shoreland management classification of public waters within Clay County must be sent to the Commissioner for approval and must include a resolution and supporting data as required by Minnesota Rules, part 6120.3000, subp. 4.
5. Any request to reduce the boundaries of shoreland of public waters within Clay County must be sent to the Commissioner for approval and must include a resolution and supporting data. The boundaries of shoreland may be reduced with the shoreland of water bodies with different classifications overlap. In these cases, the topographic divide between the water bodies shall be used for adjusting the boundaries.

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

8-4-5. Shoreland Classification System

The public waters of the County have been classified by the Department of Natural Resources as shown in the following tables, consistent with Minnesota Rules, part 6120.3300.

A. Lakes. Lakes are classified as Natural Environment Lakes, Recreational Development Lakes, and General Development Lakes, as listed in Table 4-2 (Classification of Lakes), below.

Table 4-2. Classification of Lakes

<u>Inventory ID#</u>	<u>Lake Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>Acres</u>
<u>Natural Environment Lakes</u>					
<u>14-1</u>	<u>Maple</u>	<u>31, 36</u>	<u>137</u>	<u>43, 44</u>	<u>34</u>
<u>14-2</u>	<u>Anderson*</u>	<u>6, 1</u>	<u>139</u>	<u>43, 44</u>	<u>59</u>
<u>14-3</u>	<u>Anderson*</u>	<u>30, 25</u>	<u>139</u>	<u>43, 44</u>	<u>25</u>
<u>14-4</u>	<u>Tilde*</u>	<u>24, 25</u>	<u>141</u>	<u>43, 44</u>	<u>256</u>
<u>14-5</u>	<u>Homestead</u>	<u>8, 9, 17</u>	<u>137</u>	<u>44</u>	<u>44</u>
<u>14-9</u>	<u>Solem</u>	<u>21</u>	<u>137</u>	<u>44</u>	<u>70</u>
<u>14-10</u>	<u>Tansem</u>	<u>22, 27</u>	<u>137</u>	<u>44</u>	<u>36</u>
<u>14-11</u>	<u>Ranum</u>	<u>23, 26, 27</u>	<u>137</u>	<u>44</u>	<u>51</u>
<u>14-12</u>	<u>Whiskey</u>	<u>25, 36</u>	<u>137</u>	<u>44</u>	<u>48</u>
<u>14-16</u>	<u>One</u>	<u>1,21</u>	<u>138</u>	<u>44</u>	<u>47</u>
<u>14-17</u>	<u>Foulball</u>	<u>1,2</u>	<u>138</u>	<u>44</u>	<u>45</u>
<u>14-18</u>	<u>Eleven</u>	<u>2,11</u>	<u>138</u>	<u>44</u>	<u>139</u>
<u>14-19</u>	<u>Three</u>	<u>31</u>	<u>138</u>	<u>44</u>	<u>106</u>
<u>14-21</u>	<u>Ten</u>	<u>9, 10, 15</u>	<u>138</u>	<u>44</u>	<u>83</u>
<u>14-24</u>	<u>Unnamed</u>	<u>11, 14</u>	<u>138</u>	<u>44</u>	<u>28</u>
<u>14-26</u>	<u>Thirteen</u>	<u>13, 14, 23</u>	<u>138</u>	<u>44</u>	<u>60</u>
<u>14-28</u>	<u>Fourteen</u>	<u>14</u>	<u>138</u>	<u>44</u>	<u>33</u>
<u>14-30</u>	<u>Fifteen</u>	<u>15</u>	<u>138</u>	<u>44</u>	<u>128</u>
<u>14-33</u>	<u>Nelson</u>	<u>16, 21</u>	<u>138</u>	<u>44</u>	<u>41</u>
<u>14-35</u>	<u>Mayfield</u>	<u>22, 23</u>	<u>138</u>	<u>44</u>	<u>36</u>
<u>14-37</u>	<u>Emma</u>	<u>26</u>	<u>138</u>	<u>44</u>	<u>36</u>
<u>14-38</u>	<u>Laura</u>	<u>27</u>	<u>138</u>	<u>44</u>	<u>60</u>
<u>14-42</u>	<u>Rollag</u>	<u>31</u>	<u>138</u>	<u>44</u>	<u>42</u>
<u>14-44</u>	<u>Anfinson</u>	<u>4, 5, 33</u>	<u>138, 139</u>	<u>44</u>	<u>53</u>
<u>14-46</u>	<u>Backman</u>	<u>2</u>	<u>139</u>	<u>44</u>	<u>34</u>
<u>14-47</u>	<u>Moe</u>	<u>2, 11, 12</u>	<u>139</u>	<u>44</u>	<u>60</u>
<u>14-49</u>	<u>Lee</u>	<u>9, 16</u>	<u>139</u>	<u>44</u>	<u>148</u>
<u>14-52</u>	<u>Solum</u>	<u>11, 12, 13</u>	<u>139</u>	<u>44</u>	<u>57</u>
<u>14-53</u>	<u>Christ Olson</u>	<u>13, 14</u>	<u>139</u>	<u>44</u>	<u>74</u>
<u>14-54</u>	<u>Hoe</u>	<u>14</u>	<u>139</u>	<u>44</u>	<u>55</u>
<u>14-56</u>	<u>Knudson</u>	<u>15</u>	<u>139</u>	<u>44</u>	<u>41</u>
<u>14-58</u>	<u>Perch</u>	<u>17</u>	<u>139</u>	<u>44</u>	<u>38</u>

<u>Inventory ID#</u>	<u>Lake Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>Acres</u>
<u>14-61</u>	<u>Erickson</u>	<u>23, 24</u>	<u>139</u>	<u>44</u>	<u>53</u>
<u>14-62</u>	<u>Jergenson</u>	<u>25, 26</u>	<u>139</u>	<u>44</u>	<u>67</u>
<u>14-63</u>	<u>Overson</u>	<u>25, 26, 35</u>	<u>139</u>	<u>44</u>	<u>60</u>
<u>14-65</u>	<u>Burke (Burk)</u>	<u>28</u>	<u>139</u>	<u>44</u>	<u>41</u>
<u>14-66</u>	<u>Unnamed</u>	<u>28</u>	<u>139</u>	<u>44</u>	<u>34</u>
<u>14-68</u>	<u>Unnamed</u>	<u>33, 34</u>	<u>139</u>	<u>44</u>	<u>29</u>
<u>14-71</u>	<u>Ness</u>	<u>35, 36</u>	<u>139</u>	<u>44</u>	<u>45</u>
<u>14-72</u>	<u>Rustad-Melby (Rustad)</u>	<u>11</u>	<u>140</u>	<u>44</u>	<u>82</u>
<u>14-78</u>	<u>Swede Grove</u>	<u>10, 14, 15</u>	<u>140</u>	<u>44</u>	<u>138</u>
<u>14-79</u>	<u>Meyer</u>	<u>15, 16</u>	<u>140</u>	<u>44</u>	<u>106</u>
<u>14-81</u>	<u>Unnamed</u>	<u>3, 10</u>	<u>141</u>	<u>44</u>	<u>28</u>
<u>14-82</u>	<u>Unnamed</u>	<u>17</u>	<u>141</u>	<u>44</u>	<u>42</u>
<u>14-83</u>	<u>Unnamed</u>	<u>20</u>	<u>141</u>	<u>44</u>	<u>37</u>
<u>14-84</u>	<u>Unnamed</u>	<u>23, 26</u>	<u>141</u>	<u>44</u>	<u>54</u>
<u>14-85</u>	<u>Unnamed</u>	<u>25, 26</u>	<u>14</u>	<u>144</u>	<u>29</u>
<u>14-86</u>	<u>Goose Prairie Marsh</u>	<u>26, 27</u>	<u>141</u>	<u>44</u>	<u>4</u>
<u>14-87</u>	<u>Unnamed</u>	<u>34, 35</u>	<u>141</u>	<u>44</u>	<u>41</u>
<u>14-88</u>	<u>Unnamed</u>	<u>36</u>	<u>141</u>	<u>44</u>	<u>39</u>
<u>14-89</u>	<u>Doran</u>	<u>30, 25</u>	<u>139</u>	<u>44, 45</u>	<u>100</u>
<u>14-90</u>	<u>Solwald</u>	<u>7, 1, 12</u>	<u>140</u>	<u>44, 45</u>	<u>58</u>
<u>14-91</u>	<u>Buhaug</u>	<u>1, 31</u>	<u>140, 141</u>	<u>44, 45</u>	<u>48</u>
<u>14-92</u>	<u>Tatlie</u>	<u>31, 36</u>	<u>141</u>	<u>44, 45</u>	<u>60</u>
<u>14-94</u>	<u>Unnamed</u>	<u>36</u>	<u>137</u>	<u>45</u>	<u>25</u>
<u>14-95</u>	<u>Rushfeldt (Rushfield)</u>	<u>3, 9, 10</u>	<u>138</u>	<u>45</u>	<u>54</u>
<u>14-96</u>	<u>Bjordahl</u>	<u>12</u>	<u>138</u>	<u>45</u>	<u>56</u>

Deck Additions:

<u>14-99</u>	<u>Maria (Marin)</u>	<u>9, 16</u>	<u>139</u>	<u>45</u>	<u>106</u>
<u>14-100</u>	<u>Silver</u>	<u>23, 26</u>	<u>139</u>	<u>45</u>	<u>123</u>
<u>14-102</u>	<u>Unnamed</u>	<u>1</u>	<u>140</u>	<u>45</u>	<u>34</u>
<u>14-103</u>	<u>Cromwell</u>	<u>1,12</u>	<u>140</u>	<u>45</u>	<u>31</u>
<u>14-104</u>	<u>Anderson</u>	<u>12, 13</u>	<u>140</u>	<u>45</u>	<u>41</u>
<u>14-105</u>	<u>Horse Shoe</u>	<u>21, 28</u>	<u>140</u>	<u>45</u>	<u>44</u>
<u>14-106</u>	<u>Hotsie</u>	<u>6, 32</u>	<u>140, 141</u>	<u>45</u>	<u>38</u>
<u>14-107</u>	<u>Unnamed</u>	<u>26, 27, 34</u>	<u>141</u>	<u>45</u>	<u>41</u>

Code Zoning Provisions –					
<u>3-658</u>	<u>Long*</u>	<u>13</u>	<u>138</u>	<u>44</u>	<u>89</u>
<u>3-659</u>	<u>Sand*</u>	<u>7, 18, 12, 13</u>	<u>139</u>	<u>43, 44</u>	<u>199</u>
<u>3-660</u>	<u>Axberg*</u>	<u>19, 24</u>	<u>139</u>	<u>43, 44</u>	<u>47</u>
<u>3-66</u>	<u>Pump*</u>	<u>31, 36</u>	<u>139</u>	<u>43, 44</u>	<u>57</u>
<u>3-662</u>	<u>Cuba*</u>	<u>6, 31, 1</u>	<u>139, 140</u>	<u>43, 44</u>	<u>52</u>
<u>84-15</u>	<u>Unnamed**</u>	<u>3, 4, 34</u>	<u>136, 137</u>	<u>45</u>	<u>31</u>
<u>Recreational Development Lakes</u>					
<u>3-657</u>	<u>Turtle*</u>	<u>7,12</u>	<u>138</u>	<u>43, 44</u>	<u>183</u>
<u>3-659</u>	<u>Sand*</u>	<u>7, 18,12, 13</u>	<u>139</u>	<u>43, 44</u>	<u>199</u>
<u>General Development Lakes</u>					
<u>14-80</u>	<u>Flora</u>	<u>4, 34</u>	<u>140, 141</u>	<u>44</u>	<u>66</u>

*Also in Becker County

** Also in Wilkin County

B. Rivers and Streams. The rivers and streams of Clay County are classified as Transition Rivers, Agricultural Rivers, Urban Rivers, and Tributary Streams, as listed in *Table 4-3 (Classification of Rivers and Streams)*, below.

Table 4-3. Classification of Rivers and Streams

<u>Name</u>	<u>From</u>	<u>To</u>
<u>Transition Rivers</u>		
<u>Red River of the North</u>	<u>Confluence with Buffalo River 30, T142N, R48W</u>	<u>N. section line in Sec. 12, T142N, R49W</u>
<u>Agricultural Rivers</u>		
<u>Red River of the North</u>	<u>Border of Wilkin and Clay Counties</u>	<u>N section line in Sec. 1, T139N, R49W</u>
<u>Red River of the North</u>	<u>S. section line, Sec. 32, T140N, R48W</u>	<u>Confluence with Buffalo R. in Sec. 30, T142N, R48W</u>
<u>Red River of the North</u>	<u>South section line, Sec. 1 T142N, R49W</u>	<u>Border of Norman and Clay Counties</u>
<u>Buffalo River</u>	<u>Border of Becker and Clay Counties</u>	<u>Confluence with Red River of the North in Sec. 30, T142N, R48W</u>
<u>Urban Rivers</u>		
<u>Red River of the North</u>	<u>South section line, Sec. 31, T129N, R48W</u>	<u>15th Ave. North in City of Moorhead</u>

<u>Name</u>	<u>From</u>	<u>To</u>
<u>Tributary Streams</u>		
All protected watercourses, including drainage ditches, shown on the Protected Waters Inventory Map for Clay County, a copy of which is hereby adopted by reference, and not given a classification in this subsection, shall be considered tributary streams.		

8-4-6. Districts Established (SP, RD, SP-LD, GD)

A. Shoreland Districts. Within Shoreland Zones, as described in 8-4-6(B), below, the following Shoreland Districts shall be established:

1. Shoreland Special Protection District (SP).

- a. **Lakes.** Within Shoreland Zones of public waters classified as Natural Environment Lakes in 8-4-5 (*Shoreland Classification System*), except those Natural Environment Lakes designated by Clay County as Special Protection Low Development Lakes and except for Lake Fifteen, the Shoreland Special Protection District (SP) provisions shall apply.
- b. **Rivers and Streams.** Within Shoreland Zones of public waters classified as Transitional, Agricultural, Urban Rivers and Tributary Streams in 8-4-5 (*Shoreland Classification System*), the Shoreland Rivers District (SP) provisions shall apply.

2. Shoreland Residential District (RD). Within Shoreland Zones of public waters classified as Recreational Development Lakes in 8-4-5 (*Shoreland Classification System*), Lake Fifteen, and public waters classified as General Development Lakes in 8-4-5, the Shoreland Residential District (RD) provisions shall apply.

3. Shoreland Special Protection – Low Development (SP-LD). Within Shoreland Zones of public waters classified as Natural Environment and designated as protected wetlands, the Shoreland Special Protection – Low Development (SP-LD) provisions shall apply.

4. Shoreland General Use District (GD). Within the shoreland Zones of all public waters, the Shoreland General Use District provisions shall apply.

- a. Limited commercial use permitted per Table 8-1 (Use Table).
- b. The General Use District applies only to non-riparian lots.
- c. The minimum lot size and width shall be the same as non-riparian lots in the residential district.
- d. Residential uses are not permitted.

B. Mapped Shoreland Zones.

1. The extent of the shoreland zones for the water bodies listed in 8-4-5 (*Shoreland Classification System*) shall be as shown on the Official Zoning Map and shall include all land within the following distances from public waters:

- a. 1,000 feet from the ordinary high-water level of a lake, pond, or flowage.
- b. 300 feet from the ordinary high-water level of a river or stream.

2. The limits of Shoreland Districts may be reduced whenever the waters involved are bounded by natural topographic divides which extend landward for a lesser distance and when approved by the Commissioner.
- C. Relationship of Shoreland Districts to Other Zoning Districts.** The Shoreland Districts are overlay districts. The standards imposed by these overlay districts are in addition to the regulations of the underlying base district and other overlay districts (e.g., Flood Hazard Districts). Where requirements in this article impose greater restrictions than the base district or another overlay district, the provisions of this Chapter shall apply.
- D. Tiers; Riparian and Non-Riparian.** The Shoreland SP, RD, and SP-LD Districts shall be comprised of two (2) tiers, a riparian tier and a non-riparian tier. Lots containing any shoreline are located in the riparian tier and are subject to provisions applying to riparian tiers. Lots that do not contain any shoreline are located in the non-riparian tier and shall be subject to provisions applying to non-riparian tiers.

8-4-7. Permitted, Conditional, and Accessory Uses

Permitted, conditional, and accessory uses in shoreland districts are those specified in Table 8-1 (Use Table). All other uses shall be prohibited.

8-4-8. Special Use Provisions

A. Special Residential Lot Provisions.

1. Guest cottages. One guest cottage may be allowed on lots meeting or exceeding the Single-family with guest cottage lot area and width dimensions presented in 8-4-9 (Dimensional Standards; Placement and Design of Structures), provided the following standards are met:
 - a. For lots exceeding the minimum lot dimensions of single-family with guest cottage lots, the guest cottage must be located within an area equal to the smallest Single-family with guest cottage sized lot that could be created including the principal dwelling unit.
 - b. A guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height.
 - c. A guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.
2. Controlled Access Lots. Controlled access lots are permissible if created as part of a subdivision and in compliance with the following standards:
 - a. Suitability; Limitations on Use. The proposed controlled access lot shall be suitable for the intended uses of the controlled access lots such as boat launching, swimming, and fishing. Controlled access lots shall not be used as residential lots.
 - b. Minimum Lot Area, Width, and Number of Lots Having Access. A controlled access lot proposed for access by one (1) non-riparian lot shall meet the minimum lot area and minimum lot width standards for a riparian lot in the SP, Shoreland Special Protection District, or the RD, Shoreland Residential District, in which the proposed controlled access lot is located. The minimum lot Area and minimum lot width of the controlled access lot shall both be increased by 20 percent for each

additional non-riparian lot having access over the controlled access lot up to a maximum of 10 lots having access rights over the controlled access lot. A nonconforming lot shall not be used for a controlled access lot.

- c. **Joint Ownership.** Controlled access lots shall be jointly owned by all owners of non-riparian lots in the subdivision who are provided riparian access rights on the controlled access lot.
- d. **Design Requirements.** The controlled access lot shall meet the following design requirements:
 - i. **Common Facilities.** Common facilities and activities shall be centralized in the most suitable locations on the controlled access lot to minimize topographic and vegetation alterations.
 - ii. **Screening.** All parking areas, storage buildings, and other facilities shall be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.
 - iii. **Impervious Surface.** Impervious surface on a controlled access lot shall be limited to 25 percent of the lot area. Impervious surfaces shall include gravel drives.
- e. **Covenants Required.** Covenants, or other equally effective legal instruments, shall be developed that specify the following items. Information describing the covenants required in subsections f. through i., below, shall be conspicuously posted on the controlled access lot.
- f. **Owners.** Identification of lots and owners having the right to use the controlled access lot.
- g. **Activities.** Activities may include watercraft launching, loading, storage, beaching, mooring, swimming, sunbathing, or picnicking.
- h. **Vehicle Limitation.** The covenants shall specify the total number of vehicles allowed to be parked on the controlled access lot.
- i. **Watercraft Limitation.** The covenants shall specify the total number of watercraft allowed to be continuously moored, docked, or stored over water. If more than six (6) watercraft are to be allowed at a controlled access lot then the width of the lot (keeping the same lot depth) must be increased by a percentage of the requirements for riparian residential lots for each watercraft beyond six (6), consistent with *Table 4-4*, below:

<u>Ratio of Lake Size to Shore Length (Acres/Mile)</u>	<u>Required Percent Increase in Frontage</u>
<u>Less than 100</u>	<u>25%</u>
<u>100 – 200</u>	<u>20%</u>
<u>201 – 300</u>	<u>15%</u>
<u>301 – 400</u>	<u>10%</u>
<u>Greater than 400</u>	<u>5%</u>

B. Commercial, Industrial, Public, and Semi-Public Uses.

1. Water-Dependent Uses. Water-dependent uses may be located on lots with frontage on public waters provided that:

- a. The use complies with the provisions of 8-4-10 (Performance Standards for Public and Private Facilities).
- b. The use is designed to incorporate topographic and vegetative screening of parking areas and structures.
- ~~a.c.~~ Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need;
- d. Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:
 - i. No advertising signs or supporting facilities for signs may placed in or upon public waters.
 - ii. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the County Sheriff.
 - iii. Signs placed within the shore impact zone shall be no higher than 10 feet above the ground and no greater than 40 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination across public waters.
 - iv. Other lighting may be location within the shore impact zone or over public waters if it is used to illuminate potential safety hazards and is shielded or otherwise directed to prevent illumination across public waters. This does not preclude use of navigational flights.

2. Uses Without Water-Oriented Needs. Commercial, industrial, public, and semi-public uses that are not water dependent should not be located on lots with public waters frontage. If such uses must be located on lots with public waters frontage, all structures must be set back double the normal ordinary high-water level setback or be substantially screened from view from the water by vegetation, assuming summer, leaf-on conditions.

C. Agricultural Use Standards.

1. **Buffers.** The shore impact zone for lots with permitted agricultural uses is equal to a line parallel to and 50 feet from the ordinary high-water level.
2. **Permitted Uses.** General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes, shore impact zones, and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan consistent with the field office technical guides of the local soil and water conservation districts or the Natural Resources Conservation Service, as provided by a qualified individual or agency.
3. **Animal Feedlots.** New animal feedlots are not allowed in shoreland. Modifications or expansions to existing feedlots are conditional uses and must meet the following standards:
 - a. Feedlots must be designed consistent with Minnesota Rules, Chapter 7020.
 - b. Feedlots must not encroach into the existing ordinary high-water level setback or the bluff impact zones and must not expand to a capacity of 1,000 animal units or more.
 - c. Discontinued Feedlots not currently in operation may resume operation consistent with Minnesota Statutes, Section 116.0711.
 - d. Feedlots must comply with all requirements of 8-8-2(A).

D. Forest Management Standards.

1. Intensive vegetation clearing for forest land conversion to another use is a conditional use subject to an erosion and sedimentation plan developed and approved by the Clay Soil and Water Conservation District.
2. The harvesting of timber and associated reforestation must be conducted consistent with the provisions of *Sustaining Minnesota Resources: Voluntary Site Level Forest Management Guidelines for Landowners, Loggers, and Resource Managers*.

8-4-9. Dimensional Standards; Placement and Design of Structures**A. Lot Standards.**

1. After the effective date of this Ordinance, all new lots must meet the minimum lot Area, lot width, and impervious surface coverage requirements specified in *Table 4-5 (Shoreland District Lot Standards)*.
2. Only land above the ordinary high-water level of public waters can be used to meet lot area standards.
3. Lot width standards must be met at both the ordinary high-water level and at the building line.
4. Reduced lot standards may be considered only for residential subdivisions that are designed and approved as a planned unit development under 8-4-14 (*Planned Unit Developments*).

Table 4-5. Shoreland District Lot Standards

<u>Tier</u>	<u>Development Type</u>	<u>SP-LD District</u>	<u>SP District</u>	<u>RD District</u>	<u>SP (Rivers and Streams)</u>
<u>Minimum Lot Area</u>					
<u>Riparian</u>	<u>Single-family</u>	<u>10 acres</u>	<u>80,000 sf</u>	<u>40,000 sf</u> <u>80,000 sf for</u> <u>NE Lakes</u>	<u>No minimum</u>
	<u>Single-family with guest cottage</u>	<u>10 acres</u>	<u>120,000 sf</u>	<u>80,000 sf</u> <u>120,000 SF for</u> <u>NE Lakes</u>	<u>No minimum</u>
<u>Non-Riparian</u>	<u>Single-family</u>	<u>10 acres</u>	<u>80,000 sf</u>	<u>40,000 sf</u> <u>80,000 sf for</u> <u>NE Lakes</u>	<u>No minimum</u>
	<u>Single-family with guest cottage</u>	<u>10 acres</u>	<u>120,000 sf</u>	<u>80,000 sf</u> <u>120,000 SF for</u> <u>NE Lakes</u>	<u>No minimum</u>
<u>Minimum Lot Width</u>					
<u>Riparian</u>	<u>Single-family</u>	<u>400 feet</u>	<u>300 feet</u>	<u>150 feet</u>	<u>250 feet</u>
	<u>Single-family with guest cottage</u>	<u>NA</u>	<u>400 feet</u>	<u>225 feet</u>	<u>375 feet</u>
<u>Non-Riparian</u>	<u>Single-family</u>	<u>400 feet</u>	<u>300 feet</u>	<u>150 feet</u>	<u>250 feet</u>
	<u>Single-family with guest cottage</u>	<u>NA</u>	<u>400 feet</u>	<u>265 feet</u>	<u>375 feet</u>
<u>Maximum Impervious Surface Coverage (% of Lot Area)</u>					
<u>All lots</u>		<u>10%</u>	<u>25%</u>	<u>25%</u>	<u>25%</u>

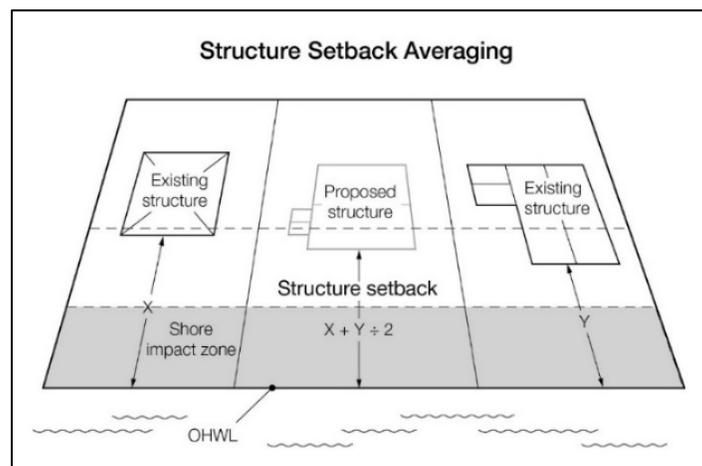
B. Setbacks from the Ordinary High-Water Level.

- 1. Minimum Setback Requirements.** Structures, impervious surfaces, and sewage treatment systems must meet setbacks from the ordinary high-water level (OHWL) as provided in Table 4-6 (Shoreland District Setback Requirements), except that water-oriented accessory structures and facilities, designed in accordance with 8-4-10(C), may be set back a minimum distance of 10 feet from the OHWL. When more than one setback applies to a site, structures and sewage treatment systems must be located to meet all setbacks.

<u>Setback</u>	<u>SP-LD District</u>	<u>SP District</u>	<u>RD District</u>	<u>SP (Rivers and Streams)</u>
<u>Minimum setbacks from ordinary high-water level for all structures and on-site sewage systems, except water-oriented accessory structures or facilities</u>				
<u>OHWL setback</u>	<u>150 feet</u>	<u>150 feet</u>	<u>100 feet; 150 feet for NE Lakes</u>	<u>150 feet</u>
<u>Minimum setbacks for all structures</u>				
<u>Shore impact zone</u>	<u>Structures, except stairways and landings, may not be located within either the shore impact zone or bluff impact zone. Structures must be setback a minimum of 30 feet from top of a bluff.</u>			
<u>Bluff impact zone</u>				
<u>Unplatted cemetery</u>	<u>50 feet</u>	<u>50 feet</u>	<u>50 feet</u>	<u>50 feet</u>
<u>Right-of-way line of federal, state, or County highway</u>	<u>50 feet</u>	<u>50 feet</u>	<u>50 feet</u>	<u>50 feet</u>
<u>Right-of-way line of township road, public street, or other roads not classified</u>	<u>20 feet</u>	<u>20 feet</u>	<u>20 feet</u>	<u>20 feet</u>
<u>Side yard setback</u>	<u>10 feet</u>	<u>10 feet</u>	<u>10 feet</u>	<u>10 feet</u>

2. **Setback Averaging.** Where principal structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining principal structure setbacks from the ordinary high-water level (OHWL), provided the proposed structure is not located in a shore impact zone or a bluff impact zone.

Structure Setback Averaging

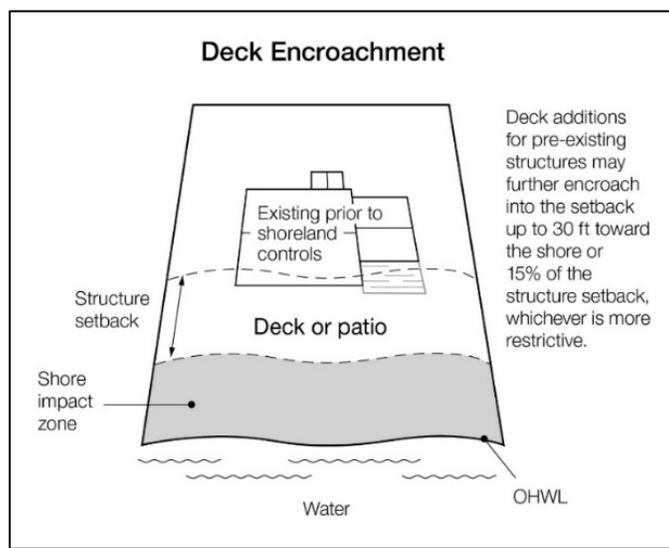


- 4.3. **Decks.** Deck additions may be allowed without a variance to a structure not meeting the

required setback from the ordinary high-water level (OHWL) if all of the following criteria ~~and standards~~ are met:

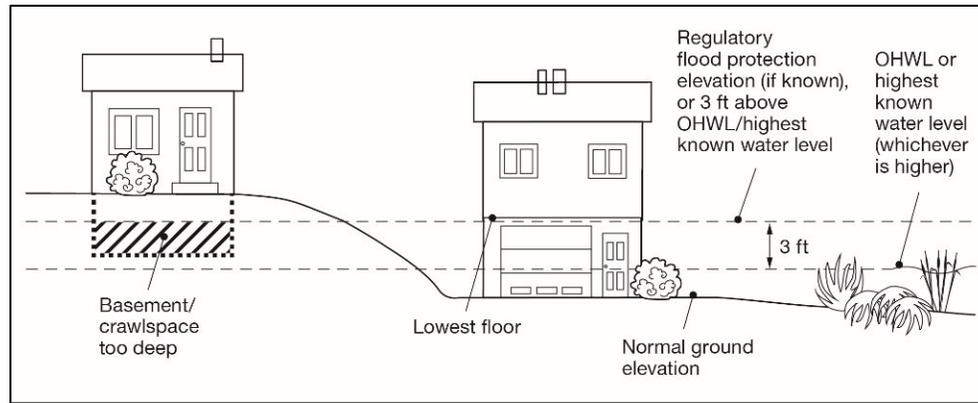
- a. The structure existed on the date ~~the~~ structure setbacks were established;
- b. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ~~ordinary high water level~~ OHWL setback of the structure;
- c. The deck encroachment toward the ~~ordinary high water level~~ OHWL does not exceed ~~fifteen~~ 15 percent (15%) of the existing setback of the structure from the ~~ordinary high water level~~ OHWL or ~~does not encroach is no~~ closer than ~~thirty~~ 30 feet (30') ~~from the OHWL~~, whichever is more restrictive; ~~and~~.
- d. The deck is constructed primarily of wood; ~~or composite material~~ and is not roofed or screened.

Deck Encroachment



C. Lowest Floor Elevation. Structures must be placed at the elevation required by the applicable floodplain provisions of *Chapter 8-3 (Flood Hazard Districts)*. Where these elevations are not known, the lowest floor, including basement, must be placed or floodproofed at an elevation determined using the following methodology.

1. Lakes. For lakes, by placing the lowest floor at a level at least 3 feet above the highest known water level, or 3 feet above the ordinary high-water level, whichever is higher.
2. Rivers and Streams. For rivers and streams, by placing the lowest floor at least 3 feet above the flood of record, if data is available. If data is not available, by placing the lowest floor at least 3 feet above the ordinary high-water level, or by conducting a technical evaluation to determine effects to establish a flood protection elevation. All methods must be completed by a qualified engineer or hydrologist consistent with Minnesota Rules, parts 6120.5000 to 6120.6200, governing the management of floodplain areas.



D. Methods for Placement.

1. In addition to the lowest floor, all service utilities must be elevated or water-tight to the elevation determined in 8-4-9(C), above.
2. If elevation methods involving fill would result in filling in the shore impact zone, then structures must instead be elevated through floodproofing methods in accordance with item 3, immediately below.
3. If the structure is floodproofed, then it must be built to resist hydrostatic pressure through elevation methods such as blocks, pilings, filled stem walls, elevated concrete pad, internally flooded enclosed areas, or through other accepted engineering practices consistent with FEMA technical bulletins 1, 2, and 3.

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

8-4-10. Performance Standards for Public and Private Facilities

A. Roads, Driveways, and Parking Areas.

1. Design. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters.
2. Placement. Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff impact zones or shore impact zones when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas but must be designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the Clay Soil and Water Conservation District, or other applicable technical materials.
3. Watercraft Access Ramps, Access Roads, Parking Areas.
 - a. Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of 8-4-11 (Vegetation and Land Alterations) are met.

B. Stairways, Lifts, and Landings. Stairways and lifts are the preferred alternative to major

topographic alterations for achieving access up and down bluffs and steep slopes to shore areas.
Stairways and lifts must meet the following design requirements:

C. Nonconforming Sewage Treatment Systems:

- 1. Upgrade Required: A Maximum Width.** Stairways and lifts must not exceed 4 feet in width on residential lots. Wider stairways may be used for commercial properties, public open space, or recreational properties.
- 2. Landings.** Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public open space, or recreational properties.
- 3. Canopies or Roofs.** Canopies or roofs are not allowed on stairways, lifts, or landings.
- 4. Construction.** Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion.
- 5. Location.** Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical.
- 6. Physically Handicapped.** Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are allowed for achieving access to shore areas if they are consistent with items 1 through 5, immediately above, and the requirements of Minnesota Rules, Chapter 1341.

C. Water-Oriented Accessory Structures or Facilities. Each residential lot may have one (1) water-oriented accessory structure or facility if it complies with the following provisions:

- 1. The structure or facility must not exceed 10 feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. The structure or facility may include detached decks not exceeding eight (8) feet above grade at any point, or at-grade patios.**
- 2. The structure or facility is not in the bluff impact zone.**
- 3. The setback of the structure or facility from the ordinary high-water level must be at least 10 feet.**
- 4. The structure is not a boathouse or boat storage structure as defined under Minnesota Statutes, Section 103G.245.**
- 5. The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by topography, increased setbacks, color, or vegetation, assuming summer, leaf-on conditions.**
- 6. The roof may be used as an open-air deck with safety rails but must not be enclosed with a roof or side walls or used as a storage area.**
- 7. The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment system facilities.**
- 8. As an alternative for General Development and Recreational Development waterbodies, Water-Oriented accessory structures used solely for storage of watercraft and boating-related equipment may occupy an area up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the shoreline.**

9. Water-oriented accessory structures may have the lowest floor placed lower than the elevation specified in 8-4-9(C) if the structure is designed to accommodate internal flooding, constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation, and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

D. Fences. Fences between principal structures and waterbody are allowed if fences are:

1. Not higher than six (6) feet.
2. Not located within the shoreland impact zone or a bluff impact zone, except for farm fences.
3. Not located in the regulatory floodplain, except for farm fences.

E. Lighting. Lighting shall be fully shielded and directed away from the water. Uplighting viewable from the water is prohibited.

8-4-11. Vegetation and Land Alterations

A. Purpose. Alterations of vegetation and topography are regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, sustain water quality, and protect fish and wildlife habitat.

B. Vegetation Management.

1. Permit. A land alteration permit is required prior to vegetative clearing in the shore impact zone and bluff impact zone and on steep slopes. No clearing is allowed until a plan is submitted and approved consistent with these vegetation management provisions.
2. Exemptions. Removal or alteration of vegetation must comply with the provisions of this section except for:
 - a. Vegetation alteration necessary for the construction of structures and sewage treatment systems.
 - b. Vegetation alteration necessary to remove trees, limbs, or branches that are dead or diseased, or that pose a safety hazard.
 - c. The construction of roads and parking areas regulated by 8-4-10(A).
 - d. Forest management uses as regulated by 8-4-8(D); and
 - e. Agricultural uses consistent with 8-4-8(C).
3. Limited Clearing for View or Access. In shore impact zones and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:
 - a. Vegetation shall be maintained to screen structures, vehicles, or other facilities by at least 50 percent as viewed from the water, assuming summer, leaf-on conditions. The maximum view corridor shall be less than 50 feet or one-third of the lot width, whichever is less.

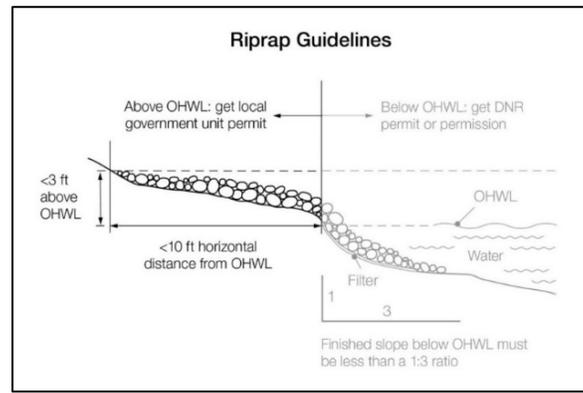
- b. Existing shading of water surfaces along rivers is preserved.
 - c. Cutting debris or slash shall be scattered and ~~not meeting~~ mounded on the ground.
 - d. Perennial ground cover is retained.
 - e. Picnic areas, access paths, livestock watering areas, beaches, and watercraft access areas are prohibited in bluff impact zones.
4. **Intensive Clearing.** Intensive clearing is prohibited within the shore impact zone and bluff impact zones and on steep slopes. In other areas, intensive clearing for forest land conversion to another use is allowed as conditional use if an erosion control and sedimentation plan is developed and approved by the Clay County Soil and Water Conservation District.
5. **Violation and Restoration.** Violations of the vegetation standards shall be subject to a Restoration Order including a vegetation restoration plan and a three-year maintenance plan prepared by the landowner and approved by the Zoning Administrator. Near-shore or highly erodible locations are to be restored with a mix of deep-rooted woody and herbaceous vegetation with high stem-density, suitable for the location.

C. Grading and Filling.

1. **Permit Requirements.** Grading, filling, and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.
2. A grading and filling permit is not required for the construction of public roads and parking areas as regulated by 8-4-10(A).
3. Notwithstanding items 1 and 2 above, a grading and filling permit is required for:
- a. The movement of more than 10 cubic yards of material on steep slopes or within shore impact zones or bluff impact zones.
 - b. The movement of more than 50 cubic yards of material outside of steep slopes, shore impact zones, and bluff impact zones.
 - c. Placement of retaining walls, including boulder walls within the shore impact zone and bluff impact zone, provided that:
 - i. The structures are used only to correct a documented existing erosion problem and not for aesthetic reasons.
 - ii. The height and length are the minimum necessary to control the erosion problem and are not higher than 4 feet or longer than 10 feet, unless the Zoning Administrator determines that a larger wall is necessary to correction the erosion problem.
 - iii. Walls are screened by vegetation to not be visible from the water body.
 - d. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if:
 - i. The finished slope does not exceed three (3) feet horizontal to one (1) foot

- ii. The landward extent of the riprap is within 10 feet of the ordinary high-water level.
- iii. The height of the riprap above the ordinary high-water level does not exceed 3 feet.
- iv. A vegetative buffer, consisting of deep-rooted and woody vegetation, is to be established a distance no less than 10 feet from the landward extent of the riprap.

Riprap Guidelines



D. Considerations; Conditions. The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, Conditional Use Permits, variances, and subdivision approvals:

1. Wetlands. Grading or filling of any wetland must meet or exceed the wetland protection standards under Minnesota Rules, Chapter 8420, and any other permits, review, or approvals by other local, state, or federal agencies, such as the Clay County Soil and Water Conservation District or the U.S. Army Corps of Engineers.
2. Steep Slopes. The Zoning Administrator must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.
3. Land Alterations. Land alterations must be designed and implemented in a manner to minimize the amount of erosion and sediment entering surface waters during and after construction by:
 - a. Limiting the amount of time of bare ground exposure.
 - b. Using ground covers such as mulches or similar materials.
 - c. Establishing permanent, deep-rooted, and dense vegetation cover as soon as possible.
 - d. Using sediment traps, vegetated buffer strips, or other appropriate techniques.

- e. Stabilizing altered areas to acceptable erosion control standards consistent with the field office technical guides of the Clay County Soil and Water Conservation District and the U.S. Natural Resources Conservation Service.
 - f. Not placing fill or excavated material in a manner that creates unstable slopes. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater.
 - g. Fill or excavated material must not be placed in bluff impact zones.
 - h. Any alterations below the ordinary high-water level of public waters must first be authorized by the commissioner under Minnesota Statutes, section 103G.
 - i. Alterations of topography are only allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties.
4. Connections to Public Waters. Excavations to connect boat slips, canals, lagoons, and harbors to public waters require a public waters permit and must comply with Minnesota Rules, Chapter 6115.

8-4-12. Stormwater Management

A. General Standards.

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

B. Specific Standards.

1. Impervious Surface Coverage. Impervious surface coverage of lots must meet the requirements of 8-4-9(A).
2. Design and Installation by Qualified Professionals. When constructed facilities are used for stormwater management, documentation must be provided by qualified professionals that are designed and installed consistent with the field office technical guide of the Clay County Soil and Water Conservation district or the Minnesota Stormwater Manual, as applicable.
3. Filtering or Settling of Suspended Solids; Surface Debris. New constructed stormwater outfalls to public waters must be consistent with Minnesota Rules, part 6115.0231.

8-4-13. Subdivision Standards

- A. Consistency with Other Controls.** All subdivisions and lots in Shoreland Districts shall meet the requirements of *Chapter 8-10 (Subdivision Regulations)* in addition to the requirements of this section. In the case of conflicting standards, the provisions of this section shall prevail.
- B. Land Suitability.** Each lot created through subdivision, including planned unit developments authorized under *8-4-14 (Planned Unit Developments)*, must be suitable in its natural state for the proposed use with minimal alteration. A suitability analysis must be conducted for each proposed subdivision, including planned unit developments, to determine if the subdivision is suitable in its natural state for the proposed use with minimal alteration and whether any feature of the land is likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.
- C. Water and Sewage Treatment.**
- 1. Required.** Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:
 - a. Public System.** Public-owned sewer systems must be used where available.
 - b. Private System.** All private sewage treatment systems must meet or exceed the Minnesota Pollution Control Agency’s standards for individual sewage treatment systems ~~must be contained in the document titled “Individual sewage treatment systems Standards” Chapter 7080, a copy of which is hereby adopted by reference and declared to be a part of this Ordinance.~~
 - c. On-site System.** On-site sewage treatment systems must be set back from the ordinary high-water level in accordance with the setbacks contained in *8-4-9(B)*.
 - 2. Evaluation of Site for Individual System.**
 - a.** All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the following criteria:
 - i.** Depth to the highest known or calculated ground water table or bedrock.
 - ii.** Soil conditions, properties, and permeability.
 - iii.** Slope.
 - iv.** The existence of wetlands, local surface depressions, and rock outcrops.
 - b.** If the determination of a site’s suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on-site field inspections.
 - c.** Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with *8-1-8 (Nonconformities)*.
- D. Water Supply.** Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.
- E.** ~~at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the~~ **Information Requirements.** Applications for subdivision in Shoreland Districts must include the following information, in addition to the requirements of *8-10-11 (Major Subdivision Final Plat Procedures)*.

1. Topographic contours at 10-foot intervals or less from the United States Geological Survey maps or more current sources, showing limiting site characteristics.
 2. The surface water features required to be shown on plats by Minnesota Annotated Statutes, Section 505, or successor statute, obtained from United States Geological Survey quadrangle topographic maps or more current sources.
 3. Adequate soils information to determine suitability for building and sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods.
 4. Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities.
 5. Location of the 100-year floodplain and Floodway District from existing adopted maps or data.
 6. A line or contour representing the ordinary high-water level, the toe and top of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.
- F. **Dedications.** When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.
- G. **Controlled Access Lots.** Controlled access lots within a subdivision must meet or exceed the lot area criteria in 8-4-9(A).

8-4-14. Planned Unit Developments

- A. **PUDs Permissible.** Planned unit developments (PUDs) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing structures and land. Deviation from the minimum lot area standards of 8-4-9(A) is allowed if the standards in this section are met.
- B. **Processing of PUDs.** Planned unit developments in Shoreland Districts must be processed as a conditional use and comply with the provisions of this section in addition to those standards outlined elsewhere in this Ordinance. When there are conflicting requirements, the more stringent requirements shall be applied. An expansion to an existing commercial planned unit development involving six (6) or fewer new dwelling units or sites after the effective date of this Ordinance is a permitted use provide the total project density does not exceed the allowable densities as provided in 8-4-14(D). Approval cannot occur until all applicable environmental reviews are complete.
- C. **PUD Application.** The applicant for a PUD must submit the following documents prior to final action on the application request:
1. Site Plan or plat showing:
 - a. Locations of existing property boundaries.
 - b. Surface water features.
 - c. Existing and proposed structures and other facilities.
 - d. Land alterations.

- e. Sewage treatment and water supply systems (where public systems will not be provided).
 - f. Topographic contours at 10-foot intervals or less.
 - g. Identifying of structures and portions of the project that are residential, commercial, or a combination of the two.
2. For residential planned unit developments, a property owners' association agreement with mandatory membership, and consistent with 8-4-14(E).
 3. Deed restrictions, covenants, permanent easements, or other instruments that:
 - a. Address future vegetative and topographic alterations, construction of additional structures, beaching of watercraft, and construction of commercial structures in residential PUDs.
 - b. Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified under 8-4-14(E).
 4. Floor plans for all commercial structures;
 5. Additional documents necessary to explain how the PUD will be designed and will function.

D. Density Requirements. Proposed PUDs and expansions to existing PUDs must be evaluated using the following procedures.

1. **Identify Density Analysis Tiers.** Divide the project tract into tiers by drawing one or more lines parallel to the ordinary high-water level at the following intervals, proceeding landward:
 - a. General Development Lakes (1st Tier) – 200 feet
 - b. General Development Lakes (all other tiers) – 267 feet
 - c. Recreational Development Lakes – 267 feet
 - d. Natural Environment Lakes – 400 feet
 - e. All Rivers – 300 feet
2. **Calculate Suitable Area for Development.** Calculate the suitable area within each tier by excluding all road rights-of-way or easements, wetlands, bluffs, or land below the ordinary high-water level of public waters.
3. **Base Density Calculation for Residential PUDs.** For residential PUDs, divide the suitable area within each tier by the minimum single residential lot area for lakes to determine the allowable number of dwelling units, or base density, for each tier. For rivers, if a minimum lot area is not specified, divide the tier width or river frontage by the minimum single residential lot width.
4. **Base Density Calculation for Commercial PUDs.** For commercial PUDs, the base density shall be determined as follows:
 - a. **Determine Average Dwelling Unit Area.** Determine the average area for each dwelling unit or dwelling site within each tier. Include both existing and proposed dwelling units and sites in the calculation. For dwelling units, determine the average inside living floor area of dwelling units in each tier. Do not include

decks, patios, garages, or porches and basements, unless they are habitable space. For campgrounds with manufactured homes, use the area of the manufactured home, if known; otherwise, use 1,000 square feet. For campgrounds with recreational vehicles, campers, or tents, use 400 square feet.

- b. **Floor Area Ratio.** Select the appropriate floor area or dwelling site ratio from Table 4-7, below, for the floor area or dwelling site area determined above.

Table 4-7. Floor Area and Dwelling Site ratios for Commercial Planned Unit Developments

<u>Inside Living Floor Area or Dwelling Site Area (sf)</u>	<u>General Development Lakes with no sewer – 1st tier Agricultural, Urban and Tributary Rivers</u>	<u>General Development Lakes with no sewer – all other tiers Recreational Development Lakes</u>	<u>Natural Environment Lakes</u>
<u>< 200</u>	<u>.040</u>	<u>.020</u>	<u>.010</u>
<u>300</u>	<u>.048</u>	<u>.024</u>	<u>.012</u>
<u>400</u>	<u>.056</u>	<u>.028</u>	<u>.014</u>
<u>500</u>	<u>.065</u>	<u>.032</u>	<u>.016</u>
<u>600</u>	<u>.072</u>	<u>.038</u>	<u>.019</u>
<u>700</u>	<u>.082</u>	<u>.042</u>	<u>.021</u>
<u>800</u>	<u>.091</u>	<u>.046</u>	<u>.023</u>
<u>900</u>	<u>.099</u>	<u>.050</u>	<u>.025</u>
<u>1,000</u>	<u>.108</u>	<u>.054</u>	<u>.027</u>
<u>1,100</u>	<u>.116</u>	<u>.058</u>	<u>.029</u>
<u>1,200</u>	<u>.125</u>	<u>.064</u>	<u>.032</u>
<u>1,300</u>	<u>.133</u>	<u>.068</u>	<u>.034</u>
<u>1,400</u>	<u>.142</u>	<u>.072</u>	<u>.036</u>
<u>> 1,500</u>	<u>.150</u>	<u>.075</u>	<u>.038</u>

- c. **Maximum Floor Area.** Multiply the suitable area within each tier determined in 8-4-14(D)(2) above, by the floor area or dwelling site area ratio to yield the total floor area or dwelling site area for each tier to be used for dwelling units or dwelling sites.

- d. **Maximum Dwelling Units.** Divide the total floor area or dwelling site area for each tier by the average inside living floor area for dwelling units or dwelling Site area. This yields the allowable number of dwelling units or dwelling sites, or base density, for each tier.

5. Allowable densities may be transferred from any tier to any other tier further from the waterbody but must not be transferred to any tier closer to the waterbody.

6. All PUDs with densities at or below the base density must meet the design standards in 8-4-14(E), below.

E. Design Criteria. All PUDs must meet the following design criteria:

1. General Design Standards.

- a. All residential PUDs must contain at least five (5) dwelling units or dwelling sites.
- b. On-site water supply and sewage treatment systems must be centralized and meet the standards in 8-4-13(C) and 8-4-13(D). Sewage treatment systems must meet the setback standards of 8-4-9(B).
- c. Dwelling units or dwelling sites must be clustered into one or more groups and located on suitable areas of the PUD.
- d. Dwelling units or dwelling sites must be designed and located to meet the requirements of 8-4-9(B) and 8-4-9(C).
- e. Shore recreation facilities:
 - i. Must be centralized and located in areas suitable for them based on a suitability analysis.
 - ii. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one (1) for each allowable dwelling unit or dwelling site in the first tier, notwithstanding existing mooring sites in an existing commercially used harbor.
 - iii. Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or dwelling sites located in other tiers.
- f. Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to Clay County, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.
- g. Accessory structures and facilities, except water-oriented accessory structures, must meet the required structure setback and must be centralized.
- h. Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in 8-4-10(C) and are centralized.

2. Open Space Requirements.

- a. Open space must constitute at least 50 percent of the total project area.
- b. Open space shall include:
 - i. Areas with physical characteristics unsuitable for development in their natural state.
 - ii. Areas containing significant historic sites or unplatted cemeteries.
 - iii. For new commercial PUDs and existing residential PUDs, preservation of at least 50 percent of shore impact zone within the development tract in its natural or existing state.
 - iv. For new residential PUDs, preservation of least 70 percent of the shore impact zone within the development tract in its natural or existing state.
- c. Open space may include:

- i. Outdoor recreational facilities for use by owners of dwelling units or dwelling sites, by guests staying in commercial dwelling units or dwelling sites, and by the general public.
- ii. Subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems.
- iii. Non-public water wetlands.
- d. Open space shall not include:
 - i. Dwelling sites or lots, unless owned in common by an owners' association.
 - ii. Dwelling units or structures, except water-oriented accessory structures or facilities.
 - iii. Road rights-of-way or land covered by road surfaces and parking areas.
 - iv. Land below the ordinary high-water level of public waters.
 - v. Commercial uses.

3. Open Space Maintenance and Administration Requirements.

- a. Open Space Preservation. The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved and maintained by use of deed restrictions, covenants, permanent easements, public dedication, or other equally effective and permanent means. The instruments must prohibit:
 - i. Commercial uses for residential PUDs.
 - ii. Vegetation and topographic alterations other than routine maintenance.
 - iii. Construction of additional buildings or storage of vehicles and other materials.
 - iv. Uncontrolled beaching of watercraft.
- b. Development Organization and Functioning. Unless an equally effective alternative community framework is established, all residential PUDs must use an owners' association with the following features:
 - i. Membership must be mandatory for each dwelling unit or dwelling site owner and any successive owner.
 - ii. Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on dwelling units or dwelling sites.
 - iii. Assessments must be adjustable to accommodate changing conditions.
 - iv. The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

4. Erosion Control and Stormwater Management.

- a. Erosion control plans must be developed and must be consistent with the provisions of 8-4-11(C). Erosion control plans approved by the Clay County Soil and Water Conservation District may be required if project size and site physical conditions warrant.

b. Stormwater management facilities must be designed and constructed to manage expected quantities and qualities of stormwater runoff. For residential PUDs, impervious surfaces must not exceed 25 percent of the project site. For commercial PUDs, impervious surfaces must not exceed 25 percent within any tier.

I. **Conversions.** Clay County may allow existing resorts or other uses and facilities to be converted to residential PUDs if all of the following standards are met:

3. Proposed conversions must be evaluated using the same procedures for residential PUDs involving new construction. Inconsistencies between existing features of the development and these standards must be identified.
4. Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the Conditional Use Permit.
5. Shore impact zone and bluff impact zone deficiencies must be evaluated, and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:
 - a. Removal of extraneous structures, docks, or other facilities that no longer need to be located in a shore impact zone or bluff impact zone.
 - b. Remedial measures to correct erosion, improve vegetative cover, and improve screening of structures and other facilities as viewed from the water; and
 - c. Conditions attached to existing dwelling units located in shore impact zones or bluff impact zones that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.
6. Existing dwelling unit or dwelling site densities that exceed standards in 8-4-14(D) may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.

Chapter 8-5. Resource Protection Districts

Article Contents:

8-5-1. Purpose

8-5-2. Description of Resource Protection Districts

8-5-3. Relationship of Resource Protection Districts to Other Zoning Districts

8-5-4. Compliance with Use Regulations

8-5-5. RP-WHP, Wellhead Protection District

8-5-6. RP-BIO, Biologically Significant Areas District

8-5-7. RP-AGG, Aggregate Resource Protection District

8-5-1. Purpose

The purpose of the Resource Protection Districts is to implement the following goals and objectives of the Clay County 2045 Comprehensive & Transportation Plan:

A. Natural Resources and the Environment – Aggregate Resources Goals and Objectives

1. Goal #1: Recognize the importance of aggregate resources to Clay County and the region.
 - a. Objective A. Continue to protect quality aggregate resources from the encroachment of incompatible residential, commercial, and industrial development.
 - b. Objective B. Implement policies and standards to ensure sound stewardship of aggregate resources and natural biotic resources.
2. Goal #2: Foster a balanced approach to aggregate resource extraction that is compatible with the natural resources and the rural character of Clay County.
 - a. Objective B. Avoid or mitigate against impacts to groundwater, surface water, native prairie, woodlands, and wetlands for new or expanding mining operations.

B. Natural Resources and the Environment – Environmental Health Goals and Objectives

1. Goal #3: Protect groundwater resources in Clay County to ensure safe and clean drinking water as well as adequate supply for people and agriculture during times of drought.
 - a. Objective A. Continue to implement land use controls to guide development over or near major aquifers.
 - b. Objective B. Recognize the impact of surface water quality on groundwater resources, particularly in the Buffalo River and Buffalo Aquifer systems.
 - c. Objective C. Recognize groundwater goals and implementation actions in the Buffalo-Red River and Wild Rice Watershed Districts Comprehensive Watershed Management Plans.

C. **Natural Resources and the Environment – Prairies and Woodlands Goals and Objectives**

1. **Goal #1: Protect and enhance remnant tracts of native prairie and forests for the benefit and enjoyment of Clay County residents and visitors.**
 - a. **Objective B. Protect native and high-quality prairie and woodland tracts from residential, commercial, and industrial development.**

8-5-2. Description of Resource Protection Districts

This section establishes three (3) Resource Protection Districts. Each addresses a specific resource. The districts are:

- A. **RP-WHP, Wellhead Protection Overlay District.** The RP-WHP, Wellhead Protection District is intended to protect the City of Moorhead Wellhead Protection Area/Drinking Water Supply Management Area (DWSMA), including sensitive areas above the Buffalo Aquifer and the Barnesville Wellhead Protection Area.
- B. **RP-BIO, Biologically Significant Areas Overlay District.** The RP-BIO, Biologically Significant Areas District is intended to protect areas with biologically significant habitat as determined by the Minnesota Department of Natural Resources County Biological Survey. Many of these areas are under public ownership.
- C. ~~For the purposes of this provision, a~~ **RP-AGG, Aggregate Resources Overlay District.** The RP-AGG, Aggregate Resources District is intended to protect areas with existing significant aggregate resources as shown in in Map 4.8 – Aggregate Potential and Gravel Pits in Clay County from the Clay County 2045 Comprehensive & Transportation Plan, pursuant to Minnesota Statutes Chapter 84.94.

8-5-3. Relationship of Resource Protection Overlay Districts to Other Zoning Districts

The Resource Protection Districts overlie base districts and may overlap with other overlay districts. The requirements of the Resource Protection Districts shall apply to structures and the use of land in addition to the regulations of the base district. Where requirements in this chapter are more restrictive than the requirements of the base district or other overlay districts, the provisions of this chapter shall apply. Multiple Resource Protection Districts may occur in the same area. For example, significant biological resources may be present in an aggregate protection area. Where multiple overlay Districts occupy the same area, the requirements that impose greater restrictions shall apply.

8-5-4. Compliance with Use Regulations

- A. **Permitted, Conditional, and Interim Uses.** Permitted, conditional, and interim uses in the Resource Protection Districts are specified in *Table 8-1 (Use Table)*. The uses listed for Resource Protection Districts in *Table 8-1* preempt the uses listed for any base district underlying a Resource Protection District.
- B. **Supplemental Use Standards.** Certain permitted, conditional, and interim uses, due to their unique potential to impact the natural environment or surrounding properties, are subject to additional standards, as specified in *Chapter 8-8 (Use Regulations)*.

8-5-5. Wellhead Protection District (RP-WHP)

The following specific standards shall apply in the Wellhead Protection District (RP-WHP) and shall preempt any conflicting standards for any underlying base district.

- A. Development Standards.** Development shall comply with the density and dimensional standards for the RP-WHP District listed in Table 9-1 (Density, Lot Standards, and Setback Requirements for Base Districts), and with all other applicable provisions of Chapter 8-9 (Development Standards). In addition, development shall comply with the following:
- 1. Stormwater Management.** Stormwater management within the RP-WHP District shall comply with Minnesota Pollution Control Agency Phase II National Pollutant Discharge Elimination System (NPDES) requirements.
 - 2. Commercial Uses Connected to Utilities.** Allowed commercial uses within the RP-WHP District be connected to public sewage treatment and water supply systems, if such systems are needed.
 - 3. New Development Near Mines.** New structures and on-site sewage treatment systems shall be set back at least 150 feet from the top edge of an aggregate mining pit. New development on lots adjacent to mining pits shall install a dike between any structures and the edge of the mining pit of sufficient height to prevent all surface water runoff from entering the mining pit.
 - 4. Above-Ground Storage Tanks.** A containment system must be constructed around all above-ground storage tanks with a capacity sufficient to completely contain a maximum spill, but no less than 300 gallons.

8-5-6. Biologically Significant Areas District (RP-BIO)

The following specific standards shall apply in the Biological Significant Areas District (RP-BIO) and shall preempt any conflicting standards for any underlying base district.

- A. Development Standards.** Development shall comply with the density and dimensional standards for the RP-BIO District listed in Table 9-1 (Density, Lot Standards, and Setback Requirements for Base Districts), and with all other applicable provisions of Chapter 8-9 (Development Standards).
- B. Site Plan.** A Site Plan must be submitted with all applications for development or building permits in the RP-BIO District. The Site Plan shall include a Department of Natural Resources Natural Heritage Review to determine the location of biologically significant features. The Site Plan shall also show all proposed structures, proposed topographic changes, and proposed areas of vegetation removal.
- C. Site Design Criteria.** The applicant shall be responsible for ensuring that structures, topographic changes, and vegetation removal do not adversely impact biologically significant areas. Structures, dirt moving activities, and vegetation removal shall not occur within 100 feet of any identified biologically significant areas. An exception may be made for properties that are completely within the RP-BIO District if development impacts to biologically significant areas are mitigated to the greatest extent possible.
- D. Land Use Notification.** No permit shall be issued for the construction of a dwelling unit, dwelling addition, or sewage treatment system in the RP-BIO District until a land use notification is signed by the landowner and recorded, at the owner's expense, against the subject

property. The land use notification shall apply to all subsequent permits on the property and shall inform the landowner that:

1. The subject property is located within an area with significant biological resources, as determined by the Clay County Biological Survey.
2. The management of significant biological resources may include controlled burning of large areas. Such burning may produce smoke, dust, odor, light, and other off-site impacts.
3. Residents who live within an RP-BIO District may experience inconveniences or discomfort associated with management of biological resources as a normal and necessary aspect of living in an RP-BIO District.

8-5-7. Aggregate Resource Protection District (RP-AGG)

The following specific standards shall apply in the Aggregate Resource Protection District (RP-AGG) and shall preempt any conflicting standards for any underlying base district.

A. Development Standards.

1. Development shall comply with the density and dimensional standards for the RP-AGG District listed in *Table 9-1 (Density, Lot Standards, and Setback Requirements for Base Districts)*, and with all other applicable provisions of *Chapter 8-9 (Development Standards)*
2. Aggregate mining operations shall comply with all requirements as set forth in 8-8-4(D).

B. Land Use Notification. No permit shall be issued for the construction of a dwelling unit, dwelling addition, or sewage treatment system in the RP-AGG District until a Land Use Notification is signed by the landowner and recorded, at the owner's expense, against the subject property. The land use notification shall apply to all subsequent permits on the property and shall inform the landowner that:

1. The subject property is located within an area where Clay County has determined that aggregate resources are important resources.
2. Aggregate removal practices may be accompanied by noise, dust, odor, light, and other off-site impacts at any time of day and year.
3. Aggregate removal uses are prioritized over other uses in the RP-AGG District.
4. Residents who live within an RP-AGG District may experience inconveniences or discomfort associated with aggregate removal as a normal and necessary aspect of living in an RP-AGG District.

Chapter 8-6. Urban Expansion District

Chapter Contents:

8-6-1. Purpose

8-6-2. General Provisions

8-6-3. Development Standards

8-6-4. Use Regulations

8-6-1. Purpose

The purpose of the UE, Urban Expansion District is to implement the following goals and objectives of the Clay County 2045 Comprehensive & Transportation Plan:

A. Land Use – Residential Goal #1. Promote and encourage quality and diversified residential development in the incorporated communities of Clay County.

1. Objective a. Encourage residential growth to occur in the County’s incorporated communities and planned urban growth areas when public services can be provided.
2. Objective b. Encourage non-farm residential development to occur in small lots around unincorporated communities.

B. Intergovernmental Coordination – Goal #2. Establish comprehensive growth management strategies in coordination with local jurisdictions to preserve the rural character of Clay County and encourage healthy and vital communities.

1. Objective a. Coordinate with the cities and townships in Clay County to facilitate orderly growth of planned urban growth areas through the use of orderly annexation agreements.
2. Objective c. Partner with cities and townships on the planning and development of planned urban growth areas.

8-6-2. General Provisions

A. Relationship of UE District to Other Districts. The Urban Expansion District overlies base districts and may overlap with other overlay districts. The requirements of the Urban Expansion District shall apply to structures and the use of land in addition to the regulations of the base district or other overlay districts. Where the requirements of this chapter are more restrictive than the requirements of the base district or other overlay districts, the provisions of this chapter shall apply.

B. UE District Tiers. The UE, Urban Expansion District is comprised of Tier 1 and Tier 2, which are described as follows:

1. Tier 1 encompasses the primary Urban Growth Areas for the City of Moorhead and the City of Dilworth, as determined by those cities.
2. Tier 2 encompasses all remaining areas of the UE District, from the outer boundary of Tier 1 to the Extraterritorial Area boundaries for the City of Moorhead and the City of Dilworth.

C. **Boundary Revisions.** When a city revises its growth area plan, the UE District boundaries shall be amended accordingly.

D. **Subdivision Authority.** The City of Moorhead and the City of Dilworth have jurisdictional authority for subdivision regulations and platting procedures within Tier 1 and Tier 2 of their respective UE Districts.

8-6-3. Development Standards

A. **Sewage Treatment Systems.** In Tier 1 and Tier 2, the following standards shall apply to sewage treatment systems:

1. Sewage treatment systems with drain fields are prohibited for new development.
2. All development existing or permitted on the effective date of this Ordinance shall be allowed to install, maintain, or replace sewage treatment system as may be necessary, provided that such activities comply with all regulations of this Ordinance and other codes, as applicable.

B. **Tier 1 Standards.** All development in Tier 1 shall conform to the following standards:

1. All development must be compatible with the growth area plan for the City of Moorhead or the City of Dilworth, as applicable.
2. All lots shall conform with the minimum dimensional standards for the City of Moorhead or the City of Dilworth, as applicable.
3. All new development that requires wastewater management must be connected to a municipal sewer system. All County permits required for development shall be withheld until water and sewer services are available.
4. A Development Agreement is required for Plat approval. The Development Agreement shall include the following minimum terms:
 - a. Conditions of subdivision approval;
 - b. Description of growth area plans, if any;
 - c. Anticipated date of provision of municipal water and sewer services; and
 - d. Financing responsibility for future services.

C. **Tier 2 Standards.** All development in Tier 2 shall conform to the following standards:

1. The minimum lot size shall be 1.5 acres.
2. Holding tanks may be permitted as an alternative to sanitary sewer.

8-6-4. Use Regulations

A. **Allowed Uses.** Permitted, conditional, and interim uses in the UE District are specified in *Table 8-1 (Use Table)*.

B. **Use Standards.** Certain permitted, conditional, and interim uses, due to their unique potential to impact the natural environment or surrounding properties, are subject to additional use standards. See applicable sections of this Ordinance, as listed in *Table 8-1 (Use Table)*.

Chapter 8-7. Landing Field District

Chapter Contents:

8-7-1. Purpose

8-7-2. Relationship of Landing Field District to Other Districts

8-7-3. Relationship to Municipal Airport Zoning Ordinances

8-7-4. Structure and Use Regulations

8-7-1. Purpose

The Landing Field District (LF) is intended to prevent the establishment of air space obstructions in landing field approaches through height restrictions and other development controls.

8-7-2. Relationship of Landing Field District to Other Districts

The Landing Field District overlies base districts and may overlap with other overlay districts. The requirements of the Landing Field District shall apply to structures and the use of land in addition to the regulations of the base district or other overlay districts. Where the requirements of this article are more restrictive than the requirements of the base district or other overlay districts, the provisions of this article shall apply.

8-7-3. Relationship to Municipal Airport Zoning Ordinances

- A. **Hawley Municipal Airport.** The Landing Field District surrounding the Hawley Municipal Airport is subject to the Airport Safety Zoning Ordinance for Hawley Municipal Airport – 04Y and regulations found therein.
- B. **Moorhead Municipal Airport.** The Landing Field District surrounding the Hawley Municipal Airport is subject to the Moorhead Municipal Airport Florence Klingensmith Field Zoning Ordinance and regulations found therein.
- C. **Adopted by Reference.** Mapped Airport Hazard Areas, including those described above, shall be adopted by resolution to constitute Clay County’s Landing Field District.

8-7-4. Structure and Use Regulations

- A. **Additional Permitted Uses.** In addition to uses permitted in base districts, public landing fields, airports and all necessary accessory uses in accordance with section 14 MCAR 1.3007, pt. A and B (1-14) of the Minnesota Code of Agency Rules, Department of Transportation, Aeronautics, are permitted.
- B. **Use Restrictions.** Notwithstanding any other provisions of this Ordinance, no use within the LF District shall be conducted in such manner as to:
 - 1. **Create electrical interference with radio communication between airport lights and others;**
 - 2. **Result in glare in the eyes of flyers using the airport;**
 - 3. **Impair visibility in the vicinity of the ~~shall not be airport;~~ or**
 - 4. **Otherwise endanger the landing, takeoff, or maneuvering of aircraft.**
- C. **Location of Public Assembly Uses.** The construction and use of facilities for places of public

assembly, such as theaters, schools, churches, and hospitals, are prohibited to a distance of 11,000 feet from the ends of runway pavement as designated on Airport Hazard Zoning Maps.

D. Height Limitations. When it is found that Airport Hazards endanger the lives and property of users of Airports or occupants of land in their vicinity or have the effect of reducing the size of the areas available for landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Airports and the public investment therein, the County Board, on the recommendation of the Planning Commission, may apply the Landing Field District to control the use of land and the height of structures and trees within Airport Hazard Areas.

Chapter 8-8. Use Regulations

Chapter Contents:

- 8-8-1. Allowed Uses
- 8-8-2. Agricultural Uses
- 8-8-3. Residential Uses
- 8-8-4. Commercial and Industrial Uses
- 8-8-5. Recreational Uses
- 8-8-6. Public Service and Utility Uses
- 8-8-7. Accessory Uses
- 8-8-8. Temporary Uses

8-8-1. Allowed Uses

Each district allows a range of uses as set forth in *Table 8-1 (Use Table)*. Uses are organized as described below. A Development Permit is required for the construction of a structure or any structural alteration, as defined herein, regardless of whether the activity is a permitted, conditional, interim, or administrative use.

- A. **Permitted Uses.** Permitted uses are identified by the **P** symbol in the Use Table. These uses are permitted by right in corresponding districts as designated in the Use Table, provided they comply with all other applicable provisions of this Ordinance.
- B. **Conditional Uses.** Conditional uses are identified by the **C** symbol in the Use Table. They may be permitted in corresponding districts through the process described in *8-11-7 (Conditional Use Permits)* provided they comply with all other applicable provisions of this Ordinance.
- C. **Interim Uses.** Interim uses are identified by the **I** symbol in the Use Table. They may be approved in corresponding Districts through the process described in *8-11-8 (Interim Use Permits)*, provided they comply with all other applicable provisions of this Ordinance.
- D. **Administrative Uses.** Uses requiring administrative approval are identified by the **A** symbol in the Use Table. Such uses may be approved for a temporary duration or an indefinite period but do not require a Conditional Use Permit or an Interim Use Permit.
- E. **Accessory Uses.** Accessory uses are listed at the bottom of the Use Table. An accessory use may only be permitted on a property with a conforming principal use and may be permitted by right, as an administrative or as a conditional or interim use in corresponding districts, provided they comply with all other applicable provisions of this Ordinance. Accessory uses subject to conditional approval shall be reviewed through the conditional use process described in *8-11-7 (Conditional Use Permits)*.
- F. **Subdivisions.** Subdivision plats, lot combinations, and lot line adjustments are identified by the **PL** symbol in the use Table. Such activities are not permitted by right but must go through the process for administrative subdivisions or major subdivisions.
- G. **Prohibited Uses.** A blank cell in the table indicates that the use is prohibited in the corresponding district. Further, any use that is not listed in the Use Table shall be prohibited in all districts unless:

 1. The Planning Commission determines that such use is sufficiently similar as a listed use;
 - or

2. The Use Table is amended via an approved text amendment, as described in 8-11-9 (Land Development Ordinance Text Amendments), to allow the use as a permitted, conditional, interim, or administrative use in one or more districts.

H. District Requirements. All allowed uses shall be subject to the requirements of the corresponding base district(s) and any overlay district(s), as applicable. District names are abbreviated as indicated by 8-1-9 (Establishment of Districts).

I. Use Standards. Certain uses must comply with specific use standards, as set forth in this Chapter, or additional regulations, as may be required by one or more overlay districts. Where multiple districts apply to property, the strictest standards shall control. The last column in the Table 8-1 (Use Table) provides references to Ordinance sections with applicable standards.

* Uses allowed in the Flood Fringe District and the Landing Field District (not listed) are the same as those allowed for the underlying base district.

USE TYPE	ZONING DISTRICTS															USE STANDARDS
	Base Districts				Floodplain Districts		Shoreland Districts				Resource Protection Districts			Urban Expansion Districts		
	AG	ASC	HC	LHC	FW	GFP	SP-LD	SP	RD	GD	RP-WHP	RP-BIO	RP-AGG	UE (T1)	UE (T2)	
AGRICULTURAL USES																
Administrative subdivisions	PL	PL	PL	PL	PL	PL	PL	PL	PL	PL	PL	PL	PL			
Standard subdivisions	PL	PL	PL	PL			PL	PL	PL	PL						
Cluster subdivisions	PL		PL	PL			PL	PL	PL	PL						
Agricultural or natural resources subdivision	PL						PL	PL	PL							
Commercial agricultural uses	P	P		P	P	P	P	P	P	P	P	P	P	P	P	8-4-8 (shoreland)
Agriculture service establishment	C	P	C												C	8-8-2(B)
Agricultural tourism	I	I					I	I	I	I	I	I	I	I	I	8-8-2(C)
Animal feedlot, new (10-49 AU)	A											A	A			
Animal feedlot/confined animal feedlot, new (50 or more AU)	C											C	C			8-8-2(A)
Animal feedlot/confined animal feedlot, expansion or resumption of existing (up to 999 AU in shoreland districts)	A/C						C	C				C	C			8-8-2(A); 8-4-8 (shoreland)
Farm buildings (non-dwellings)	P				C		P	P	P	P	P	P	P	C	C	8-3-7 (floodway)
Forest land conversion	P					C	C	C								8-4-11 (shoreland)
Forest management	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	8-4-11 (shoreland)
Grain bins	P	P	P	P		P	P		P	P	P	P	P	P	P	
Seasonal farm produce sales (on-site)	P	P	P	P		P	P	P	P	P	P	P	P	P	P	8-8-7(K)
Seasonal farm produce sales (off-site)	I	I	I	I		I	I	I	I	I	I	I	I	I	I	8-8-7(K)
Temporary agricultural worker housing	I															8-8-2(D)
RESIDENTIAL USES																
Dwelling, single-family	P	P				C	P	P	P		P	P	P	P	P	
Dwelling, two-family	P	P													P	8-8-3(A);
Bed and breakfast	I	I					I	I	I		I	I	I	I	I	
Intentional Living Community	I															8-8-3(D)
Manufactured home (single-family)	P	P				C	P	P	P		P	P	P	P	P	8-8-3(B)
Residential PUD*	C/PL*						C/PL	C/PL	C/PL							8-4-14 (shoreland)
Supervised living facility (fewer than six residents)	P	P					P	P	P		P			P	P	8-8-3(C)

USE TYPE	ZONING DISTRICTS															USE STANDARDS
	Base Districts				Floodplain Districts		Shoreland Districts				Resource Protection Districts			Urban Expansion Districts		
	AG	ASC	HC	LHC	FW	GFP	SP-LD	SP	RD	GD	RP-WHP	RP-BIO	RP-AGG	UE (T1)	UE (T2)	
Supervised residential facility (more than six residents)	C	C									C			C	C	8-8-3(C)
RECREATIONAL USES																
Campground	C	-			C	C	-	C	C		-	-	C	-	C	8-8-5(A)
Controlled access lot	P						P	P	P							8-4-8 (shoreland)
Golf course or driving range	C	-			-	C	C	C			-	-	C	C	C	
Hunting or game reserve	P	-			P	P	-	-	-		P	P	P	-	-	
Park	P	P			P	P	C	C	C	C	C	C	C	P	P	
Picnic ground	P	P			P	P	P	P	P	P	C	C	C	-	C	8-3-8 (floodplain)
Shooting/archery range (indoor)	C	-			-		-	-	-		-	-	C		C	8-8-5(B)
Shooting/archery range (outdoor)	C	-			C	C	-	-	-		-	-	C	-	C	8-8-5(B)
Trails, motorized and non-motorized	P	P			P	P	P	P	P		P	C	P	C	P	8-3-7 (floodway)
Water-dependent use	P				C	C	C	C	C		-	-	-	-	-	8-4-8 (shoreland)
Wildlife/nature preserve	P				P	P	P	P	P		P	P	P	P	P	8-3-7 (floodway)
CIVIC & INSITUTIONAL USES																
Cemetery	C	C			-	-	-	-	-		-	-	C	-	C	
Designated historic site	P	C	C	C	P	P	C	C	C	C	C	C	C	-	C	
Government building or facility	C	P	P	P	-	-	-	-	-		C	-	C	C	C	
Religious institution	C	P			-	-	C	C	C	C	C	-	-	C	C	
School	C	C			-	-	-	-	-		-	-	-	C	C	
COMMERCIAL & INDUSTRIAL USES																
Light industrial uses, excluding those listed		C	C	C												
Retail sales and services, excluding those listed	-	P	P	C	-	-	-	-	-		-	-	-	-	-	-
Adult entertainment use			C	C												8-8-4(B)
Airport, private	C							C								8-8-4(C)
Asphalt batch plant/ready-mix plant	I		I										I			8-8-4(E)
Automotive repair			P	C												
Bar	-	C	P	C	-	-	-	-	-		-	-	-	-	-	-
Cannabis or lower-potency hemp uses			C	C												8-8-4(M)
Commercial entertainment use		C	P	C												
Commercial PUD*	C/PL*						C/PL	C/PL	C/PL	C/PL						8-4-14 (shoreland)
Extractive use	AI	-	-	-	-	-	-	-	-		-	AI	AI	-	-	8-8-4(D)

USE TYPE	ZONING DISTRICTS															USE STANDARDS
	Base Districts				Floodplain Districts		Shoreland Districts				Resource Protection Districts			Urban Expansion Districts		
	AG	ASC	HC	LHC	FW	GFP	SP-LD	SP	RD	GD	RP-WHP	RP-BIO	RP-AGG	UE (T1)	UE (T2)	
<u>Gas station/convenience store</u>	-	C	C	-	-	-	-	-	-	-	-	-	-	-	-	-
<u>Kennel</u>	I	I	I	I	-	-	I	I	-	-	-	-	I	-	I	8-8-4(I)
<u>Landscaping, nursery, or building material sales</u>	-	P	P	C	-	-	-	-	-	-	-	-	-	-	P	-
<u>Motel/hotel</u>	-	C	P	C	-	-	-	-	-	-	-	-	-	-	-	-
<u>Motor sports facility</u>	C	-	C	-	-	-	-	-	-	-	-	-	-	-	-	-
<u>Office</u>	-	P	P	C	-	-	-	-	-	-	-	-	-	-	-	-
<u>Precast concrete plant</u>	C	C	C	-	-	-	-	-	-	-	-	-	-	-	-	8-8-4(F)
<u>Restaurant</u>	-	C	P	C	-	-	-	-	-	-	-	-	-	-	-	-
<u>Retreat center or wedding venue</u>	C	-	-	-	-	-	-	C	C	-	-	C	C	-	C	8-8-4(J)
<u>Shop condo</u>	-	C/PL	C/PL	C/PL	-	-	-	-	-	-	-	-	-	-	-	-
<u>Storage/stockpiling of extracted materials</u>	I	I	I	I	-	-	-	-	-	I	I	I	I	-	I	-
<u>Salvage yard</u>	C	C	C	-	-	-	-	-	-	-	-	-	-	-	-	8-8-4(H)
<u>Service business</u>	-	P	P	P	-	-	-	-	-	-	-	-	-	I	I	8-8-4(K)
<u>Storage units</u>	C	P	P	C	-	-	-	-	-	C	C	-	-	-	C	8-8-4(L)
<u>Temporary tire, waste collection, or recycling operation</u>	I	I	I	I	-	-	-	-	-	-	-	-	I	-	I	-
<u>Vehicle and equipment sales</u>	-	I	P	I	-	-	-	-	-	-	-	-	-	-	-	8-8-4(G)
<u>Warehouse</u>	C	P	P	C	-	-	-	-	-	-	-	-	-	-	C	-
<u>Wholesale business</u>	C	P	P	C	-	-	-	-	-	-	-	-	-	-	C	-
PUBLIC SERVICE & UTILITY USES																
<u>Essential services</u>	C	C	C	C	-	-	-	-	-	C	C	C	C	C	C	8-8-6(A)
<u>Landfill, public</u>	P	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-
<u>Landfill, demolition wastes only</u>	C	-	-	-	-	-	-	-	-	-	-	-	C	-	-	-
<u>Communication towers</u>	C	C	C	C	-	-	-	-	-	C	C	C	C	C	C	8-8-6(B)
<u>Meteorological towers</u>	I	I	-	-	I	I	I	-	-	I	I	I	I	-	-	8-8-6(B); 8-8-6(D)
<u>Radio or television transmission facility</u>	C	-	C	C	-	-	-	-	-	C	C	-	C	-	C	-
<u>Railroad, street, bridge, utility transmission line or pipeline</u>	P	P	P	P	P	C	P	P	P	P	P	P	P	P	P	8-3-10 (floodplain)
<u>Towers exclusively for governmental or national defense purposes</u>	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	-
<u>Solar farm</u>	C	-	-	-	-	C	C	C	-	C	C	-	C	-	C	8-8-6(C)
<u>Wind energy conversion system (Tier 1)</u>	C	-	-	-	-	-	C	-	-	C	C	C	C	-	-	8-8-6(D)

USE TYPE	ZONING DISTRICTS															USE STANDARDS
	Base Districts				Floodplain Districts		Shoreland Districts				Resource Protection Districts			Urban Expansion Districts		
	AG	ASC	HC	LHC	FW	GFP	SP-LD	SP	RD	GD	RP-WHP	RP-BIO	RP-AGG	UE (T1)	UE (T2)	
Wind energy conversion system (Tier 2)	P	P	P	P	.	.	P	.	.	C	C	C	C	.	.	8-8-6(D)
Wind energy conversion system (Tier 3)	P	P	P	P	.	.	P	C	C	C	P	P	P	P	P	8-8-6(D)
ACCESSORY** & MISCELLANEOUS USES																
Above-ground storage of petroleum products	P	P	P	C	.	.	.	.	.	.	P	.	P	.	.	8-8-7(I)
Accessory dwelling unit	P	P	.	.	.	.	.	.	.	.	P	P	P	.	I	8-8-7(B)
Accessory solar energy system	P	P	P	P	.	P	P	P	P	P	P	P	P	P	P	8-8-6(D)
Day care (in-home)	P	P	.	.	.	.	P	P	P	.	P	P	P	P	P	8-8-7(D)
Accessory structure or garage (non-commercial)	P	P	P	P	P	P	P	P	P	.	P	P	P	C	C	8-8-7(A)
Guest cottage	.	.	.	.	.	.	P	P	P	.	.	.	.	.	.	8-4-8 (shoreland)
Home occupation, interim	I	I	.	.	.	.	I	I	I	.	I	I	I	I	I	8-8-7(C)
Home occupation, administrative	A	A	.	.	.	A	A	A	A	.	A	A	A	A	A	8-8-7(C)
Horse boarding/stables	I	I	.	.	.	.	.	.	.	.	I	I	I	I	I	.
Farm animals on residential lots	P	P	.	.	P	P	P	P	P	.	P	P	P	P	P	8-8-7(E)
Levee, dike, or floodwall	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	8-3-7 (floodway)
Levee, farmstead ring	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	8-3-7 (floodway)
Parking and loading areas	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	8-4-10 (shoreland)
Placement of fill under 1,000 cubic yards	P	P	P	P	P	.	.	.	.	.	P	P	P	C	C	8-3-8 (flood fringe)
Placement of fill over 1,000 cubic yards	C	C	C	C	C	.	.	.	.	.	C	C	C	C	C	8-3-8 (flood fringe)
Swimming pool	P	P	P	P	.	.	P	P	P	.	P	P	P	.	P	8-8-7(H)
Vehicle storage (outdoor)	P	P	P	P	P	P	P	P	P	P	P	P	P	.	P	8-8-7(F)
Recreational vehicles	P	P	P	P	C	C	P	P	P	P	P	P	P	.	P	8-8-7(G)
Storage yards	C	C	C	C	C	C	.	.	.	P	.	.	I	.	I	8-8-7(J)
Yard waste composting site	I	I	I	I	.	I	I	I	I	.	I	I	I	I	I	.
Water-oriented accessory structure	.	.	.	.	.	.	P	P	P	P	.	.	.	.	.	8-4-10 (shoreland)
All temporary uses	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	8-8-8

*Commercial and residential PUDs are permitted only in the Agricultural General Zoning District with a Shoreland Overlay District. **Accessory uses may be converted to principal uses with a Conditional Use Permit.

8-8-2. Agricultural Uses

A. Animal Feedlots.

- 1. Purpose and Right to Farm.** An adequate supply of healthy livestock and poultry is essential for the wellbeing of Clay County citizens and the state. Clay County supports the right to farm for agricultural operations that are conducted according to generally accepted farming practices. However, animal manure may contaminate the environment when improperly stored, transported, or disposed of. The purpose of this section is to regulate feedlot facilities and animal manure resources, which may adversely impact the health, safety, and general welfare of the public.
- 2. Compliance with Minnesota Statutes.** These rules comply with the policy and purpose of the State of Minnesota regarding the control of pollution set forth in Minnesota Administrative Rules Chapter 7020 (MR 7020). Clay County hereby adopts MR 7020 and this section shall be interpreted and enforced by the more restrictive standard in effect. In the event of a conflict between MR 7020 and 8-8-2(A), the rules found in MR 7020 shall prevail.
- 3. Exemptions.** The following agricultural uses are not considered to be animal feedlots and are exempt from the requirements of this section:
 - a. Any site with fewer than 10 animal units.
 - b. Pastures, as defined herein.
- 4. Definitions.** The following definitions shall apply to this section:
 - a. Animal feedlot.** As defined by MR 7020, a lot or structure or combination of contiguous lots and structures intended for the confined breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For the purposes of this section, the definition of feedlot shall include the following:
 - i. Any site with 10 or more animal units.
 - ii. Open lots used for the feeding and rearing of poultry (poultry ranges).
 - b. Animal unit.** A unit of measure used to compare differences in the production of animal manure which has a standard, the amount of manure produced on a regular basis by a 1,000-lb slaughter steer or heifer. A multiplication factor set by the Minnesota Pollution Control Agency in MR 7020 is hereafter adopted by reference without change except as may be amended by the state.
 - c. Animal manure.** Poultry, livestock, or other animal excreta or a mixture of excreta with feed, bedding, precipitation, or other materials.
 - d. Best management practices.** The most effective and practicable means of erosion prevention, sediment control, and water quality management as published by state or designated area-wide planning agencies.
 - e. Change in operation.** An alteration of the permitted number of animal units, change of animal genus, or a change in the construction or operation of an

animal feedlot that would affect the storage, handling, utilization, or disposal of manure.

- f. **Confined animal feedlot.** A feedlot that is entirely contained within a roofed structure.
- g. **Construction short-form permit.** A permit issued for an animal feedlot or manure storage area pursuant to MR 7020.0505 and MR 7020.0535.
- h. **County Feedlot Officer.** A County or Soil and Water Conservation District employee, appointed by the County Board, to administer the provisions of this chapter and MR 7020.
- i. **Corrective or Protective measure.** A practice, structure, condition, or combination thereof which prevents or reduces the discharge of pollutants from an animal feedlot to a level of conformity with MPCA rules.
- j. **Domestic fertilizer.** Domestic fertilizer means:

 - i. animal manure that is applied on or injected into the soil to improve the quality or quantity of plant growth or;
 - ii. animal manure that is used as compost, soil conditioners, or specialized plant beds.

- k. **Drainage ditch.** A man-made trench that is dug for the purpose of draining water from the land or for transporting water for use on the land and that is not built for navigational purposes.
- l. **Existing animal feedlot.** An animal feedlot that has registered with Clay County or the MPCA prior to the effective date of this Ordinance and that has been utilized for livestock production within the past five years.
- m. **Expansion.** Any activity that may result in an increase in the number of animal units that an animal feedlot is capable of holding or an increase in storage capacity of a manure storage area.
- n. **Feedlot operator.** An individual, corporation, group of individuals, partnership, joint venture, owner, or any other business entity having charge or control of one or more livestock feedlots, poultry lots, or other animal lots.
- o. **Feedlot permit.** A document issued by the MPCA or Clay County that contains requirements, conditions, and compliance schedules relating to the discharge of animal holding areas or manure storage areas. These permits include NPDES, SDS, construction short-form, and interim.
- p. **Feedlot registration.** Required information for animal feedlots and manure storage areas pursuant to MR 7020.0350.
- q. **Feedlot runoff.** The movement of water, in any form, from or through a feedlot, carrying particles of animal manure or process wastewater into a body of water, ditch, right-of-way, or to a channelized flow environment.
- r. **Interim permit.** In this section, “interim permit” shall mean a permit issued by the MPCA or County Feedlot officer to correct a pollution hazard in

accordance with MR 7020.0505 and MR 7020.0535.

- s. **Manure storage area.** An area where animal manure or process wastewaters are stored or processed. Short-term and permanent stockpile sites and composting sites are manure storage areas. Animal manure packs or mounding within the animal holding area of an animal feedlot that are managed according to MR 7020.2000, are not manure storage areas.
- t. **MPCA.** The Minnesota Pollution Control Agency.
- u. **New animal feedlot.** An animal feedlot or manure storage area that is constructed, established, or operated at a site where no animal feedlot or manure storage area existed previously, or that existed previously but has been unused for five years or more.
- v. **National Pollutant Discharge Elimination System (NPDES) Permit.** A permit issued by the MPCA for the purpose of regulating the discharge of pollutants from point sources including animal feedlots.
- w. **NRCS.** The Natural Resources Conservation Service of the United States Department of Agriculture.
- x. **Open lot.** An outdoor enclosure intended to confine livestock where manure will accumulate and vegetation cannot be maintained. This definition does not include pastures.
- y. **Ordinary high-water level.** The boundary of public waters and wetlands, and the elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high-water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high-water level is the operating elevation of the normal summer pool.
- z. **Pasture.** Grazing areas or agricultural land, including winter feeding areas, where the concentration of animals allows a vegetative cover to be maintained during the growing season, except that vegetative cover is not required in the immediate vicinity of supplemental feeding or watering devices or in associated corrals or chutes where livestock are gathered for the purpose of sorting, providing veterinary services, loading and unloading trucks, and other necessary activities related to livestock production.
- aa. **Platted subdivision.** For the purposes of this section, “platted subdivision” shall include any tract with three or more dwelling units per 40 acres.
- bb. **Pollution hazard.** An animal feedlot or manure storage area that:
 - i. Does not comply with the requirements of Minnesota Rules Chapter 7020.2000 to 7020.2225 and that has not been issued an SDS or NPDES permit establishing an alternative construction operating method; or
 - ii. Presents a potential or immediate source of pollution to waters of the

state as determined by inspection by the County Feedlot Officer after taking into consideration the following:

1. The size of the animal feedlot or manure storage area;
2. The amount of pollutants reaching or that may reach waters of the state;
3. The location of the animal feedlot or manure storage area relative to waters of the state;
4. The means of conveyance of animal manure or process wastewater into waters of the state;
5. The slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of animal manure or process wastewater into waters of the state.

cc. Sensitive area. As defined in MR 4410.4300, Subp. 29. Sensitive Areas include shorelands; delineated floodplains (along Red River only includes 1,000 feet from bank); federal, state or local wild and scenic river districts; within 1,000 feet of a karst feature (sinkhole, cave, disappearing spring, resurgent spring, karst window, dry valley or blind valley); within 1,000 feet of a fen, spring or flowing well; sites listed on the Clay County Biological Survey; vulnerable parts of delineated drinking water supply management areas; and those areas having a “very high” sensitivity rating to pollution as shown on Plate 4 of 4, “Sensitivity of Surficial Aquifers to Pollution” from the MN DNR Regional Hydrogeologic Assessment Southern Red River Valley, Minnesota, 2000.

dd. Sensitive area water-supply well. A well with less than 50 feet of watertight casing, and which is not cased below a confining layer or confining materials of at least 10 feet in thickness.

ee. State Disposal System (SDS) Permit. A State permit that is processed in accordance with Minnesota Rules Chapter 7001.

ff. Waters of the state. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any of its portions.

5. Feedlot Permitting Standards.

a. Responsibility. The landowner, feedlot owner, and operator of a proposed or existing feedlot are responsible for complying with the provisions of this section.

b. Administrative Permits. An Administrative Permit is required for any new feedlot with 10-49 units that is located outside of shoreland areas.

c. Conditional Use Permits.

i. Conditional Use Permit Requirements. A Conditional Use Permit is

required for all new feedlots and feedlot expansions, which shall be subject to the following standards:

1. The minimum setback requirements of 8-8-2(A)(6).
 2. The manure management standards of 8-8-2(A)(8).
 3. All regulations and standards of Minnesota Administrative Rules, Chapter 7020, as amended. See MR 7020 for permit application submittal requirements and review procedures.
 4. Any additional conditions that the Planning Commission or County Board considers necessary to protect the public health, safety, and general welfare.
- ii. **Conditional Use Permit Amendment.** Feedlot operators shall report any change in operation, as defined herein, or change in ownership to the County Feedlot Officer. Any change involving structural alterations, enlargement, or similar change not specifically permitted in the Conditional Use Permit shall be considered a new application, unless the Zoning Administrator and Planning Commission determines the change to be inconsequential, following which the existing Conditional Use Permit may be amended.
- iii. **On-site Review.** To ensure compliance with this section, the County Feedlot Officer may conduct on-site review of feedlots in the following circumstances:
1. When a new Conditional Use Permit application is received.
 2. When the County Feedlot Officer receives a written notice of a potential violation of 8-8-2(A) (Animal Feedlots). If a violation is determined to exist, the County Feedlot Officer shall require corrective measures to be implemented and may conduct subsequent visits to determine that such measures are implemented.
 3. On a random basis of the permitted feedlots each year.
- iv. **Documentation.** The County Feedlot Officer shall complete a written review of the feedlot operation each time an on-site review is conducted. A copy of the review shall be provided to the feedlot operator and owner to the mailing address provided on the feedlot permit within 30 days of the on-site visit.
- v. **Registration with the Minnesota Pollution Control Agency.** All feedlots shall be registered with the MPCA in accordance with Minnesota Administrative Rules, Chapter 7020. Feedlot operators must notify the Clay County Feedlot Officer and the Clay County Planning Department that they are registered with the MPCA within five (5) days of registration.
- vi. **Environmental Assessment Worksheet.** An Environmental Assessment Worksheet (EAW) is mandatory for proposed feedlots

over 1,000 animal units, or over 500 animal units in a sensitive area as defined in MR 4410.4300, Subp. 29. Feedlot operators shall submit a copy of their EAW to the County Feedlot Officer within five days of submitting their worksheet(s) to the MPCA.

vii. **Violations.** All permitted feedlots shall conform to the requirements of this section. Any use, arrangement, or construction in conflict with an authorized permit shall be deemed a violation of the Ordinance and shall be punishable as provided in 8-11-12 (Violation, Penalties, and Enforcement).

6. Setback Requirements.

a. **Animal Feedlot Setback Requirements.** All new and expanded feedlots shall adhere to the setback requirements established in Table 8-2 (Required Setbacks for Animal Feedlots), below, as measured from the nearest point of the feedlot boundary to the setback feature. Right-of-way setbacks shall be measured from the roadway centerline. Setbacks are reciprocal in that new development shall not be permitted to encroach within the setbacks of established feedlot, except in the following circumstance:

i. **Residential Exception.** The required setback from neighboring residential dwellings may be waived by any property owner wishing to build a residence. Consent to waiver shall be documented in a Land Use notice to run with the property.

Table 8-2. Required Setbacks for Animal Feedlots

<u>Setback Feature</u>	<u>Tier I (10-49 AU)</u>	<u>Tier II (50-999 AU)</u>	<u>Tier III (1,000+ AU)</u>
<u>Front, side, and rear lot lines of property containing animal feedlot</u>	<u>100 feet</u>	<u>100 feet</u>	<u>100 feet</u>
<u>Neighboring residential dwelling under separate ownership*</u>	<u>500 feet</u>	<u>1,320 feet (1/4 mile)</u>	<u>2,640 feet (1/2 mile)</u>
<u>Incorporated community*</u>	<u>1/2 mile</u>	<u>1 mile</u>	<u>2 miles</u>
<u>Platted subdivision*</u>	<u>500 feet</u>	<u>1,320 feet (1/4 mile)</u>	<u>2,640 feet (1/2 mile)</u>
<u>Churches and schools</u>	<u>1,320 feet (1/4 mile)</u>	<u>2,640 feet (1/2 mile)</u>	<u>1 mile</u>
<u>OHWL of protected waters and protected waters wetlands</u>	<u>1,000 feet</u>	<u>1,000 feet</u>	<u>1,000 feet</u>
<u>OHWL of stream or river</u>	<u>300 feet</u>	<u>300 feet</u>	<u>300 feet</u>

<u>Setback Feature</u>	<u>Tier I (10-49 AU)</u>	<u>Tier II (50-999 AU)</u>	<u>Tier III (1,000+ AU)</u>
<u>Wetland types 3, 4, and 5 that are not protected waters wetlands</u>	<u>300 feet</u>	<u>300 feet</u>	<u>300 feet</u>
<u>State park</u>	<u>500 feet</u>	<u>1,320 feet (1/4 mile)</u>	<u>2,640 feet (1/2 mile)</u>
<u>Campgrounds</u>	<u>500 feet</u>	<u>1,320 feet (1/4 mile)</u>	<u>2,640 feet (1/2 mile)</u>
<u>ROW of Federal, State, or County highway or Township road</u>	<u>125 feet</u>	<u>125 feet</u>	<u>125 feet</u>

*Note: The required setback from dwellings, incorporated communities, and platted subdivisions may be reduced by up to 25% for confined animal feedlots.

b. Manure Storage Setback Requirements. All new and expanded feedlot must comply with the water-supply well isolation standards of Minnesota Rules, Chapter 4725, via the following:

- i. Unroofed animal feedlots with 300 or more animal units shall be 100 feet from a water supply well.
- ii. Unroofed animal feedlots with fewer than 300 animal units shall be 50 feet from a water supply well.
- iii. Liquid manure storage basins or lagoons unpermitted or noncertified shall be at least 300 feet from a water-supply well.
- iv. Liquid manure storage basins or lagoons with approved earthen liner shall be at least 150 feet from a water-supply well.
- v. Liquid manure storage basins or lagoons with approved concrete or composite liners shall be at least 100 feet from a water-supply well.
- vi. Solid manure storage areas which are unroofed shall be at least 100 feet from a water-supply well.
- vii. All aforementioned setbacks shall be at least double the indicated distance to a sensitive area water-supply well.

7. Standards for Feedlots within Shoreland Districts.

- a. Existing Feedlots. Existing feedlots are permitted to operate in shoreland districts, provided they comply with the requirements of this section.
- b. New Feedlots. New feedlots are prohibited in shoreland districts and in bluff impact zones.
- c. Modifications and Expansions. No feedlot is allowed to expand to a capacity of 1,000 animal units or more within a shoreland district. Modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high-water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high-water level setback or encroach on bluff impact zones and if the feedlot operator obtains a feedlot

permit.

8. Management of Animal Manure.

- a. **Manure Storage setbacks.** Animal manure produced by an animal feedlot or stable facility shall meet the setback requirements of 8-8-2(A)(6).
- b. **Manure Storage Design Standards.** All new liquid manure holding structures for animal manure shall have a minimum capacity of 13 months and shall meet the minimum construction standards required by the MPCA. Animal water earthen storage basins and lagoons shall comply with MPCA requirements. All plans for earthen storage basins and lagoons shall be prepared and approved by a registered professional engineer or NRCS job authority.
- c. **Transportation of Manure.** The owner or operator of an animal feedlot who spills Manure on a public road shall be responsible for cleaning the roadway as soon as practical after a spill to ensure the safe passage of traffic. If the owner or operator of a feedlot does not clean the roadway in a timely manner, the County Highway Department may clean the roadway with their own equipment and assess the owner or operator for their services. If the assessment is not paid, the County Board of Commissioners may certify to the County Auditor by November 30 all unpaid, outstanding assessments, and a description of the lands against which the assessment arose. It shall be the duty of the County Auditor, upon order of the County Board of Commissioners, to extend the assessments with interest not to exceed the interest rate provided for in Minnesota Statutes, Section 279.03, Subd. 1, upon the tax rolls of the County for the taxes of the year in which the assessment is filed, into the tax becoming due and payable in January of the following year and shall be enforced and collected in the manner provided for the enforcement and collection of real and/or personal property taxes in accordance with the provisions of the laws of the State of Minnesota. The assessment, if not paid, shall become delinquent and be subject to the same penalties and the same rate of interest as the taxes under the general laws of the State of Minnesota.
- d. **Manure Spreading.** All utilization of animal manure as fertilizer shall be applied in accordance with State guidelines and in the most agronomically efficient manner using best management practices.
- e. **Manure Management Plan.** A Manure Management Plan is required by the MPCA from all feedlots capable of holding 300 animal units or more. Records of actual Manure application practices are required at all facilities with 100 animal units or more. The Manure Management Plan must contain all elements of MR 7020.2225 and is required to be updated and retained on file at the animal feedlot or the owner/operator's office. If an NPDES permit is required, the Manure Management Plan shall also include the following items.
 - i. Manure storage, handling, and testing practices;
 - ii. Field locations and acreage used for spreading Manure;
 - iii. Field-specific nutrient management; and

iv. Management of sensitive areas.

9. Feedlot Closure and Abandonment.

a. **Closure.** The owner or operator of an animal feedlot shall be responsible for the ongoing management of Manure and the final closure of the feedlot including the cleaning of structures and the emptying and proper disposal of manure from all manure storage structures. The closure shall be completed in accordance with the MPCA’s Guidelines for closure. Landowners, individual feedlot owners, operators or other business entities controlling, taking part in, or sharing in the profits from a feedlot will be liable for cleanup costs if the closure provisions of this Ordinance are not complied with.

b. **Abandonment.** Owners and operators of animal feedlots shall have joint liability for cleanup, closure, or remediation of abandoned feedlot sites. Cleanup costs after abandonment, if not otherwise paid, shall be assessed to the fee title holder.

~~9-10.~~ **Nonconforming Feedlots.** ~~All nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level~~ feedlots in operation as of the effective date of this Ordinance may continue, but they will be managed according to 8-1-8 (Nonconformities) of and other applicable local, state, and federal statutes regarding additions, repairs after damage, and discontinuance of use. A nonconforming use shall not be deemed to be discontinued or abandoned for a reasonable period between tenants or ownership, not to exceed five years.

11. **Variances.** All construction, additions, or expansions to the exterior dimensions of existing nonconforming feedlots within the setbacks as defined by this Section must be authorized by a variance.

B. Agricultural Service Establishments.

1. **Setbacks.** All structures and activities (outdoor storage, corrals, etc.) associated with the agricultural service establishment shall be located at least 500 from any dwelling.

2. **Access.** Roadway access spacing shall conform with the standards of 8-9-2 (County Roadway Access Standards).

3. **Compatible with Agriculture.** The use shall not be one to which the noise, odor, dust or chemical residues of commercial agriculture or horticulture might result in creation or establishment of a nuisance or trespass.

C. Agricultural Tourism.

1. Permitting and Licensing.

a. **Interim Use.** Agricultural tourism shall be processed as an interim use meeting the requirements of this section in addition to the general requirements for an Interim use Permit.

b. **Interim Use Permit Review.** The Planning Department shall review and inspect the Interim Use Permit at least once every five (5) years for compliance with conditions.

2. **Size and Configuration.** Agricultural employee housing facilities shall include no more than four (4) attached dwelling units or sixteen (16) beds in group living quarters. Where agricultural worker housing consists of a combination of both individual dwelling units and group living quarters, each dwelling unit shall count as three (3) beds toward the maximum of sixteen (16) beds in group living quarters.
3. **Facilities.** Sleeping, eating, and sanitation facilities consistent with Clay County Environmental Health regulations shall be provided within each unit or within the same building for group living quarters. Parking must be consistent with Clay County parking standards.
4. **Site Requirements and Setbacks.** Agricultural employee housing facilities shall meet the residential setback requirements of the Agricultural General Zoning District. Agricultural employee housing facilities shall be set back a minimum of 1,320 from adjacent residential dwellings not associated with the facility.
5. **Density.** Agricultural employee housing facilities permitted under 8-8-2(D) shall not be considered in the calculation of any residential density determination required by this Ordinance.
6. **Occupancy.** A signed statement shall be submitted with the Interim Use Permit application that such housing shall be used only for agricultural employee housing and shall not be rented to individuals not employed in the agricultural operation. All agricultural employee housing facilities shall be occupied exclusively by agricultural employees and their family members for a maximum of 270 days per calendar year. Documentation that any agricultural employee housing was occupied by agricultural employees shall be provided to the Zoning Administrator upon request.
7. **Discontinuance of use.** If agricultural employee housing ceases to be occupied by agricultural employees for more than two (2) consecutive calendar years, such housing and ancillary facilities shall be removed from the property or converted to a nonresidential use within one (1) year.

8-8-3. Residential Uses

A. Two-Family Dwellings.

1. **Location.** Two-family dwellings shall be allowed only in approved major subdivisions in the AG, General Agricultural District and shoreland Zoning Districts (SP and RD).
2. **Facilities.** Two-family dwellings shall have shared sewage treatment system and drinking water facilities.

B. Manufactured Homes.

1. **Single-Family Dwelling.** Manufactured homes are permitted as a type of single-family dwelling in all districts that allow single-family dwellings and shall conform to the requirements of 8-8-3(B) and to all applicable sections of this Ordinance regarding single-family dwellings.
2. **Manufactured Home Parks Prohibited.** Manufactured home parks are not permitted in any zoning district within the County.

3. Foundation, Anchoring, and Skirting. Manufactured homes shall be placed upon a permanent foundation for the entire perimeter of the manufactured home or shall be anchored and skirted to meet the requirements of Minnesota Rules, Chapter 1350.

4. Manufactured Homes in Flood Hazard Districts. Manufactured homes are permitted in Flood Hazard Districts, subject to the provisions of 8-8-3(B) and Chapter 8-3 (Flood Hazard Districts).

C. Supervised Living Facility

1. Dwelling Type. A Supervised residential facility must be located within an existing detached single-family dwelling or, if a new facility, in a dwelling meeting the density provisions of this Ordinance.

2. Licensing. Supervised living facilities shall meet all state and federal licensing requirements, as defined by Minnesota Rules Chapter 4665.

D. Intentional Communities.

1. Interim Use. Intentional Communities shall be processed as an interim use, meeting the requirements of this section in addition to the general requirements for an Interim Use Permit. A Site Plan shall be submitted with the Interim Use Permit application showing the location of all existing structures and uses on the lot(s).

2. Application Submittals. In addition to the Interim Use Permit application, the applicant(s) for an intentional community shall submit the following:

a. **Site Plan.** A Site Plan showing the location of all dwellings, common structures and other uses incidental to residential, sewage treatment systems, and other items as may be requested by the Zoning Administrator.

b. **Management Plan.** Intentional Communities shall be self-managed by an incorporated organization consisting of a majority of the residents or owners. This organization shall submit a management plan that includes the following:

i. A description of all uses to occur with the intentional community.

ii. Guidelines for the maintenance and operations of any transportation infrastructure that might be utilized by the general public, and any private utilities including drinking water, stormwater, and sewage treatment systems.

iii. A statement acknowledging an understanding that changes to the management plan or Site Plan may trigger an environmental review under Minnesota Rules 4410.

3. Minimum Design Requirements. An intentional community shall consist of at least one (1) residential structure or two (2) residential dwelling units, and a centrally located common structure, such as a meeting house or community hall, that is detached from all dwellings.

4. Minimum Lot Area. The minimum lot area for an intentional community shall be 40 acres.

5. Maximum Density. There shall be no more than seven (7) dwelling units per acre. No

residential structure shall contain more than four (4) dwelling units.

6. **Open Space.** Any lot containing an intentional community use shall have at least 50 percent of land dedicated as open space.
7. **Non-Residential Uses.** All non-residential uses on Lots that occur in combination with an Intentional Living Community are subject to the requirements of the Clay County Land Development Ordinance.

8-8-4. Commercial and Industrial Uses

A. General Requirements.

1. **Access Management Plan.** An access management plan shall be required for any commercial or industrial use that is proposed to be located adjacent to Highway 10, Highway 336, Highway 9, Highway 32, Highway 34, or Interstate 94. The access management plan may be requested with any application for subdivision, rezoning, or Conditional Use Permit, and shall conform to the access management requirements in 8-9-2 (County Roadway Access Standards).
2. **Environmental Mitigation.** Proposed commercial and industrial uses shall avoid environmentally sensitive areas and ensure mitigation measures are taken whenever there is a potential adverse impact.
3. ~~**Conforming Systems Defined:**~~ **Sewage Nuisance and Trespass.** Commercial and industrial uses shall not create a nuisance or encourage trespass to adjacent agricultural or residential properties.
4. **Site Plan.** A detailed Site Plan shall be required for any proposed commercial or industrial use. The Site Plan shall contain the following elements:
 - a. **Property Boundary.** Clearly marked boundaries and acreage of the site.
 - b. **Existing structures.** Location, type, and dimensions of all existing buildings and structures.
 - c. **Proposed structures.** Location, type, dimensions, and height of all proposed buildings and structures.
 - d. **Setbacks.** Distances from property lines to existing and proposed structures.
 - e. **Parking and Driveways.** Location, dimensions, and materials for driveways and parking areas.
 - f. **Signage.** Location and dimensions of all existing and proposed signs.
 - g. **Outdoor Lighting.** Location of all outdoor lighting, especially if adjacent to residential areas.
 - h. **Landscaping.** Location and type of existing and proposed landscaping elements (e.g., trees, shrubs).
 - i. **Utilities.** Location of utilities such as wells, septic systems, and utility lines.
 - j. **Easements.** Areas where others have the right to use the property (e.g., utility access).

- k. **Access Points.** Locations of entrances and exits for vehicles and pedestrians.
- l. **Topography.** Contour lines to show elevation changes and drainage patterns.
- m. **Natural Features.** Locations of existing natural features (e.g., wetlands, river and streams) on the property.
- n. **Impervious Surfaces.** Areas covered by non-porous materials including but not limited to asphalt, concrete, and compacted gravel, impacting stormwater management.
- o. **Stormwater management.** stormwater management features.

B. **Adult Entertainment Uses**

- 1. **Application Submittals.** A Site Plan shall be submitted with the Conditional Use Permit application meeting the requirements of 8-8-4(A)(4).
- 2. **Setbacks.** Adult entertainment uses shall be set back a minimum distance of 500 feet from any residence, day care, public park or playground, church, school, or other adult entertainment use as measured in a straight line between the closest property boundary points.
- 3. **Maximum Floor Area.** A structure housing an adult entertainment use shall be no larger than 10,000 square feet.
- 4. **Performance Standards.**
 - a. **Color and Display.**
 - i. **The colors of the exterior of structures where adult entertainment uses occur shall be muted and blend with surrounding structures, and shall not be neon, bright or multi-colored.**
 - ii. **Sexually explicit matter shall not be displayed on signs, window displays, or the exterior of any structure.**
 - b. **Hours of Operation.** The hours of operation shall be set in the Conditional Use Permit and shall not have an adverse impact on adjacent property owners.
 - c. **Alcohol Prohibited.** Alcoholic beverages shall not be consumed or sold anywhere on the property.

C. **Private Airport.**

- 1. **Application Submittals.** A Site Plan shall be submitted with the Conditional Use Permit application meeting the requirements of 8-8-4(A)(4).
- 2. **Performance Standards.** Private airports shall comply with the following performance standards:
 - a. **Measures shall be taken to reduce adverse effects from blowing dirt and debris on facilities and approach zones.**
 - b. **Safeguards shall be taken to minimize any nuisance on adjacent property.**

D. **Extractive Uses.**

- 1. **Requirements for all Extractive Uses.** Any new extractive use, as well as the

resumption of any extractive use that has ceased operation for a period of 12 months or longer, shall conform with the following requirements, regardless of whether the use meets the criteria for administrative approval, as defined in 8-8-4(D)(2), or requires an Interim Use Permit, as outlined in 8-8-4(D)(3).

a. **Setbacks.** structures, storage of excavated materials, and the excavation edge shall be set back the following minimum distances:

- i. 100 feet from lot lines, unless the Planning Department is notified and a written notarized agreement between the operator and the adjacent landowner is filed with the County Recorder’s office.
- ii. 200 feet from the right-of-way of existing roads and highways.
- iii. 500 feet from dwellings, schools, churches, public or commercial uses.
- iv. 300 feet from the ordinary high-water level of a public river or stream and 1,000 feet from the ordinary high-water level of a public lake.
- v. The operation shall be completely located outside of the 100-year floodplain.

b. **Performance Standards.** The following conditions shall be required during site operation:

- i. Planting, fencing, or berm-ing shall be provided in areas where extractive uses are adjacent to public roads or residential uses. Sight-obscuring screening may be required between mined areas and adjacent residential property within 300 feet of the excavation area boundary.
- ii. Excavation areas shall be maintained to avoid caving or sliding banks.
- iii. Excavation areas shall be properly drained, filled, and leveled throughout operation.
- iv. Runoff from the site shall be restricted from waterbodies and adjacent properties.
- v. All equipment shall be maintained and operated in a manner that minimizes noise and vibration to the greatest extent possible. Noise levels shall never exceed the acceptable locational thresholds established by the Minnesota Pollution Control Agency (MPCA).
- vi. The extractive use shall maintain a plan for dust control during operations.
- vii. The owner/operator shall maintain all roadways within the excavation site and the haul road from the site to the nearest paved Highway. Spillage of material on any roadway shall be removed by the owner/operator as quickly as possible.
- viii. Adequate signage shall be maintained for public safety, such as “Trucks Hauling” signs.
- ix. Areas where topsoil is removed shall be reseeded within 30 days of

removal of topsoil.

2. Administrative Use.

- a. **Purpose.** The administrative approval process is intended to allow for limited extractive use operations. The Administrative Permit shall not be used to allow exploration in anticipation of further extraction in subsequent years, nor shall it be used to extract minerals incrementally if successive expansions would require an Interim Use Permit.
- b. **Criteria.** The Zoning Administrator may only approve an extractive use if it meets the following requirements:
 - i. **Location.** The extractive use is not located in an RP-BIO District.
 - ii. **Maximum Area.** The maximum area for all extraction areas does not exceed 10 acres.
 - iii. **Performance Standard.** The extractive use shall not include on-site crushers, asphalt plants, or other on-site processing of extracted materials.
 - iv. **Duration.** The duration of the extractive use does not exceed one (1) year. If the duration of use exceeds one year, the landowner shall be barred from obtaining a permit for any type of extractive use for a period of five (5) years.
- c. **Application Submittals.** The application for an Administrative Permit for an extractive use shall include the following:
 - i. **Agreement of Surrounding Landowners.** Signed, notarized agreements from all owners of land within one-quarter (1/4) mile of the proposed boundary of the extractive use area stating their agreement in allowing the proposed use.
 - ii. **Project Information.**
 1. Name, phone number, and address of the owner of land where the use is proposed;
 2. Name, phone number, and address of the proposed operator of the Extractive use if different than the landowner;
 3. GIS data showing the proposed boundary of the Extractive use, including all activities associated with the operation;
 4. The proposed daily times of operation and months in which the operation will be active;
 5. Proposed hauling routes and estimated number of daily truck trips;
 6. An Access Plan approved by the appropriate road authority, with access limited to one point of ingress/egress.

- properties.
- vi. Maintain and operate all equipment in a manner that minimizes noise and vibration to the greatest extent possible. Noise levels shall never exceed the acceptable locational thresholds established by Minnesota Administrative Rules 7030.
 - vii. Provide a plan for dust control on haul roads and within mining areas during operations.
 - viii. Provide an Access Plan with approval of the access sites from the appropriate authority.
 - ix. Access shall be limited to one entrance and exit to the site.
 - x. Provide a plan for truck hauling on roads of adequate capacity. The owner/operator shall maintain all roadways within the excavation site and the haul roads from the site to the nearest paved Highway. Spillage of material on any roadway shall be removed by the owner/operator as quickly as possible.
 - xi. Provide adequate signage for public safety, such as “Trucks Hauling” signs.
 - xii. Reseed areas where topsoil is removed within thirty (30) days of removal of topsoil.
- d. **Setbacks.** All extraction, associated uses, and structures, with the exception of haul Roads, shall adhere to the following setbacks:
- i. 100 feet from lot lines, unless the Planning Department is notified and a written notarized agreement between the operator and the adjacent landowner is filed with the County Recorder’s office.
 - ii. 200 feet from the right-of-way of existing public roads and highways.
 - iii. 500 feet from any dwelling, school, church, public or commercial establishment.
 - iv. 300 feet from the ordinary high-water level of a public river or stream and 1,000 feet from the ordinary high-water level of a public lake.
 - v. 100 feet from land zoned Resource Protection – Biologically Significant Areas.
 - vi. The operation shall be completely located outside of the 100-year floodplain.
- e. **Financial Surety.** As a condition of granting the permit, the County shall require the owner or operator to post a bond, cash deposit, letter of credit, or other financial surety in such form and sum as the County shall determine, with sufficient surety running to the County, conditioned to pay the County the cost and expense of repairing, from time to time, any Highways, streets, township roads, or other public ways where such repair work is made necessary by the special burden resulting from hauling and travel, in removing

materials from any pit, excavation or impounded waters, the amount of such cost and expense to be determined by the County Engineer; and conditioned further to comply with all the requirements of this Ordinance and the particular permit, and to pay any expense the County or a township may incur by reason of doing anything required to be done by any applicant to whom a permit is issued, including the cost of required reclamation.

E. Asphalt Batch Plants and Ready-Mix Cement Plants.

- 1. Application Submittals.** A Site Plan shall be submitted with the Interim Use Permit application meeting the requirements of 8-8-4(A)(4).
- 2. Location.** Asphalt batch plants, Ready-Mix cement plants, and associated processing facilities and structures should be located, to the greatest extent possible, downwind from any inhabited residential structure located within one-quarter (1/4) mile of the proposed site.
- 3. Setbacks.** Asphalt batch plants, Ready-Mix cement plants, and associated processing facilities and structures shall set back the following minimum distances:
 - a. 100 feet from Lot Lines.
 - b. 200 feet from the right-of-way line of the nearest road or highway.
 - c. 1,000 feet from dwellings, schools, churches, public uses, or commercial uses.
- 4. Financial Surety.** As a condition of granting the permit, the County shall require the owner or operator to post a bond, cash deposit, letter of credit, or other financial surety in such form and sum as the County shall determine, with sufficient surety running to the County, conditioned to pay the County the cost and expense of repairing, from time to time, any Highways, streets, township roads, or other public ways where such repair work is made necessary by the special burden resulting from hauling and travel, in removing materials from any pit, excavation or impounded waters, the amount of such cost and expense to be determined by the County Engineer; and conditioned further to comply with all the requirements of this Ordinance and the particular permit, and to pay any expense the County or a township may incur by reason of doing anything required to be done by any applicant to whom a permit is issued, including the cost of required reclamation.

F. Precast Concrete Plants.

- 1. Application Submittals.** A Site Plan shall be submitted with the Conditional Use Permit application meeting the requirements of 8-8-4(A)(4).
- 2. Setbacks.** All structures associated with a precast concrete plant must be located at least 1,000 feet from a dwelling located on adjacent property.
- 3. Permit Review.** All permitted precast concrete plants shall be reviewed and inspected by the Planning Department at least every five (5) years for compliance with conditions.

G. Vehicle and Equipment Sales.

- 1. Application Submittals.** A Site Plan shall be submitted with any application for Interim Use Permit or Development Permit meeting the requirements of 8-8-4(A)(4).

2. **Licensing.** If five or more vehicles are to be sold in a one-year period, a state dealer license is required.
3. **Setbacks.** Vehicles and trailers on display must be a minimum of 5 feet from the edge of the road right-of-way and must not obstruct the views of the traveling public.
4. **Performance Standards.**
 - a. **Nuisance Abatement.** The use must not establish a nuisance in the form of noise, vibration, glare, fumes, odor, lighting, or electrical interference detectable off premise.
 - b. **Service and Repair.** All vehicle service and repair work must occur indoors.
 - c. **Storage.** Vehicles and parts not displayed for sale must not be stored outdoors.
 - d. **Screening.** Vehicles on display must be screened from adjacent dwellings.

H. **Salvage Yards.**

1. **Application Submittals.** A Site Plan shall be submitted with the application for Conditional Use Permit meeting the requirements of 8-8-4(A)(4).
2. **Setbacks.** A salvage yard shall be separated a minimum of 1,000 feet from any dwelling, school, church, or another salvage yard, as measured in a straight line between the closest property boundary points.
3. **Screening.** The salvage yard shall be enclosed on all sides by a sight-obscuring fence to a minimum height of eight (8) feet above grade or by other opaque screening material which fully blocks the view of the salvage yard from adjacent properties. Salvage materials shall not be stacked above the height of the fence.

I. **Kennels.**

1. **Shoreland and Floodplain Restrictions.**
 - a. Structures or waste management areas associated with a Kennel shall be elevated at or above the Regulatory Flood Protection Elevation (RFPE).
 - b. Any kennel proposed to be in a shoreland district for a river or stream shall be located in a structure that existed prior to the effective date of this Ordinance and shall be set back from the ordinary high-water level as specified under 8-8-4(I)(4), below.
2. **Minimum Lot Area.** The minimum lot Area for a kennel is two (2) acres.
3. **Minimum Road Frontage.** The minimum frontage required for a kennel is 250 feet of continuous frontage on a public road right-of-way.
4. **Setbacks.**
 - a. All kennel operations, including waste management areas and outdoor runs/exercise areas, shall be set back the following minimum distances:
 - i. 100 feet from all wells in accordance with the state well code Minnesota Rules Chapter 4725, herein adopted by reference.
 - ii. 100 feet from all adjoining lot lines, except that kennels may be set

back 50 feet from any property lines that abut state or federal properties.

iii. 150 feet from the ordinary high-water level of a river or stream.

iv. 300 feet from the ordinary high-water level of a lake or basin.

b. The Planning Commission, at its discretion, may impose additional setbacks on new kennel operational areas on a case-by-case basis upon the review of each Interim Use Permit request. In creating the Site Plan, the greatest distance from neighboring residences shall be considered by the applicant, encouraging a minimum setback distance of 600 feet from the closest dwelling.

5. Performance Standards.

a. **Buffer Strip.** A vegetative buffer strip, 100 feet in width, shall be established and maintained between any part of the kennel area and any protected waters, wetlands, or officially designated drainage ways that lead to protected waters. The width of the buffer strip may be increased by the Planning Commission after considering the slope of the property, its proximity to protected waters, and any lake/river classification. Please reference the Clay County Soil and Water Conservation District and NRCS for buffer strip best management practices and technical standards.

b. **Noise Standards.** Noise standards shall be enforced in conformance with Minnesota Pollution Control Agency Rules Chapter 7030, herein adopted by reference.

6. Application Submittals. All kennel operations require an Interim Use Permit and shall submit a facility operations plan along with the Interim Use Permit application. The facility operations plan shall contain the following information:

a. Name of kennel operator and landowner, address, phone number, signature and date;

b. Type of kennel operation (i.e. breeding, boarding, rescue, sled dog, etc.);

c. kennel capacity, including the number of animals over six months of age to be permanently or temporarily housed on the property;

d. Waste management plan;

e. Noise management or mitigation plan; and

f. Site Plan meeting the requirements of 8-8-4(A)(4), in addition to the following specifications:

i. Location of all residences within 600 feet of the proposed kennel area;

ii. Location of kennel on the property, including any alternate or temporary sites;

iii. Floor plan of kennel structure(s);

iv. Setback distances from kennel area to property lines, neighboring homes, wells and any protected public waters and/or wetlands;

- v. Any existing or proposed vegetative buffer strips;
- vi. Location of waste management area (i.e. composting site, spreading area or storage bin); and
- vii. Location of any wells and sewage treatment systems.

J. Retreat Centers and Wedding Venues.

1. Permitting and Licensing.

- a. Retreat centers shall be processed as a conditional use meeting the requirements of this section in addition to the general requirements for a Conditional Use Permit.
- b. The Planning Department shall review the Conditional Use Permit according to all the procedures in 8-11-7 (Conditional Use Permits).
- c. The facility must receive the appropriate Development Permits for any new structures or additions to any existing structures and must receive appropriate permits for all proposed restroom facilities and sewage treatment systems.
- d. The facility must receive all federal, state, and local licenses required for operation, including food, beverage, and lodging licenses, as necessary.

2. Location. Retreat centers are prohibited in platted subdivisions. Retreat centers may be located within a primary dwelling or in separate residential, non-residential, or farm building.

3. Application Submittals. A Site Plan shall be submitted with the Conditional Use Permit application meeting the requirements of 8-8-4(A)(4).

4. Minimum Lot Area. The minimum lot size required for a lot on which a retreat center is permitted shall be 10 acres.

5. Setbacks. Any structures associated with a retreat center must be located at least 500 feet from a dwelling located on adjacent property.

6. Sign. One (1) non-illuminated sign of a maximum size of 40 square feet is allowed on site. Such sign shall meet the setbacks for structures for the applicable district.

7. Parking. The required number of parking spaces may be determined in consultation with the Planning Commission.

8. Performance Standards.

- a. No Adverse Effects. No equipment or activity shall create noise, vibration, glare, fumes, odors, or electrical interference that could create a nuisance off the premises.
- b. Traffic. Traffic generated by the use shall not exceed that which is reasonable for such a use in the area in which it is located and for the road adjacent to the use. If necessary, application of dust control may be required as a condition of the permit.
- c. Utilities. The retreat center shall not create usage exceeding the capacity of the available on-site sewage treatment system and drinking water capacity.

- d. **Buffering.** Buffering may be required by the Planning Commission to minimize adverse effects to adjacent properties and roadways.

K. Service Businesses in the Urban Expansion District.

1. Permitting Standards.

- a. Service businesses shall be permitted as an interim use in Tier 1 and Tier 2 of the UE, Urban Expansion District, subject to the requirements of this section in addition to the general requirements of 8-11-8 (Interim Use Permits).
- b. The Planning Department shall review and inspect the Interim Use Permit shall every five (5) years for compliance with conditions.

2. Application Submittals. A Site Plan shall be submitted with the Interim Use Permit meeting the general requirements of 8-8-4(A)(4).

3. Limitation on Use. Only one interim use is permitted per lot.

4. Location Restrictions. Service businesses must be operated out of existing structures on the property unless expansions or additional structures receive approval from the City of Dilworth or the City of Moorhead.

5. Employee Limitation. The number of allowable employees will be set by the Planning Commission, with considerations for traffic, parking, utilities, and surrounding properties. No business shall have more than 15 full-time equivalents.

6. Sign. One non-illuminated sign of a maximum size of 40 square feet is permitted on site. Such sign shall meet the setback requirements for structures in the UE, Urban Expansion District (Tier 1 and 2) or be a wall sign.

7. Parking. Additional parking spaces may be required by the Planning Commission for the use of clients, deliveries, etc.

8. Performance Standards.

- a. **Adverse Effects.** No equipment or processes used in the service business shall create noise, vibration, glare, fumes, odors or electrical interference detectable off the premises.
- b. **Traffic and Roads.** Traffic generated by the use shall be considered by the Planning Commission, shall not exceed that which is reasonable for the neighborhood, and shall not exceed the capacity of adjacent roads.
- c. **Buffering.** Buffering may be required by the Planning Commission to minimize adverse effects on adjacent properties and roadways.
- d. **Utilities.** Operation of the use shall not exceed the capacity of the available on-site sewage treatment system and water supply. The use shall not prematurely stimulate investment in public utilities in a municipality's future growth area.

L. local shoreland managementStorage Units.

- 1. Application Submittals.** A Site Plan shall be submitted with any application for building permit or Conditional Use Permit meeting the general requirements for Site Plans as provided by 8-8-4(A)(4).

2. General Standards.

- a. Storage units must have direct access to a fully maintained road.
- b. The storage structure and surrounding grounds shall be maintained in a clean, orderly, and safe manner. Hazardous materials shall not be stored.
- c. Outdoor storage must meet the standards for storage yards listed in 8-8-7(J).

3. Additional Standards for Storage Units in the Agricultural General District.

Storage units must be designed and constructed to resemble agricultural or farm buildings in the vicinity.

4. Additional Standards for Storage Units in the Resource Protection – Wellhead Protection District.

- a. Outdoor storage must meet the standards for storage yards listed in 8-8-7(J). Items containing fuel tanks must be stored on an impervious surface. The Planning Commission may place additional conditions on the number of items stored outdoors.
- b. Storage units must have a concrete floor.
- c. Sewage treatment systems and wells associated with the use are not permitted.
- d. The storage units use must not be of a size that requires a permanent stormwater retention pond.
- e. No more than 30 percent of the lot Area shall be occupied by buildings associated with the use.

M. Cannabis or Lower-Potency Hemp Cultivation, Manufacture and Wholesale, and Retail.

1. General Standards.

- a. **Establishments.** The number of cannabis retail establishments in Clay County is limited to 1 per 12,500 population. A retail establishment must be registered with Clay County prior to operation.
- b. **Licensing.** State licensing, if applicable, is required prior to establishment of the use.
- c. **Nuisance.** The use must not establish a nuisance in the form of noise, vibration, glare, fumes, odor, lighting, or electrical interference detectable off premise.
- d. **Home Occupation.** Cannabis businesses are prohibited as a home occupation.

2. Setbacks. Cannabis businesses are subject to the following setbacks. These setbacks are measured from structures associated with the businesses and are not reciprocal:

- a. 1,000 feet from a school.
- b. 500 feet from a church, daycare, library or a dwelling on an adjacent property.
- c. 500 feet from a residential treatment facility.
- d. 500 feet from a park, playground, or athletic field.

3. Performance Standards.

a. Cultivation. Cultivation is subject to the following performance standards:

i. Cultivation and Operations Plan. A business licensed or authorized to cultivate cannabis must prepare, maintain, and execute an operating plan and a cultivation plan, which must include but is not limited to:

- 1. Site Plan.** A Site Plan meeting the requirements of 8-8-4(A)(4).
- 2. Security.** Provisions for fencing, lighting, personnel and video monitoring.
- 3. Utilities.** Plans for wastewater, waste disposal; utilities including water and electricity, water usage and recycling.
- 4. Solid Waste.** A plan to destroy all cannabis plant material and cannabis byproduct to render it unusable. Waste material must be stored in a secure location.
- 5. Pest Management.** A pest management protocol that incorporates integrated pest management principles to control or prevent the introduction of pests to the cultivation site.

b. Manufacture and Wholesale. Manufacture and Wholesale are subject to the following performance standards:

i. Facility and Operations Plan. A business licensed or authorized to manufacture and wholesale cannabis and cannabis-related products must prepare, maintain, and execute a facility and operations plan, which must include but is not limited to:

- 1. Site Plan.** A Site Plan meeting the requirements of 8-8-4(A)(4).
- 2. Security.** Provisions for fencing, lighting, personnel and video monitoring.
- 3. Utilities.** Plans for wastewater, waste disposal; utilities including water and electricity, water usage and recycling. Wastewater facilities shall be in accordance with MN Statute 342.28 Subd. 3.
- 4. Ventilation and Filtration.** In accordance with MN Statute 342.24 Subd. 4.
- 5. Solid Waste.** A plan to destroy all cannabis plant material and cannabis byproduct to render it unusable. Waste material must be stored in a secure location.

c. Retail. Retail sales are subject to the following performance standards:

i. Business and Operations Plan. A retail business licensed or authorized to sell Cannabis and Cannabis related products must prepare, maintain, and execute a business plan, which must include but is not limited to:

- 1. Hours of Operation.** 8:00 a.m. to 9:00 p.m. Monday through

Saturday and 10:00 AM to 9:00 PM Sunday.

2. **Site Plan.** A Site Plan meeting the requirements of 8-8-4(A)(4).
3. **Ventilation and Filtration.** In accordance with MN Statute 342.24 Subd. 4.
4. **Building Conditions:** In accordance with MN Statute 342.27 Subd. 8.
5. **Security.** In accordance with MN Statute 342.27 Subd. 9.
6. **Lighting.** In accordance with MN Statute 342.27 Subd. 10.
7. **Deliveries.** In accordance with MN Statute 342.27 Subd. 11.
8. **Wastewater.** Cannabis mezzobusinesses must comply with MN Statute 342.28 Subd. 3;
9. **Solid Waste.** A plan to destroy all cannabis plant material and cannabis byproduct to render it unusable. Waste material must be stored in a secure location.

8-8-5. Recreational Uses

A. **Campgrounds.** Campground uses shall conform with the following regulations throughout operation:

1. The facility shall meet all state and federal license requirements.
2. No mobile homes shall be allowed in campgrounds.
3. residential use of camping vehicles, except as permitted for a campground owner or caretaker, shall be prohibited from November 1 to April 1.

B. ~~adopted under~~**Shooting Ranges.** Shooting ranges shall meet the noise and performance standards in Minnesota Statutes 87A and the requirements of this subsection 8-8-5(B).

1. **Authorized Activities.** Shooting ranges the performance standards of Minnesota Statutes 87A shall be allowed to engage in the following authorized activities within the property boundaries of the range:

- a. **Discharge of Firearms.** Operate the range and conduct activities involving the discharge of firearms.
- b. **Membership.** Expand or increase its membership or opportunities for public participation related to the primary activity as a shooting range.
- c. **Meet Standards.** Make those repairs or improvements desirable to meet or exceed requirements of shooting range performance standards.
- d. **Activities.** Increase events and activities related to the primary activity as a shooting range.
- e. **Time of Operations.** Conduct shooting activities and discharge firearms daily between 7:00 a.m. and 10:00 p.m.
- f. **Purchase Additional Land.** Acquire additional lands to be used for buffer

zones or noise mitigation efforts or to otherwise comply with this Chapter.

- ~~1.2. Annotated section 103F.201, in effect at the time of installation may be considered as conforming unless they are determined to be failing. Systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above ground water than required by the Minnesota Pollution Control Agency's chapter 7080 for design of on-site sewage treatment systems;~~
Nonconforming Shooting Ranges. Shooting ranges that do not meet the performance standards in Minnesota Statutes 87A shall be considered nonconforming shooting ranges. Nonconforming shooting ranges shall be allowed to continue and conduct shooting activities within the range's lawful property boundary as of May 28, 2005, provided that the shooting range remains in compliance with the noise and shooting range performance standards in Minnesota Statutes 87A.
- 3. Outdoor Shooting Range Mitigation Area.** A mitigation area shall be established for a distance of 750 feet from the perimeter property line of an outdoor shooting range. No change in use, new development, or construction of a structure shall be approved for any portion of property within the mitigation area without an approved Development Permit and a signed mitigation agreement subject to approval by the County Board. The owner/applicant must agree to provide any mitigation necessary to maintain compliance with the performance standards. shooting ranges in existing prior to the effective date of this Ordinance are exempt from these requirements.
- 4. Indoor Shooting Ranges.** Indoor shooting ranges shall be constructed below ground to minimize off-site noise.

8-8-6. Public Service and Utility Uses

A. Essential Services.

- 1. Permitting and Approval.** Essential services shall only be established with the granting of a Conditional Use Permit and approval of the benefitting property owner(s). A Development Permit, Zoning Certificate or agreement of surrounding property owners is not required.
- 2. Setbacks.** All structures housing essential services shall set back at least 50 feet from all lot lines. Utility boxes and underground or overhead utilities extending from the main line to serve lots abutting a public right-of-way are exempt from this requirement.
- 3. Minimum Lot Area Exemption.** Lots containing only essential service uses are exempt from the minimum lot Area requirement of the applicable district.
- 4. Location.** Essential services shall be located and constructed at such places and in such manner that they will not segment land of any one farm and will not interfere with the conduct of agriculture by limiting or interfering with the access to fields or the effectiveness and efficiency of the farmer and farm equipment including crop-spraying aircraft.
- 5. Permitting Criteria.** In consideration of an application for a conditional use, the Planning Commission shall find:
 - a. Landscaping.** That the landscape treatment is in keeping with the

neighborhood and provides screening where appropriate.

b. **Public Hazard Not Created.** That the installation is secure from the public and does not create a potential public hazard.

CHAPTER 3
GENERAL PROVISIONS APPLYING IN ALL DISTRICTS

- ~~8-3-1: MINIMUM LOT SIZE~~
- ~~8-3-2: YARD EXCEPTIONS~~
- ~~8-3-3: HIGHWAY SETBACKS~~
- ~~8-3-4: PIPELINE RIGHT-OF-WAY SETBACKS~~
- ~~8-3-5: FENCES~~
- ~~8-3-6: TRAFFIC CONTROL AND ACCESS MANAGEMENT~~
- ~~8-3-7: MANUFACTURED HOMES~~
- ~~8-3-8: TREES; TREE PLANTING~~
- ~~8-3-9: HOME OCCUPATIONS, STANDARDS FOR APPROVAL~~
- ~~8-3-10: ESSENTIAL SERVICES~~
- ~~8-3-11: FLOODPROOFING MEASURES~~
- ~~8-3-12: GENERAL PARKING REQUIREMENTS~~
- ~~8-3-13: SIGNS~~
- ~~8-3-14: STORAGE OF MANURE~~
- ~~8-3-15: PROVISIONS FOR KEEPING ANIMALS ON RESIDENTIAL PARCELS:~~

8-3-1: MINIMUM LOT SIZE:

~~Wetlands shall be excluded from the area considered for meeting any minimum lot size requirements of this Ordinance. Buildable area shall mean the upland area of a lot remaining after the minimum yard setback requirements of this Ordinance have been complied with.~~

8-3-2: YARD EXCEPTIONS:

- ~~c. Yard setback requirements specified for zoning districts in Article 3A through 3J shall be subject to **Architectural Style**. That all proposed structures are of architectural style in keeping with the neighborhood.~~
- ~~d. **Access; Parking.** Access and parking are adequately provided.~~
- ~~e. **Maintenance.** That all proposed structures will be adequately maintained.~~

~~**Transmission Services.** The applicant for such a conditional use shall conform to the following exceptions:~~

~~**A. Front Yard Exceptions:**~~

- ~~1. **Ornamentations:** Eaves, cornices, belt courses, and similar ornamentations may project over a front yard not more than two feet (2').~~

- ~~1.6. **Platforms, Terraces, Steps, Open Porches:** Steps, terraces, platforms and porches having no roof covering procedures and being not over forty two inches (42") in height may extend into a front yard. standards:~~

a. Procedure for Transfer. Essential services such as high voltage (200 KV or less) electrical power or bulk gas or fuel being transferred from station to station and not intended for on-route consumption nor located within highway and street rights-of-way shall follow the following procedure:

i. Filing of Maps. The owner shall file with the Zoning Administrator such maps indicating the location, alignment, and type of service proposed as shall be requested.

7. Ordinary Service Extensions. It is not intended that the Zoning Administrator shall request maps or filings for ordinary service extensions which would delay by virtue of such filings or Township Board considerations the services public utilities must immediately provide to customers.

8. Reconstruction or Relocation of Facilities.

a. Permitting. No permit shall be necessary under this section to maintain, reconstruct, or relocate existing lines or facilities where the general line and conformation thereof remains essentially the same unless said construction is within the public right-of-way. In such case, the permit shall be obtained from the Zoning Administrator.

b. Emergency repairs. Emergency repairs requiring a permit may be completed prior to application for permit, provided an application is submitted as soon as possible after the work is completed.

B. Towers.

1. Purpose. The purposes of the provisions regulating telecommunication towers in this subsection are to:

a. Maximize the use of existing and approved towers and buildings in order to reduce the number of new towers necessary to provide telecommunications services to the community;

b. Ensure telecommunication towers are designed, sited, and constructed in a manner consistent with the protection of the public health, safety, and general welfare; and

c. Require tower sites to be secured in order to discourage trespassing and vandalism.

B. Exemptions ~~Side Yard Exeptions:~~

2. Ornamentations: Eaves, cornices, belt courses,

a. The following tower facilities and activities are permitted uses in all districts of Clay County and do not require a building permit:

i. Antennas incidental to residential use including but not limited to television, citizens band, business band, and similar ornamentations may project over a side yard not type of antennas;

ii. Routine maintenance of existing towers, and the addition of antennas to a

tower that meets the standards of this section and does not increase the height of the tower; additional support structures shall require a building permit.

b. The following tower facilities are permitted uses in all districts in Clay County, but do require a building permit:

i. The addition of an antenna or antennas on existing structures including, but not limited to, buildings, flag poles, church steeples, cupolas, ball field lights, or power line support device where no modifications are required to the existing structure and where the antenna does not increase the height of the structure by more than ~~two~~20 feet ~~(2')~~.

~~1. **Platforms, Terraces, Steps:** Platforms, terraces and steps not over forty two inches (42") in height may extend into a side yard. Platforms, terraces and steps shall be located at least five feet (5') from side yard lot lines.~~

ii. **Fireplaces:** Fireplaces may extend into a side yard a distance Towers and antennas used primarily for agricultural purposes provided that all such towers are freestanding (no guy wires), meet all appropriate FAA/FCC requirements, and do not exceed a maximum height of 110 feet above ground level (including tower and antennae).

iii. All other tower facilities require a Conditional Use Permit and a building permit pursuant to the terms of this Ordinance.

3. **Application.** Applications for Conditional Use Permits shall be submitted pursuant to the requirements of 8-11-7 (Conditional Use Permits) and shall be accompanied by the following:

a. A Site Plan that includes the following:

i. Graphic scale of the plan, not less than 1 inch to 20 feet;

ii. North arrow;

iii. Location and size of the proposed tower, support structures, accessory buildings, access driveways, public roads, parking fences, signs and landscaped areas;

iv. Building setback lines;

v. Existing topography, with contour intervals of not more than 10 feet, related to the United States Geological Survey datum;

vi. The location of water courses, ravines, bridges, lakes, wetlands, wooded areas, rock outcroppings, bluffs, steep slopes, and other geological features within the site;

vii. Proposed surface drainage diagram for the site;

viii. Proposed screening; and

ix. Proposed removal of natural vegetation.

- b. A vicinity map showing current land uses and existing dwellings and businesses within one-half (0.5) mile of the proposed tower.
- c. A sworn statement signed by applicant that the communications equipment for the proposed tower cannot be accommodated on an existing tower or building within a 2-mile radius of the proposed tower due to one or more of the following reasons:
 - i. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced or modified to accommodate planned equipment at a reasonable cost.
 - ii. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer, and the interference cannot be prevented at a reasonable cost.
 - iii. No existing or approved towers or commercial/industrial buildings within a 2-mile radius meet the radio frequency (RF) engineer requirements.
 - iv. Existing or approved towers and commercial/industrial buildings within a 2-mile radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional radio frequency (RF) engineer.
 - v. Despite best efforts, the applicant is unable to negotiate reasonable business terms regarding the lease or purchase of space on an existing tower.
 - vi. The applicant must demonstrate that a good faith effort to co-locate on existing towers and structures within a 2-mile radius was made, but an agreement could not be reached.
- d. A commitment in writing from the applicant committing the applicant and its successors to allow the shared use of the tower facility if an additional user agrees in writing to meet reasonable industry terms and conditions for shared use.
- e. If erection of the tower or construction of any tower facility will disturb any part of a bluff or a steep slope, the applicant shall provide an erosion control plan prepared by a landscape architect or professional engineer.
- f. Proof of filing of an application with the Federal Aviation Administration or an engineer statement showing that no filing with the Federal Aviation Administration is necessary.
- g. A copy of the National Environmental Protection Act study required by the Federal Communication Commission. No antenna shall be installed on any tower facility until a Federal Communication license is issued for that antenna.
- h. A copy of the Certificate of Insurance for liability and worker's compensation insurance that requires notification to Clay County Planning and Zoning Office

prior to cancellation. This insurance shall be kept in effect until the tower facility is removed.

i. An acceptable financial guarantee equal to 1.50 times the estimated cost of removing the tower facility and restoring the site to its original condition. The estimated cost shall be determined by the Clay County Zoning Administrator.

j. Application filing fee as determined by resolution of the County Board.

4. Standards.

a. All telecommunication towers erected within Clay County shall be freestanding towers. No guyed telecommunication towers will be allowed in any district.

b. No Conditional Use Permit shall be issued for a tower facility within a subdivision intended for residential use.

c. No tower facility shall be erected within 1,000 feet of the ordinary high-water level of any public water unless there is a finding that there is no other practical alternative location outside of that distance.

d. All towers shall conform with the following minimum setback requirements:

i. All towers shall be situated so as to be located entirely within a single tract of land.

ii. All towers shall be set back from all buildings a distance at least equal to the height of the tower.

iii. All towers set back from all public roadways a distance at least equal to the height of the tower.

iv. All towers shall be setback a distance at least equal to the height of the tower from lot lines for a residential use. The minimum distance to the nearest dwelling shall be the height of the tower plus 100 feet.

e. The owner's name, telephone number and site ID number shall be posted on the gate of the perimeter fence. No other advertising or identification sign of any kind is permitted on the tower facility, except warning and equipment information required by the manufacturer or by federal, state, or local authorities.

f. Removal or alteration of vegetation is allowed as necessary for the construction and erection of the tower facility including accessory buildings and supports, but shall be held to a minimum. If erection of the tower or construction of tower facility will disturb any bluffs or steep slopes, the erosion control plan submitted with the application shall be complied with.

g. All towers erected or located within the County and all wiring therefore shall comply with the following requirements:

i. Towers and their antennas shall comply with all applicable provisions of the Ordinance.

ii. Towers and their antennas shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards of the

- Uniform Building Code and all other applicable reviewing agencies.
- iii. Towers and their antennas shall be designed to conform to accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.
- h. Metal towers shall be constructed of, or treated with, corrosive resistant material, shall be colored alternating red and white, and shall be marked in accordance with permit conditions.
- i. In order to reduce the number of towers needed within the County in the future, any proposed tower shall be designed structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for additional users. For towers greater than 200 feet in height, the structure shall be designed to accommodate at least four additional providers. For towers less than or equal to 200 feet in height, the structure shall be designed to accommodate at least two additional providers. This requirement may be modified if the applicant demonstrates that such a design is not feasible for economic, technical, or physical reasons. To allow for future rearrangement of antennas upon the tower, the tower shall be designed to accept antennas mounted at no less than 20-foot intervals. Government agencies shall have a right-of-first refusal for co-location on approved tower facilities. The tower owner shall file a written right-of-first refusal in favor of government agencies with the County Planning Department at the time of final approval of the tower facility. The right-of-first refusal shall, at a minimum, include the following provisions:
- i. A requirement for notification of the County Planning Department prior to any leasing of tower space.
- ii. That if the right to co-locate is exercised by a government agency, the lease rate shall be not greater than the market rate for comparable leases in the area.
- j. All towers shall be reasonably protected against unauthorized climbing. The bottom of the tower, measured from ground level to 12 feet above ground level, shall be designed in a manner to preclude unauthorized climbing and shall be enclosed by a six-foot-high chain link fence with anti-climb barbed wire protection and a locked gate.
- k. All towers and their antennas shall, to the greatest extent possible, utilize building materials, colors, textures, screening, and landscaping that effectively blend the tower facilities with the surrounding natural setting and built environment to the greatest extent possible. A landscaping plan for screening shall be submitted as part of the permit application process.
- l. Trees and large shrubs, native to the area, shall be planted so that the facility is screened from adjacent residential uses. Landscaping shall be maintained for the life of the tower facility.
- m. Towers and their antennas shall not be illuminated by artificial means, except for camouflage purposes (designed as a lighted tower for a parking lot or a ball field)

or if the illumination is specifically required by the Federal Aviation Administration or other authority. No nighttime strobes shall be allowed unless specifically required by the Federal Aviation Administration or other authority.

- n. No part of any antenna or tower, nor any lines, cable, equipment, wires, or braces, shall at any time extend across or over any part of the right-of-way, public street, highway, or sidewalk without approval of the County through the Conditional Use Permit process.
- o. All communication towers and their antennas shall be adequately insured for injury and property damage caused by collapse of the tower. A certificate of insurance shall be filed with the Planning Department prior to commencing operation of the facility.

5. Antennas Mounted on Roofs, Walls, and existing Towers. In addition to the submittal requirements required elsewhere in this Ordinance, an application for a building permit for antennas to be mounted on an existing structure shall be accompanied by the following information:

- a. A Site Plan showing the location of the proposed antennas on the structure and documenting that the request meets the requirements of this Ordinance;
- b. A building plan showing the construction of the antennas, the proposed method of attaching them to the existing structure, and documentation that the request meets the requirements of this Ordinance;
- c. Proof of the structure's or tower's ability to support the antennas; and
- d. An intermodulation study to ensure there will be no interference with existing tenants or public safety telecommunication providers.

6. Completion of Construction. Tower construction shall be completed within one (1) year from the date of the issuance of the Conditional Use Permit. Landscaping and screening must be installed within the first growing season immediately following construction.

7. Continued Use, Abandonment and Removal.

- a. Existing tower facilities may continue in use and Routine maintenance may be performed on them but they may not be altered, converted, modified, transformed, varied, added, to or changed in any way without complying with the terms of this Ordinance.
- b. The owner of an existing tower facility or any tower facility erected or constructed after the passage of this Ordinance shall file an annual statement of operation on or before January 10 of each year following construction of the tower. This statement of operation shall certify that the tower is operational and shall include a summary of the current antenna configuration on the tower. If the statement is not filed by January 10 of any year, the County shall notify the owner in writing of failure to file. Failure to file a statement within 60 days of receiving a notice of failure to file shall be prima facie evidence that the tower facility is no longer in use and may be considered abandoned.
- c. Tower facilities that are not in use for 365 consecutive days shall be deemed

abandoned and shall be removed by the owner within 180 days from the date of the abandonment. Removal includes removal of the complete tower facility, including accessory buildings and related above-ground infrastructure, and restoration of the site to preexisting vegetative cover. An extension to this time-frame may be granted by the Planning Commission upon receipt of a written request from the owner/operator of the facility.

d. In case of multiple operators sharing the use of a single tower, the tower shall not be deemed abandoned until all users cease operations for a period of 365 consecutive days.

e. If the tower facility is not removed in accordance with this subdivision, then the County, after 60 days' notice to the owner or operator of the tower facility, may take legal action. The County's remedies may include obtaining a court order allowing the County to remove the tower facility at the cost to the owner(s) or last operators.

8. **Maintenance.** All tower facilities shall be maintained in a safe and clean condition. The tower facility owner shall be responsible for maintaining a graffiti, debris, and litter-free site. The landscaping plan shall be maintained for the life of the tower facility. If the facility is not maintained, the County may bring legal action. The County's remedies may include, after 60 days' notice to the owner or operators, an order allowing the County to complete the maintenance at the cost ~~eighteen inches~~ (to the owner(s) or operators of the tower facility).

C. Solar Energy Systems.

1. **Purpose.** This subsection is established to promote the safe, effective use of solar energy systems (SES) less than 50 mega-watts, where such systems present few Land use conflicts with current or future development patterns. Solar energy systems 50 megawatts or greater are permitted by the Minnesota Public Utilities Commission. Solar energy is a renewable and non-polluting energy resource and its conversion to electricity or heat reduces dependence on nonrenewable resources and decreases greenhouse gas emissions. Clay County finds that it is in the public interest to encourage the use and development of renewable energy systems.

2. **Interpretation.** The regulations of this section shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. These regulations are not intended to interfere with, abrogate, or annul any other ordinance, regulations, statute, or other provision of law. Where these regulations impose restrictions different from any other ordinance, regulation, statute, or other provision of law, the provision that is more restrictive or that imposes higher standards shall control.

3. **Definitions.** The following definitions shall apply to this subsection:

a. **Agrivoltaics.** An SES co-located on the same parcel of land as agricultural production, including crop production, grazing, apiaries, or other agricultural products or services.

b. **Array (solar).** Any number of solar photovoltaic modules or panels connected

together to provide a single electrical output.

- c. **Building-integrated solar energy system.** An SES that is an integral part of a principal or accessory structure, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems include, but are not limited to, photovoltaic or hot water SES that are contained within roofing materials, windows, skylights, and awnings.
- d. **Grid-intertie solar energy system.** A photovoltaic solar energy system that is connected to an electric circuit served by an electric utility company.
- e. **Ground-mount.** An SES mounted on a rack or pole that rests on or is attached to the ground. Ground-Mounted SES may be a principal or accessory use.
- f. **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.
- g. **Photovoltaic system.** An SES that converts solar energy directly into electricity.
- h. **Power purchase agreement.** A legally enforceable agreement between two or more persons in which one or more of the signatories agrees to provide electrical power and one or more of the signatories agrees to purchase the power.
- i. **Public conservation lands.** Land owned in fee title by State or Federal agencies and managed specifically for grassland conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, State Scientific and Natural Areas, federal Wildlife Refuges, and Waterfowl Production Areas. For the purposes of this section, public conservation lands will also include lands owned in fee title by non-profit conservation organizations. Public conservation lands do not include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.
- j. **Roof-mount.** An SES mounted on a rack that is fastened to or ballasted on the roof of a structure. A roof-mounted SES is an accessory use.
- k. **Solar easement.** A right to access the solar resource, 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 Section 216C.06, Subdivision 17. Required contents of a solar easement are defined in Minnesota Statute Section 500.30.
- l. **Solar energy system (SES).** A device, array of devices, or structural design feature, the purpose of which is to provide for generation or storage of electricity from sunlight, or the collection, storage, and distribution of solar energy for space heating or cooling, or water heating.
- m. **Solar farm.** A solar array composed of multiple Ground-Mounted panels that

is the principal use for the lot(s) on which it is located with the purpose of generating electricity for wholesale or to multiple community members or businesses located off-site.

- n. **Substation.** Any electrical facility designed to convert electricity produced by an SES to a voltage for interconnection with transmission lines.

4. Standards for All Solar Energy Systems.

- a. **Permitting Districts.** All SES are allowed as provided in Table 8-1 (Use Table).
- b. **Building Permit.** A Solar Energy permit is required for all SES.
- c. **Compliance with Other Laws and Ordinances.** All SES shall comply with all Federal, State, and local laws and ordinances not in conflict with this Ordinance, including but not limited to the State of Minnesota Building Code and the State of Minnesota Electric Code. Solar thermal systems shall comply with the applicable Minnesota State Plumbing Code requirements and with HVAC-related requirements of the Energy Code.

5. Standards for Solar Farms

- a. **Height.** Structures in solar farms shall not exceed 15 feet in height when oriented at maximum tilt.
- b. **Setbacks.** All structures and solar panel installations shall conform with the following minimum setback requirements:
 - i. 100 feet from all Lot Lines.
 - ii. 200 feet from Dwellings on properties adjacent to the solar energy system.
- c. **Foundations.** The manufacturer's engineer or another qualified engineer shall certify that the foundation and design of the solar panels is within accepted professional standards, given local soil and climate conditions.
- d. **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 solar modules. Power and communication lines to electric substations or interconnections with buildings shall be buried underground. All electrical equipment and installations shall meet applicable codes. Exemptions may be granted in the following instances:
 - i. Where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines.
 - ii. When required by the utility company.
- e. **Stormwater Management and NPDES.** Solar farms are subject to Clay County's stormwater management and erosion control standards and NPDES permit requirements.
- f. **Screening.**
 - i. Solar farms shall be screened from dwellings or other Land uses as

- required by the Planning Commission, unless the affected property owner agrees otherwise.
- ii. Clay County may require screening where it determines there is a clear community interest in maintaining a viewshed.
 - iii. The type and location of required screening shall be subject to Planning Commission approval.
 - iv. Screening shall be maintained for the lifetime of the project. Dead or diseased vegetation shall be removed and promptly replaced.
- g. **Ground Cover Requirements.** The following provisions shall be met related to the clearing of existing vegetation and establishment of vegetated ground cover. Additional requirements may apply as required by the Board.
- i. Large-scale removal of mature trees on the site is discouraged. Restrictions on tree clearing, or mitigation for cleared trees may be required by the Board.
 - ii. The project site design shall include the installation and establishment of ground cover meeting the beneficial habitat standards consistent with Minnesota Statutes, section 216B.1642, or successor statutes and guidance as set by the Minnesota Board of Water and Soil Resources (BWSR).
 - iii. Beneficial habitat standards shall be maintained on the site for the duration of operation, until the site is decommissioned. The owner of the solar array shall complete BWSR's established project assessment form every three (3) years and allow the County SWCD to conduct site visits to verify compliance.
 - iv. Clay County may require payment of an inspection fee at the time of the initial permit application to support ongoing inspection of the beneficial habitat ground cover.
- h. **Wetland Review.** Solar farms must comply with the Wetland Conservation Act and will be reviewed by Clay County for compliance. A wetland delineation shall be required unless otherwise determined by the Planning Department.
- i. **Agricultural Protection.** Clay County may require mitigation for solar arrays placed on prime agricultural soils, as defined by the USDA. Mitigation may include:
- i. Demonstrating co-location of agricultural uses on the project site (agrivoltaics).
 - ii. Placing agricultural conservation easements on an equivalent area of prime agricultural land adjacent to or surrounding the project site.
 - iii. Locating the project in a Drinking Water Supply Management Area or wellhead protection area.
- j. **Aviation Protection.** For solar farms located within 500 of an airport or within the Landing Field Zone, the applicant must complete and provide the results of

the Solar Glare Hazard Analysis Tool (SGHAT), consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federally Obligated Airports, or most recent version adopted by the FAA.

k. **Financial Guarantee.** The applicant shall submit a financial guarantee in the form of a letter of credit, cash deposit, or bond in favor of the County equal to 125 percent of the costs to meet the beneficial habitat standard and screening requirements. The financial guarantee shall remain in effect until vegetation is sufficiently established.

l. **Abandonment and Decommissioning.** A decommissioning plan is required to ensure that facilities are properly removed after their useful life.

i. A solar farm shall be considered abandoned after 12 consecutive months without energy production, unless a plan is submitted to the Clay County Zoning Administrator outlining the steps and schedule for returning the solar farm to service.

ii. The decommissioning plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation, and assurances that financial resources will be available to fully decommission the site.

iii. Clay County may require the posting of a bond, letter of credit, or the establishment of an escrow account to ensure proper decommissioning.

m. **Application Submittals.** The following information shall be provided to the Planning Department prior to issuance of permits.

i. The number of panels to be installed.

ii. Manufacturer's specifications and recommended installation methods for all major equipment, including solar panels, mounting systems, and foundations.

iii. A description of the method of interconnection to a structure or substation.

iv. A planting plan meeting the requirements of 8-8-6(C)(5)(g), above, accompanied by a completed project planning assessment form provided by BWSR for review by BWSR or the Clay County Soil and Water Conservation District (SWCD).

v. A decommissioning plan meeting the requirements of 8-8-6(C)(5)(l), above.

vi. A Site Plan showing the following:

1. Existing lot lines and lot lines extending 100 feet from the exterior boundaries of the development site.

2. Existing public and private roads.

3. Contour lines at 2-foot intervals.

4. Waterways, watercourses, lakes, and public water wetlands.

5. Delineated wetlands.
 6. Flood Hazard District boundaries and 100-year flood elevation, if any portion of the project is within a Flood Hazard District.
 7. The Shoreland District boundary and Ordinary High-Water Level, if any portion of the project is within a Shoreland District.
 8. Mapped prime agricultural soils and farmland of statewide importance.
 9. Location and spacing of solar panels.
 10. Location of access roads.
 11. Planned location of underground or overhead electric lines connecting solar arrays to the building, substation, or other electric load.
 12. New electrical equipment other than at the existing structure or substation that is the connection point for the solar farm.
 13. Surface water drainage patterns.
 14. Proposed stormwater management features.
 15. Proposed erosion and sediment control measures.
 16. Sketch elevation of the site accurately depicting the proposed SES and its relationship to structures on adjacent lots, if any, and the location of required screening, if applicable.
6. **Standards for Accessory Solar Energy Systems.** Solar energy systems are a permitted accessory use in all zoning districts, subject to the following standards:
- a. **Accessory Structures.** Accessory SES, either roof-mounted or ground-mounted, shall not count toward accessory structure limitations.
 - b. **Legal Nonconforming Structures.** Building-mounted SES may be installed on legally established nonconforming structures as long as the SES does not increase the nonconformity.
 - c. **Height.** Ground-mounted SES shall not exceed 15 feet in height when oriented at maximum tilt.
 - d. **Setbacks.** Accessory solar energy systems must meet all structure setbacks for the applicable district, except as specified below.
 - i. **Roof-Mounted SES.** The collector surface and mounting devices for roof-mounted SES shall not extend beyond the exterior perimeter of the building on which the system is mounted or built. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side yard exposure.
 - ii. **Ground-Mounted SES.** Ground-mounted solar energy systems may not extend into the side yard, rear yard, or required roadway setback when

oriented at minimum design tilt, except as otherwise allowed for building mechanical systems (e.g., air conditioning unit) on small lots less than two (2) acres.

7. **Maximum Coverage.** Roof- or building-mounted SES, excluding building-integrated systems, shall not cover more than eighty 80 percent 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 districts shall not exceed one percent of the lot area.
8. **Approved Solar Components.** Electric solar system components must have an underwriters laboratory (UL) listing.
9. **Utility Notification.** No grid-interconnected photovoltaic system shall be installed until evidence has been given to the planning 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.
10. **Enforcement, Violations, Remedies, and Penalties.** This subsection 8-8-6(C) shall be enforced in accordance with the process and procedures established under 8-11-12 (Violation, Penalties, and Enforcement).

D. Wind Energy Conversion Systems.

- 2.1. **Purpose.** This subsection is established to regulate the installation and operation of wind energy conversion systems (WECS) within Clay County not otherwise subject to siting and oversight by the State of Minnesota under the Minnesota Power Plant Siting Act (Minnesota Statutes 216E.01 – 216E.18"). Wind energy is a renewable and non-polluting energy resource and its conversion to electricity reduces dependence on nonrenewable resources and decreases greenhouse gas emissions. Clay County finds that it is in the public interest to encourage the use and development of renewable energy systems. This section is intended to promote wind energy development in appropriate areas while mitigating adverse impacts to pre-existing land uses and facilities.
2. **Interpretation.** The regulations of this section shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. These regulations are not intended to interfere with, abrogate, or annul any other ordinance, regulation, statute, or other provision of law. Where these regulations impose restrictions different from any other ordinance, regulation, statute, or other provision of law, the provision that is more restrictive or that imposes higher standards shall control.
3. **Definitions.** The following definitions shall apply to this subsection:
 - a. **Aggregated project.** WECS projects that 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.
 - b. **Fall zone.** The area, defined as the furthest distance from the tower base, in which a tower will collapse in the event of a structural failure, as certified by

- a Professional Engineer. This area is no greater than the total height of the structure.
- c. **Feeder line.** Any power line that carries electrical power from one or more wind turbines or individual transformers associated with an individual wind turbine to the point of interconnection with the electric power grid. In the case of interconnection with a high voltage transmission system, the point of interconnection shall be the substation serving the WECS.
- d. **Meteorological tower.** For the purposes of this section, meteorological towers are those towers which are erected primarily to measure wind speed and directions and other data relevant to siting WECS. meteorological towers do not include towers and equipment used by airports, the Minnesota Department of Transportation, or other similar applications to monitor weather conditions.
- e. **Micro-WECS.** Micro-WECS are WECS of 5 kW nameplate generating capacity or less and mounted on a tower.
- f. **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.
- g. **Non-participating.** Any landowner except those on whose property all or a portion of a WECS is located pursuant to an agreement with the facility owner or operator.
- h. **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.
- i. **Project boundary.** The boundary 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.
- j. **Public conservation lands.** Land owned in fee title by State or Federal agencies and managed specifically for grassland conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, State Scientific and Natural Areas, federal Wildlife Refuges and Waterfowl Production Areas. For the purposes of this section, public conservation lands will also include lands owned in fee title by non-profit conservation organizations. Public conservation lands do not include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.
- k. **Rotor diameter (RD).** The diameter of the circle described by the moving rotor blades.
- l. **Shadow flicker.** Alternating changes in light intensity caused by the movement of wind turbine blades casting shadow on the ground or a nearby stationary object.

- m. **Substation.** Any electrical facility designed to convert electricity produced by wind turbines to a voltage for interconnection with transmission lines.
- n. **Tier I WECS.** Utility Scale WECS of equal to or greater than 200 kW in total nameplate capacity.
- o. **Tier II WECS.** A WECS of less than 200 kW in total nameplate capacity. These include systems that are primarily used for power on-site or those that are net-metered.
- p. **Tier III WECS.** Small WECS that are exclusively behind-the-meter turbines up to 40 kW in capacity, including micro-WECS.
- q. **Total height.** The highest point, above ground level, reached by a rotor tip or any other part of the WECS.
- r. **Total nameplate capacity.** The total of the maximum rated output of the electrical power production equipment for a WECS project.
- s. **Tower.** Towers include vertical structures that support the electrical generator, rotor blades, or meteorological equipment.
- t. **Tower height.** The total height of the WECS exclusive of the rotor blades.
- u. **Transmission line.** Electrical power lines that carry voltages of at least 69,000 volts (69 kV) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.
- v. **Wind energy conversion system (WECS).** 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, and substations. The energy may be used on-site or distributed into the electrical grid.
- w. **Wind easement.** A right to access the wind resource, whether or not stated in the form of a restriction, easement, covenant, or condition, in any deed, will, or other instrument executed by or on behalf of any owner of land or air space for the purpose of ensuring adequate exposure of a wind power system to the winds. Required contents of a wind easement are defined in Minnesota Statutes Section 500.30.
- x. **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.

4. Permitting Procedures.

- a. **Local Permits.** Zoning, Development Permits, Conditional Use Permits, and variances shall be applied for and reviewed under the procedures established in this Ordinance.
- b. **Aggregated Projects.** Aggregated projects may jointly submit a single application and be reviewed under a single proceeding, including notices, hearings, reviews, and approvals. Permits will be issued and recorded separately.

Joint applications will be assessed fees as one project.

c. **Notice to Public Utilities Commission.** 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.

5. **Established Wind Resource.** All WECS shall only be installed where there is an established wind resource. An established wind resource can be documented in the following ways:

- a. The planned Turbine site has a minimum 11 mph average wind speed at the designed hub height, as documented on the most recent version of Minnesota Department of Commerce statewide wind speed maps.
- b. The planned Turbine has a minimum height of 80 feet and the blade arc is 30 feet higher, on a vertical measurement, than all structures and trees within 300 feet of the tower.
- c. The applicant submits an analysis conducted by a certified wind energy installer or site assessor (North American Board of Certified Energy Professionals, NABCEP, or equivalent) that includes estimates of wind speed at Turbine height based on measured data, estimated annual production, and compliance with the Turbine manufacturer's design wind speed.

6. **Application Submittals for all WECS.** Applications for all WECS shall include the following:

- a. Letter from the State Agency responsible for size determination of a project, pursuant to Minnesota Statutes, Chapter 216F.011, as amended.
- b. The name(s) and address(es) of the project applicant(s).
- c. The name(s) and address(es) of the project owner(s).
- d. The legal description and address of the project.
- e. Documentation of land ownership or legal control of the property.
- f. Signed copy of the power purchase agreement (or application for interconnection) or documentation that the power will be utilized on-site.
- g. Description of the project, including the number, type, total nameplate capacity, tower height, rotor diameter, total height of all wind turbines, and means of interconnecting with the electrical grid.
- h. Engineer's certification of the tower structure and foundation. Manufacturer certification and specification sheets may, at the discretion of Clay County, be used in place of an engineering study for Tier II WECS.
- i. Site layout, including the location of the project boundary (purchased wind rights), lot lines, roads, wind turbines, electrical wires, interconnection points with the electrical grid, all related accessory structures, and areas to be used for staging during construction or maintenance. The site layout shall include distances and be

drawn to scale. Applications for Tier II WECS that are not connected to the electric grid shall identify the location of battery or other electricity storage device.

- j. The latitude and longitude of all WECS and meteorological towers.
- k. An elevation drawing accurately depicting the proposed WECS and the location of all buildings, structures, and any other WECS within 500 feet of each proposed Tier II WECS and within three rotor diameters of each Tier I WECS.
- l. Copies of all permits or documentation that indicate compliance with all other applicable State and Federal regulatory standards, including but not limited to:
 - i. Uniform Building Code;
 - ii. The National Electrical Code;
 - iii. Federal Aviation Administration (FAA); and
 - iv. Minnesota Pollution Control Agency (MPCA)/Environmental Protection Agency (EPA).

7. Additional Application Materials for Tier I WECS. The application for Tier I WECS shall also include:

- a. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other WECS within 10 rotor diameters of the proposed WECS.
- b. An elevation drawing accurately depicting the proposed WECS and the location of all buildings, structures, and any other WECS within three rotor diameters of each Tier I WECS.
- c. Location of lakes, wetlands, parks, and protected habitats or natural areas within the project boundary and within 1,320 feet of the proposed WECS.
- d. An acoustical analysis documenting the sound level within 1,000 feet of turbines. The analysis may include a discussion of local ambient environmental conditions (e.g., wind speeds/prevaling direction and existing background noise).
- e. Location of all communication towers within two (2) miles of the proposed WECS and documentation that the applicant has notified the operators of such towers of the proposed WECS.
- f. Identification of all Non-Participating residences within the project boundary.
- g. Clay County may require a shadow flicker study where a Tier I Turbine's shadow is cast on a Non-Participating property within the project boundary.
- h. Identification of existing WECS within a 1-mile radius of the project boundary and a description of potential impacts to wind resources on adjacent properties.
- i. A decommissioning plan that includes the provision of financial assurances at the discretion of Clay County. The applicant may be required to establish an escrow account to fund decommissioning costs.

- j. Location of all known public or private airports or heliports within five (5) miles of the proposed WECS.
- k. Identification of State, Federal, County and/or Township roads to be utilized for material transportation and construction activities. The applicant must provide written documentation that all haul routes have been approved by each of the road authorities with jurisdiction.
- l. Additional information stated in Minnesota Rules, part 7854.0500.

8. **Permitting Districts.** All WECS are allowed as provided in *Table 8-1 (Use Table)*.

9. **Setbacks.** All WECS shall adhere to the setbacks established in Table 8-3, below.

Table 8-3. Setback Requirements for Wind Energy Conversion Systems

<u>Setback Feature</u>	<u>Tier I Turbines</u>	<u>Tier II and Tier III Turbines (Micro-WECS)</u>	<u>Meteorological Tower</u>
<u>Lot lines¹</u>	<u>5 rotor diameters along the primary wind axis, 3 rotor diameters along the secondary wind axis</u>	<u>The fall zone + 10 feet or 1.1 times the total height</u>	<u>The fall zone + 10 feet or 1.1 times the total height</u>
<u>Dwellings², participating</u>	<u>750 feet</u>	<u>NA</u>	<u>The fall zone + 10 feet or 1.1 times the total height</u>
<u>Dwellings², non-participating</u>	<u>1,000 feet</u>	<u>Encompassed in property line setback.</u>	<u>The fall zone + 10 feet or 1.1 times the total height</u>
<u>Public right-of-way (roads, railroads, power lines, etc.)³</u>	<u>The fall zone + 10 feet or 1.1 times the total height</u>	<u>The fall zone + 10 feet or 1.1 times the total height</u>	<u>The fall zone + 10 feet or 1.1 times the total height</u>
<u>Public conservation lands</u>	<u>600 feet</u>	<u>1.1 times the total height.</u>	<u>600 feet</u>
<u>Wetlands, USFW Types III, IV, and V</u>	<u>600 feet</u>	<u>NA</u>	<u>600 feet</u>
<u>Other structures</u>	<u>To be considered.</u>	<u>To be considered.</u>	<u>To be considered.</u>
<u>Other Existing WECS⁴</u>	<u>To be considered.</u>	<u>To be considered.</u>	<u>To be considered.</u>
<u>Airports</u>	<u>No WECS shall be located so as to create an obstruction to navigable airspace of public and private airports in Clay County. setbacks or other limitations shall be determined in accordance with MnDOT Department of Aviation and Federal Aviation Administration (FAA) requirements.</u>		

<u>Setback Feature</u>	<u>Tier I Turbines</u>	<u>Tier II and Tier III Turbines (Micro-WECS)</u>	<u>Meteorological Tower</u>
<p><u>Notes:</u></p> <ol style="list-style-type: none"> 1. <u>Internal lot line setbacks may be waived for aggregated projects.</u> 2. <u>The setback for new dwellings shall be reciprocal in that no new dwelling shall be constructed within the required WECS setback.</u> 3. <u>The setback shall be measured from future rights-of-way if a planned change or expanded right-of-way is known.</u> 4. <u>Several factors should be considered to minimize or eliminate impact on existing WECS, including: the relative size of the existing and proposed WECS, the alignment of the WECS relative to the predominant winds, and the extent of wake interference impacts on existing WECS.</u> 			

10. Requirements and Standards.

- a. **Engineering Certification.** For all WECS, the manufacturer’s engineer or another qualified engineer shall certify that the Turbine, foundation, and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.
- b. **Rotor Safety.** All WECS shall be equipped with both a manual and automatic braking device capable of stopping the WECS operation in high winds (40 mph or greater).
- c. **Clearance.** Rotor blades or airfoils must maintain at least 30 feet of clearance between their lowest point and the ground.
- d. **Warnings.**
 - i. For all Tier I 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.
 - ii. For all guyed towers, visible and reflective objects, such as plastic sleeves, reflectors, or tape, shall be placed on the guy wire anchor points and along the outer and innermost guy wires up to a height of 8 feet above the ground.
 - iii. Consideration shall be given to painted aviation warnings on meteorological towers of less than 200 feet.
 - iv. All WECS and meteorological towers more than 100 feet in total height shall be required to have safety lighting.
- e. **Energy Storage.** Batteries or other energy storage devices shall be designed consistent with the Minnesota Electric Code and Minnesota Fire Code.

f. Avoidance of and Mitigation of Damages to Infrastructure.

i. Roads. applicants for Tier I WECS shall:

- 1. Identify all public roads to be used for the purpose of transporting WECS, substation parts, materials, and/or equipment for construction, operation, or maintenance of the WECS and obtain applicable weight and size permits from the impacted road authority(ies) prior to construction.**
- 2. Contact the road authority regarding road closures, load hauling permits, access/driveway permits, standard utility permits, and any other road activities that may require permits.**
- 3. Contact the Clay County Dispatch prior to any road closures for the re-routing of emergency vehicles during the closure.**
- 4. Contact the road authority to conduct an inspection of the road condition of the haul routes before initiating construction and after the WECS is completed.**
- 5. Provide a performance bond to be held by the County until the Township and/or County road authority(ies) have provided the County Auditor with a written release that all haul routes within their jurisdiction in Clay County have been returned to pre-construction condition.**

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

g. Height Standards.

- i. Tier II WECS shall have a total height of less than 200 feet.**
- ii. Tier III WECS shall have a total height of less than 101 feet.**

h. Turbine Certification. Tier II and Tier III WECS turbines shall be certified by the Small Wind Certification Council (SWCC) Microgeneration Certification Scheme (MC) or must be listed by the Interstate Turbine Advisory Council.

i. Tower Configuration. All Tier I WECS shall be installed with a tubular, monopole type tower.

j. Color and Finish. All wind turbines and towers that are part of a WECS shall be white, gray, or another non-obtrusive color. Blades may be black to facilitate deicing. Finishes shall be matte or non-reflective. Exceptions may be made for meteorological towers, where concerns exist relative to aerial spray applicators.

k. 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 nighttime illumination to reduce impacts on migrating birds. Red pulsating incandescent lights should be avoided. Exceptions may be made for

meteorological towers, where concerns exist relative to aerial spray applicators.

- l. **Signage.** All Signage on site shall comply with 8-9-6 (*Signs*). The manufacturer's or owner's company name and/or logo may be placed upon the nacelle (the compartment containing the electrical generator) of the WECS.
- m. **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.
- n. **Shadow Flicker.** Tier I WECS shall be designed to avoid unreasonable adverse shadow flicker effect at any occupied buildings located on a non-participating property. Clay County may require a shadow flicker study to evaluate the degree of exposure for non-participating buildings.
- o. **Feeder Lines.** All communication and feeder lines subject to Clay County authority equal to or less than 34.5 kV in capacity shall be buried where reasonably feasible.
- p. **Noise.** All WECS shall comply with Minnesota Rules 7030, governing noise, or shall not exceed 50 dB(A) when measured from the outside of the nearest dwelling, business, school, hospital, religious institution, or other inhabited non-participating structure. The audible noise from WECS may periodically exceed allowable noise levels during extreme wind events (winds above 30 mph).
- q. **Native Prairie Protection.** WECS shall not be placed in native prairie unless approved in a native prairie protection plan. If native prairie is present, the permittee shall, with the advice of the Minnesota Department of Natural Resources (DNR) and any others selected by the permittee, prepare a native prairie protection plan and submit it to the County and the DNR Commissioner 60 days prior to the start of construction.
- r. **Electrical Codes and Standards.** All WECS and accessory equipment and facilities shall comply with the National Electrical Code and other applicable standards.
- s. **Federal Aviation Administration.** All WECS shall comply with FAA standards and permits.
- t. **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 (2) miles of the proposed WECS location upon application to the County for permits. No WECS shall be constructed so as to interfere with County, State, or Federal microwave transmissions.

11. Discontinuation and Decommissioning.

- a. **Abandonment.** A WECS shall be considered abandoned after 12 consecutive months without energy production, unless a plan is developed and submitted to

the Clay County Zoning Administrator outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities shall be removed to four (4) feet below ground level within 90 days of the abandonment.

- b. Decommissioning Plan Required.** All Tier I and Tier II WECS shall have a decommissioning plan outlining the anticipated means and cost of removing WECS at the end of their serviceable life or upon abandonment. The cost estimates shall be made by a competent party, such as a Professional Engineer, a contractor capable of decommissioning, or a person with suitable expertise or experience with decommissioning. The plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the WECS and accessory facilities. The plan shall also address road maintenance during and after completion of the decommissioning. Clay County may, at its discretion, require a letter of credit or security bond with adequate funds to cover decommissioning costs.
- c. Repowering.** Repowering Tier I or Tier II WECS is allowed as an alternative to decommissioning at the end of the turbine's life. Repowering must not change any regulated component or design element of the Turbine, as originally approved.

12. Preconstruction Meeting. Applicants for Tier I WECS will conduct a meeting prior to construction commencement with a written notice sent to the following individuals a minimum of one week before the meeting:

- a. Township Chairman
- b. Clay County Engineer
- c. Clay County Sheriff
- d. Clay County Zoning Administrator
- e. Area Hydrologist, Minnesota Department of Natural Resources
- f. Minnesota Pollution Control Agency
- g. United States Farm Service Agency
- h. Clay County Soil & Water Conservation District
- i. US Fish & Wildlife Service
- j. Minnesota State Historical Society
- k. Two (2) Planning Commission Members (Chair and County Board Representative)
- l. Minnesota Department of Transportation (MnDOT)

13. Tier III Standards (Micro-WECS). The following standards shall apply to micro-WECS:

- a. Micro-WECS shall be allowed on lots larger than two (2) acres according to the district permitting standards in Table 8-1 (Use Table), provided the following

conditions are met:

- b. The applicable setback requirements in Table 4-3 are met.
- c. The tower height is less than 101 feet.
- d. The proposed system is certified to operate at noise levels lower than 50 dB(A) at a distance no greater than the distance from the base of the tower to the closest lot line.

14. Enforcement, Violations, Remedies, and Penalties. This section shall be enforced in accordance with the process and procedures established under 8-11-12 (Violations, Penalties, and Enforcement).

8-8-7. Accessory Uses

A. Accessory Structures and Garages.

1. Standards.

- a. Accessory structures with a floor area of 144 square feet or less with a permanent foundation and those with a floor area of 400 square feet or less without a permanent foundation that are not in shoreland or flood hazard areas do not require a building permit. All accessory structures must meet the required setbacks.
- b. Within the UE District (Tier 1 and Tier 2), any structure or garage that is accessory to a dwelling shall not exceed 1,200 square feet in floor area.

B. Accessory Dwelling Units.

1. General Standards. One (1) accessory dwelling unit shall be permitted on any conforming property with an existing single-family dwelling if development conforms to the following requirements:

- a. The accessory dwelling unit minimum size is 150 square feet.
- b. The accessory dwelling unit must be detached from the principal dwelling.
- c. The accessory dwelling unit must not surpass 75% of the principal dwelling floor area.
- d. The accessory dwelling unit must be placed on a permanent foundation or be a manufactured home.
- e. The accessory dwelling unit may only be placed in the side or rear yard.
- f. The accessory dwelling unit must have a sewage treatment system or holding tank that meets County Health requirements.
- g. Accessory dwelling units are prohibited in Flood Hazard Districts.
- h. Accessory dwelling units shall not count toward the density calculation for the applicable district and subdivision type.

2. Accessory Dwelling Units in the Urban Expansion District. Accessory dwelling units

are prohibited in Tier 1 of the UE District. In Tier 2 of the UE District, one accessory dwelling unit per lot is allowed with an Interim Use Permit.

C. Home Occupations.

1. **Administrative Home Occupations within Cluster Subdivisions.** Home occupations within dwellings in cluster subdivisions are a permitted use if all of the following provisions are met:
 - a. **Location.** The home occupation shall be located wholly within the dwelling and shall be incidental and subordinate to the residential use of the property.
 - b. **Maximum Size.** The area of the dwelling where the home occupation is located shall not exceed 25 percent of the main floor area, but not including basement or garage floor space.
 - c. **Structural Changes.** Structural changes shall not be made in the dwelling.
 - d. **Employees.** Employees shall be limited to person(s) residing in the dwelling, immediate family members, and two additional nonfamily employees.
 - e. **Sign.** One non-illuminated sign only of a maximum size of 4 square feet and attached to the dwelling is allowed to advertise the home occupation on site.
 - f. **Evidence of Occupation.** Evidence of the occupation such as outdoor storage shall not be visible from the road, except one sign that meets the provisions of item 5, immediately above.
 - g. **Traffic.** No traffic shall be generated by the home occupation beyond that which is reasonable and normal for the area in which it is located.
 - h. **Sewage Treatment System.** The sewage treatment system shall be adequate for the residential and home occupation use combined.
2. **Administrative Home Occupations Outside of Cluster Subdivisions.** Home occupations operated on residential lots not located in cluster subdivisions are a permitted use if all of the following provisions are met:
 - a. **Location.** Home occupations operated on residential lots not located in cluster subdivisions may be located within the dwelling or in a separate non-residential or farm building and shall be incidental and subordinate to the residential use of the property.
 - b. **Maximum Size.**
 - i. If the home occupation is located within the dwelling, the area of the dwelling where the home occupation is located shall not exceed 25 percent of the main floor area, exclusive of basement or garage. Structural additions may be made to a dwelling to accommodate a home occupation provided the alterations shall not exceed 25 percent the main floor of the area of the dwelling, exclusive of the basement or garage.
 - ii. Any accessory structure principally used for the home occupation shall not exceed 2,400 square feet in floor area.

- c. **Tax Classification.** Home occupations located in accessory structures may result in a split tax classification for the lot on which the structures are located. A commercial property tax rate may apply to home occupations in accessory structures.
- d. **Employees.** Employees shall be limited to person(s) residing in the dwelling, immediate family members, and two (2) additional non-family employees.
- e. **Sign.** One non-illuminated sign only of a maximum size of four (4) square feet is allowed to advertise the home occupation on site.
- f. **Evidence of Occupation.** Evidence of the occupation, such as outdoor storage, shall not be visible from the road or adjacent residential properties, except one sign that meets the provisions of subsection 5, immediately above.
- g. **Traffic.** No traffic shall be generated by the home occupation beyond that which is reasonable and normal for the area in which it is located.
- h. **Sewage Treatment System.** The sewage treatment system shall be adequate for the residential and home occupation use combined.
- i. **Parking.** One (1) additional parking space may be provided for the use of clients, deliveries, etc.

3. Interim Home Occupations. Interim home occupations not located in cluster subdivisions may exceed the provisions of 8-8-7(C)(2), immediately above, if they meet all of the following provisions:

- a. **Interim Use.** Home occupations allowed under this section shall be processed as an interim use meeting the requirements of this subsection 8-8-7(C)(3). A Site Plan shall be submitted with the Interim Use Permit application showing the location of all existing structures and describing the proposed use.
- b. **Review of Permit.** Interim home occupation uses shall be reviewed and inspected by the planning department at least once every five (5) years for compliance with conditions.
- c. **Location.** Interim home occupations shall be located on lots not located in cluster subdivisions. Interim home occupations may be located within the dwelling or in separate non-residential structures.
- d. **Maximum Size.**
 - i. **If the home occupation is located within the dwelling, the area of the dwelling where the home occupation is located shall not exceed 25 percent of the main floor area, exclusive of basement or garage floor space. Structural additions may be made to a dwelling to accommodate a home occupation provided the alterations shall not exceed 25 percent of the main floor of the area of the dwelling, exclusive of basement or garage floor area.**
 - ii. **A new accessory structure or structures principally used for the home occupation shall not exceed 20,000 square feet in total for all structures**

thus used. Proposed uses exceeding the size limits in this paragraph shall be located in the ASC, Agricultural Service Center District or other commercial district due to associated traffic, parking, employee, utility and signage needs.

- e. **Minimum Lot Size.** The minimum lot size for a lot on which an interim home occupation is permitted shall be two (2) acres.
- f. **Employees.** Employees shall be limited to person(s) residing in the dwelling, immediate family members, and up to five (5) additional non-family employees. The Planning Commission may allow additional employees if all performance standards are met.
- g. **Sign.** One non-illuminated sign only of a maximum size of 40 square feet is allowed to advertise the home occupation on site. Such sign shall meet the setbacks for structures for the district in which the home occupation is located.
- h. **Parking.** Additional parking spaces may be required by the Planning Commission for the use of clients, deliveries, etc.
- i. **Performance Standards.**
 - i. **Adverse Effects.** No equipment or processes used in the interim home occupation shall create noise, vibration, glare, fumes, odors or electrical interference that creates a nuisance or trespass to properties in the vicinity.
 - ii. **Traffic.** No traffic shall be generated by the home occupation, beyond that which is reasonable and normal for the area in which it is located.
 - iii. **Buffering.** Buffering may be required by the Planning Commission to minimize adverse effects on adjacent properties and roadways.
 - iv. **Utilities.** The home occupation shall not create usage exceeding the capacity of available on-site sewage treatment system and water supply.

D. In-Home Day Care.

- 1. **Licensing.** A day care allowed under this section shall meet the requirements of Minnesota Rules Chapter 9502 and the operator shall obtain the required license specified in Minnesota Rules Chapter 9502.
- 2. **Accessory to Dwelling.** The day care shall be located within a principal dwelling.
- 3. **Home Occupation.** An in-home day care shall be considered a home occupation and shall meet the standards for home occupations under 8-8-7(C), except that the size limits in dwellings shall not apply.

E. Farm Animals on Residential Lots.

- 1. **Permitted Districts.** Farm animals may be permitted as an accessory use in all districts on residential lots as defined in Minnesota Statute 273.13, or by the Clay County Assessor for classification as “Residential” (Class 1) for property taxation purposes.
- 2. **Definitions.** The following definitions shall apply to this section:

- a. **Animal Unit.** A multiplication factor set by the Minnesota Pollution Control Agency in Minnesota Rules, Chapter 7020, which is hereafter adopted by reference without change except as may be amended by the state.
 - b. **Farm Animal.** Those animals defined by Minnesota Rules, Chapter 7020, including cattle, swine, horses, sheep, turkeys, chickens, and ducks. Unlisted species may be permitted, with animal units calculated as provided in MR 7020.
 - c. **Farm Animals on Residential Lots.** The husbandry of domestic livestock or poultry and their products for home use or consumption including breeding, feeding, raising, and housing. Any sales are minor and incidental.
3. **Humane Care.** The keeping of farm animals on residential property shall meet the minimum standards of Minnesota Statutes 343.21.
 4. **Minimum Lot Area and Number of Farm Animals.**
 - a. A minimum lot area of two (2) acres is required for the keeping of one (1) animal unit, with additional animal units permitted at the rate of one (1) for every additional acre on the premises, or the fractional equivalent.
 - b. For lots with an area that is less than two (2) acres, the permitted animal unit shall be prorated, for example, 0.5 animal units for a 1-acre lot.
 5. **Manure Management.** Manure shall be managed properly to maintain sanitary conditions and control odor. Manure can be handled as follows:
 - a. Regularly placed in a plastic garbage bag, tightly closed, for periodic removal from the premises with normal garbage collection.
 - b. Incorporated immediately into the soil of a garden or composted for future use in gardens or flower beds.
 - c. Stored in a covered, well-drained storage area, located 50 feet or more from the property line, until manure can be managed as described above.
 6. **Setbacks.**
 - a. No farm animal, stable, barn, or shelter shall be located within 50 feet of any neighboring dwelling or structure.
 - b. Unroofed manure storage areas shall be at least 100 feet from a water-supply well.
 7. **Fencing.** Yard areas used to provide grazing or exercise for farm animals must be fully fenced to ensure animal and human safety and minimize the possibility of property damage.

F. Vehicle Storage.

1. **Definition.** Vehicle storage shall mean the presence of any vehicles outside of a structure, exclusive of salvage yards and vehicle and equipment sales uses, where such vehicles are not currently licensed and insured and are not in working order.
2. **Limitation on Storage.** No more than four (4) such vehicles shall be stored on a property. The storage of vehicles shall only include the storage of intact vehicles and

shall not include the storage of vehicle parts.

3. **Setbacks.** All stored vehicles shall be set back at least 25 feet from all lot lines.

G. Recreational Vehicles.

1. **Licensing.** Recreational vehicles shall have current licenses required for highway use.

2. **Location.** Recreational vehicles shall be located on one of the following sites:

a. **Individual lots of record.**

b. **Existing commercial recreational vehicle parks or campgrounds.**

3. **Performance Standards.**

a. **Limitation on Vehicles.** No more than two (2) recreational vehicles shall be permitted on individual lots of record.

b. **Highway Ready.** Recreational vehicles must be highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks and the recreational vehicle has no permanent structural type additions attached to it.

4. **Floodplain Requirements.** Recreational vehicles stored within a floodplain shall conform to all requirements of 8-3-11 (*Manufactured Homes and Recreational Vehicles*). There shall be no development on the lot or attachment to the recreational vehicle that hinders the removal of the recreational vehicle should flooding occur, regardless of whether the recreational vehicle is located in a Flood Hazard District.

H. Swimming Pools.

1. **Safety Standards.** All swimming pools are required to be fenced or have an alternative safety measure in place to restrict access to swimming areas. Fencing shall surround the swimming pool and shall be a minimum of four (4) feet in height. Additional fencing shall not be required for above-ground pools, provided access to all swimming areas is restricted by deck railings. Alternative safety measures may include locking covers, power covers, vegetation that prevents access, or any other design feature that restricts access to swimming areas from other properties.

I. Above-ground Storage of Petroleum Products.

1. **Reporting Requirements.** The MPCA must be notified of:

a. **All storage tanks with a capacity of 500 gallons or more that are accessory to Commercial uses; and**

b. **All storage tanks with a capacity of 1,100 gallons that are accessory to industrial uses or agricultural uses.**

J. Storage Yards.

1. **Accessory Use.** Storage yards, including the outdoor storage of equipment, machinery, or materials, shall only be permitted as an accessory use to allowed commercial or industrial uses, subject to the standards for this section.

2. **Screening.** Storage yards shall be fully screened from adjacent lots containing a dwelling

by a sight-obscuring fence to a minimum height of six (6) feet above grade or by other opaque screening material which fully blocks the view of the storage yard from adjacent residential uses.

3. **Maximum Size.** Storage yards shall occupy no more than 10 percent of the lot area up to 10,000 square feet unless otherwise determined by the Planning Commission.
4. **Setbacks.** Storage yards shall not be permitted within any required lot line setback.
5. **Limited Highway Commercial District and Resource Protection – Wellhead Protection District.** Equipment, machinery, or materials stored outdoors must be on an impervious surface.

K. Farm Stands; Seasonal Produce Sales.

1. **On-farm Produce.** Accessory farm stands shall sell only agricultural products produced on the farm where the stand is located.
2. **Maximum Size.** Accessory farm stands shall be limited to one (1) structure not exceeding 600 square feet.
3. **Parking.** Off-street parking shall be provided outside of any road right-of-way.

8-8-8. Temporary Uses Rear Yard

- A. **Permitting Standards.** Temporary uses shall be permitted with an Administrative Permit.
- B. **Requirements.** Temporary uses shall be of a truly temporary nature and shall conform to the following requirements:
 - a. Temporary uses shall not involve the erection of permanent buildings or structures, and;
 - b. Temporary uses shall be limited to a duration of six (6) months.

Chapter 8-9. Development Standards

Chapter Contents:

8-9-1. Density, Lot, and Setback Requirements

8-9-2. County Roadway Access Standards

8-9-3. Fences

8-9-4. Trees, Shelterbelts, and Windbreaks

8-9-5. Parking and Loading Areas

8-9-6. Signs

8-9-7. Site Plans

8-9-1. Density, Lot, and Setback Requirements

A. Purpose. This section regulates the density and intensity of development, the size and dimensions of lots, the placement of structures within a lot, and other aspects of development. Overlay zoning districts may require different density, lot and setback requirements. These regulations are primarily intended to reinforce Clay County’s rural and agricultural character; ensure that development has safe and reliable access to roads, infrastructure, and utilities; and minimize negative impacts between developments.

B. Requirements. All development shall conform to the density, lot, and setback requirements of Table 9-1, unless noted otherwise in 8-9-1(C) or 8-9-1(D), below.

A.C. Interpretation and Exceptions:

~~2. **Ornamentations:** Eaves, cornices, belt courses, and similar ornamentations may extend into~~ When the rear yard.

~~3.—**Platforms, Terraces, Steps, Open Porches:** Steps, terraces, platforms and porches having no roof covering and being not over forty two inches (42") in height may extend into a rear yard.~~

~~4.—**Garages:** Private garages, attached to a dwelling, may extend into the rear yard.~~

~~8.3.3 : **HIGHWAY SETBACKS:**~~

~~1. **Front Yard setbacks from roads in all zoning base district underlies one or more overlay districts, development shall meet conform with the following strictest setback requirements.**~~

~~A.—**Minimum Setbacks:** Development shall meet the following minimum front yard setbacks from listed road types. The listed road types are the functional classifications indicated in the County Transportation Report.~~

~~2. **Road Type**—Lot standards or setbacks may be modified for certain uses, as provided in Chapter 8 (Use Regulations), or for any use requiring a Conditional Use Permit or Interim Use Permit, at the discretion of the Planning Commission, but shall not be less than the minimum requirements of this section.~~

~~3. **When a yard setback differs from an applicable roadway setback, as defined under 8-9-1(D) or Table 9-1, below, the stricter setback shall prevail.**~~

~~**D. Additional Setback Requirements.**~~

~~1. **Roadways.** All structures shall conform to the following minimum roadway setbacks, as measured from the roadway centerline:~~

~~a. **Principal arterial:** 175 feet~~

~~b. **Minor arterial:** 125 feet~~

~~b.c. **Collector road:** 125 feet~~

~~Township road ————— 125 feet~~

~~Township road located Roads entirely within a platted subdivision or:~~

~~e.d. **Local Township (local) road:** 90 feet~~

~~e. **Local Township (local) road (Oakport Township) —):** 75 feet Local~~

~~e.f. **Township (local) road (UED) UE District):** 65 feet~~

~~B.—**Measured from Center Line:** The front yard setback requirements in subsection A., above, shall be measured from the nearest center line of the right of way.~~

~~2. **Cul-de-Sacs:** The front yard setback from cul-de-sacs shall be ~~twenty~~20 feet (20') and shall be, as measured from the edge of the road right-of-way.~~

~~C.—**Front Yard Setback Averaging:** Where structures existing on the effective date of this Ordinance on lots contiguous to the lot or parcel proposed for development, have a different setback from that required in subsection A., above, the front yard setback of a new structure may approximate the prevailing setback in the immediate vicinity. The zoning administrator shall determine the necessary front yard requirements in such cases.~~

~~8-3-4 : PIPELINE RIGHT-OF-WAY SETBACKS:~~

3. **Pipelines.** All structures shall be ~~setback~~set back a minimum of ~~sixty~~60 feet ~~(60')~~ from the edge of any public or private utility pipeline right-of-way.

~~8-3-5 : FENCES:~~

~~The following requirements shall apply to fences in all zoning districts.~~

- ~~A. **Residential Sight Obscuring Fence Prohibited:** No sight-obscuring fence over forty-eight inches (48") in height shall be erected within the front yard of any lot used for residential purposes.~~
- ~~B. **Maximum Height:** No fence shall exceed a height of six feet (6') without first obtaining a permit from the zoning administrator.~~
- ~~C. **Within Road Right of Way or Ditch Back Slope:** No fence shall be erected on a road right-of-way~~

~~or within the confines of the ditch back slope.~~

~~**D. Fences to Confine Animals on Residential Lots:** Fences erected to confine allowed animals on residential lots or parcels shall conform to the following requirements:~~

- ~~1. **Exception:** These provisions shall not apply to single residential parcels where they abut agricultural parcels.~~
- ~~2. **Required:** Fences conforming to the provisions of this subsection shall be required for the keeping of allowed horses and other allowed large animals, not including domesticated dogs and cats.~~
- ~~3. **Setback:** Fencing required under this subsection shall be located at least five feet (5') from any property line of an adjacent platted residential subdivision.~~

~~**E. Electric Fences:**~~

- ~~1. **Conformance with Codes Required:** Electrical fences shall conform in all respects to the state regulations for electrical wiring, and shall be energized only with underwriters' laboratories approved equipment.~~
- ~~2. **Warning Signs:** Electric fences in or adjacent to a platted area shall be marked by warning signs every fifty feet (50').~~

~~**8-3-6: TRAFFIC CONTROL AND ACCESS MANAGEMENT:**~~

~~The following access management provisions shall apply to development in all zoning districts.~~

- ~~4. **Intent and Fences.** See 8-9-3 (Fences).~~
- ~~5. **Trees, Shelterbelts, and Windbreaks.** See 8-9-4 (Trees Shelterbelts, and Windbreaks).~~
- ~~6. **Off-Street Parking and Loading Areas.** See 8-9-5 (Parking and Loading Areas).~~
- ~~7. **Signs.** See 8-9-6 (Signs).~~

Table 9-1. Density, Lot Standards, and Setback Requirements for Base Districts

<u>Base Zoning District</u>	<u>Development Type</u>	<u>Maximum Density</u>	<u>Yard Setbacks¹</u>			<u>Lot Standards</u>		
			<u>Front Yard Setback</u>	<u>Rear Yard Setback</u>	<u>Side Yard Setback</u>	<u>Minimum Lot Area</u>	<u>Minimum Lot Width</u>	<u>Maximum Lot Coverage</u>
<u>AG, Agricultural General District</u>	<u>Administrative Subdivision</u>	<u>1 dwelling unit per 40 acres (max 2 if one dwelling unit exists)</u>	<u>Same as roadway setback under 8-9-1(D)</u>	<u>25' (5' for accessory structures)</u>	<u>15' (10' for accessory structures)</u>	<u>1.5 acres</u>	<u>200'</u>	<u>No requirement</u>
	<u>Standard Subdivision</u>	<u>5 dwelling units per quarter-quarter; 8 dwelling units per quarter</u>	<u>Same as roadway setback under 8-9-1(D)</u>	<u>25' (5' for accessory structures)</u>	<u>15' (10' for accessory structures)</u>	<u>1.5 acres</u>	<u>200'</u>	<u>No requirement</u>
	<u>Cluster Subdivision</u>	<u>8 dwelling units per quarter</u>	<u>Same as roadway setback under 8-9-1(D)</u>	<u>25' (5' for accessory structures)</u>	<u>15' (10' for accessory structures)</u>	<u>1.5 acres</u>	<u>100'</u>	<u>No requirement</u>
	<u>Agricultural or Natural Resource Subdivision</u>	<u>8 dwelling units per quarter with optional density bonus²</u>	<u>Same as roadway setback under 8-9-1(D)</u>	<u>25' (5' for accessory structures)</u>	<u>15' (10' for accessory structures)</u>	<u>1 acre</u>	<u>100'</u>	<u>No requirement</u>
<u>ASC, Agricultural Service Center District</u>	<u>Residential uses</u>	<u>No requirement</u>	<u>90' from road centerline</u>	<u>25' (5' for accessory structures)</u>	<u>15' (10' for accessory structures)</u>	<u>1 acre</u>	<u>200'</u>	<u>No requirement</u>
	<u>Commercial and industrial uses</u>	<u>No requirement</u>	<u>90' from road centerline</u>	<u>25' (5' for accessory structures)</u>	<u>15' (10' for accessory structures)</u>	<u>1 acre</u>	<u>200'</u>	<u>30%</u>
<u>HC, Highway Commercial District</u>	<u>All</u>	<u>No requirement</u>	<u>Same as roadway setback under 8-9-1(D)</u>	<u>40'</u>	<u>30'</u>	<u>1 acre</u>	<u>100'</u>	<u>30%</u>
<u>LHC, Limited Highway Commercial District</u>	<u>All</u>	<u>No requirement</u>	<u>Same as roadway setback under 8-9-1(D)</u>	<u>40'</u>	<u>30'</u>	<u>1 acre</u>	<u>100'</u>	<u>30%</u>

Notes:

1. All setback distances are measured from the lot line. Development must also conform to minimum roadway setbacks and pipeline setbacks as provided by this section.
2. Agricultural and natural resource subdivisions must conserve at least 50 percent of the tract for agricultural use or natural resources conservation. Development may utilize a density bonus of 1 developable lot for each additional two (2) acres permanently reserved for agricultural use or natural resources protection beyond the minimum requirement of 50 percent. See 8-2-1(K) for additional standards.

8-9-2. County Roadway Access Standards

- A. **Purpose.** ~~The County recognizes~~ The primary function of a highway is to accommodate traffic mobility with a secondary and subservient function to provide access to abutting property. The County, through its police powers as established under Minnesota law, can utilize access ~~control/~~management techniques to promote public safety while preserving the functional integrity of Highways. The intent of this section is to permit reasonable, convenient, and suitable access to property ~~(ies)~~ as contemplated within state statutes and applicable case law; ~~under the context of access control standards and access management policies established to:~~ ~~(a) preserve highway capacity, (b) minimize fulfill the frequency and severity of vehicular conflicts, (c) maintain effective and reliable mobility of the traveling public, (d) reduce or eliminate opportunities for traffic delays and congestion, and (e) protect the substantial public investment in the existing transportation system and reduce the need for expensive remedial measures.~~ following objectives:
1. Preserve highway capacity;
 2. Minimize the frequency and severity of vehicular conflicts;
 3. Maintain effective and reliable mobility of the traveling public;
 4. Reduce or eliminate opportunities for traffic delays and congestion; and
 5. Protect the substantial public investment in the existing transportation system by reducing the need for expensive remedial measures.
- B. **Statutory Authorization.** Pursuant to Minnesota ~~State Statute §~~Annotated Statutes Sections 160.02, §160.08, and §160.18, ~~or successor statutes,~~ the County Board, under the auspices of the statutorily defined road authority ~~has the ability to , may~~ designate, locate, improve, and maintain controlled-access Highways for public use as ~~deemed it deems~~ appropriate. Further, the road authority ~~has the ability to may~~ design, regulate, restrict, or prohibit access pursuant to terms and conditions as specified by the County. ~~As noted in §160.02, this authorization~~ This authority applies to all Highways under the County's purview; inclusive of all County highways, ~~county state-aid highways~~all County State-Aid Highways, and Township roads ~~(as may be applicable).~~
- C. **Scope, Interpretation and Right to Access.** Pursuant to Minnesota case law, ~~property owners have a right to reasonably convenient and suitable access to a public street or highway that abuts their property. However, properties are not entitled to direct access to a County road or highway, access, as consideration shall be given to access via connections to local streets or via shared access with an adjacent lot that has conforming access.~~
- D. **Applicability, Exceptions, and Exemptions.** The ~~provisions~~requirements of this section shall apply as follows:
1. The requirements of this section shall apply to ~~any development activity per this Code, which shall include the location and design of public or private~~all roadways and access, in any form (ie. new, changed, modified, altered, re-constructed, etc.), to the county road system. ~~Access legally establishes as of the effective date of the implementing ordinance may remain until an activity is contemplated as set forth in this sub-section. In addition, access under Clay County's jurisdiction.~~
 - 1-2. Any access legally established as of the effective date of ~~the implementing ordinance but~~this Ordinance that does not ~~in conformance~~conform with the standards ~~in this~~

~~ordinance are considered non-conforming and of this section~~ may continue in
existence subject to the regulations of 8-9-2(M).

~~the regulations as set forth in sub-section (G)(10) of this section.~~

~~1.—As set forth in 8.5F.3, For any plat Access Plan or Access Permit request that is filed for development within the a city or within a UED, Urban Expansion District (UED) which lies within any, the city's adopted growth area plan shall conform to the growth area plan and all access spacing requirements, if applicable policies and ordinances of the city; unless the County ordinance is determined (by the County) to be more restrictive. In addition, any other development activity within the UED shall comply with the provisions as established in this Section.~~

~~2.3. For municipalities and/or townships with adopted land development codes, zoning ordinances or access management policies; this section of the County Development Code, shall supersede and apply to any development activity contemplated per this Code which requires an Access Permit or Access Plan relative to the county road system; unless the municipality or township standard or regulation is more restrictive as interpreted by the County, or as otherwise specified in this Code. If the municipality or township standard is applied in Access Permit those of Clay County. In this case, a County Access Permit is still required under the provisions of this Code, with issuance and must be obtained prior and to or concurrent with any city/township development application; required by said city.~~

~~3.4. Pursuant to Ordinance No. 200-3 any development activity Any proposed access modification to the County roadway system contemplated under the Barnesville Area Joint Powers Agreement and Zoning Ordinance is not subject to the provisions of this section. However, similar to 8.3.6(C)(2) an Access Permit is still required for any Access Connection onto the county road system shall require a County Access Permit to ensure coordination and communication with the County Highway Department; but is exempt from all other provisions of this section. The Access Permit shall must be issued obtained prior and to or concurrent with the Joint Powers Development application process.~~

~~C.E. Violations: Violation and Penalty. Any access Connection to a County roadway that is constructed or established after the effective date of the implementing ordinance (December 27th, 2012) reconstructed without an approved Access Permit or in violation of an approved Access Permit after the effective date of this Ordinance shall be considered illegal. The County Highway Engineer may order discontinuance of its use and may order its the removal. The property owner or closure of an illegal access. Any person or entity responsible for installing an illegal access shall be responsible for all costs, including any borne by Clay County, associated with, (a) access closure of the access; (b) or removal of the access; and/or (c) restoration of the ditch or boulevard area to its previous condition. Any person or entity who fails to comply with an order to close or remove an illegal access shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to penalty pursuant to 8-11-12 (Violation, Penalties, and Enforcement).~~

~~2.—Any person who fails to comply with an order to close and/or remove an illegal Access Connection shall be guilty of a misdemeanor and, upon conviction thereof, may be punished to the maximum extent allowed by law. For each day the violation continues, a separate offense shall be declared. See County Code §1.4.2 for additional information on violations and general penalties.~~

~~B. **Access Permit Required.** A permit issued by the County Highway Department is required for any Access Connection within a county right-of-way, as further defined in 8-3-6(C) above.~~

~~1. **Reconstruction.** Reconstruction of an existing conforming access shall not require payment of any permit fee; however, an updated permit shall be issued.~~

~~F. **Application for an Access Permit.** Applications for an Access Permit must be made in writing on a form provided by the Clay County Highway Department. **Access Permit.** An Access Permit is required to construct, reconstruct, or modify any roadway intersection or driveway access on the County roadway system. All such activities are subject to the following standards:~~

- ~~1. The County Engineer is authorized to approve, conditionally approve, or deny any Access Permit request. The County Engineer reserves the right to forward any Access Permit or Access Plan to the Highway Tracking Committee for discussion, direction, or interpretations relative to this Ordinance, although the County Engineer shall still retain final decision-making authority. Any applicant aggrieved by the County Engineer's decision may appeal the decision to the Board of Adjustment as provided under 8-11-2(B).~~
- ~~2. All Access Permits must be obtained prior to or concurrent with the granting of approval for any subdivision (8-10-10 and 8-10-11), Conditional Use Permit (8-11-7), or Development Permit (8-11-5) as may be required.~~
- ~~3. All Access Permit applications must be submitted to the Clay County Highway Department on the form provided, along with the following items:
 - ~~a. The application fee, as established by the Clay County Board of Commissioners, shall accompany the Access Permit application. Where a proposed Access Connection has been approved as part of:~~
 - ~~a.b. An Access Plan, no permit fee shall apply as described under 8-9-2(G), below.~~~~
- ~~4. **Review of** When the application fee has been paid for one Access Permit, the fee shall be waived for any additional Access Permits. An initial determination shall be made on whether that are requested under the same Access Plan. In addition, the application fee shall be waived for any reconstruction of an existing legal access.~~
- ~~5. The County Engineer shall notify the applicant that the application is complete or identify any outstanding items required for completeness within three (3) working days of upon receipt of the completed application form and shall render a final decision on the Access Permit shall be rendered within thirty (30) calendar days following acceptance of a complete application; and upon determination of consistency with provisions set forth in this Code. At the discretion of the County Highway Engineer, conditions of approval may be attached to the Access Permit. If the application is forwarded to the Highway Tracking Committee, the review period may be extended by up to 30 additional days.~~

~~2.6.~~ Receipt of an Access Permit from the Clay County Highway Department ~~under this ordinance~~ does not preclude the need to obtain any other ~~permits that may be necessary (ie. watershed district, township, municipality, etc.)~~ prior to access construction or implementation permit or development approval required by Clay County or any federal, state, or local government agency to initiate construction.

7. Clay County may require a letter of credit, certified check, or bond, in an amount to be determined by the County Engineer, to ensure compliance with an approved Access Permit or Access Plan. Submittal of

~~D.G.~~ Access Plan. An Access Plan is required with all Access Permit applications. In addition, any application for a subdivision (§8.7), conditional use permit (§8.4.7) or development permit (§8.4.8) as follows: (a) with frontage on a county road; (b) any request for an Access Connection onto a county highway or public right-of-way; applicant seeking to construct or (c) any request for modify an access to a roadway under the jurisdiction of owned by another governmental unit that is within one-eighth (1/8) mile of an intersection with an intersecting County roadway. must submit an Access Plan to the Clay County Highway Department. The Access Plan shall ~~be processed concurrently with the application with a final recommendation submitted by the County Highway Engineer at the appropriate time for consideration by the governing Board(s) during the review process. The recommendation shall indicate whether the Access Plan is consistent with all provisions and criteria of the County Code or whether modifications or conditions are necessary to establish~~ compliance consist of the following:

~~2. Access Permit and Access Plan Submittal Requirements.~~ An application for an Access Permit or submittal of an Access Plan shall A Site Plan, drawn to scale, to include the following, at minimum:

1. ~~General site plan showing the surrounding area, inclusive of the following:~~

~~a. Dimensions of the property (and abutting properties if applicable) and The location of public and type of proposed access changes.~~

~~a.b. All lot(s) and rights-of-way. At the County Highway that will be impacted by access construction, modification, or closure, with labeled dimensions. At the County Engineer's discretion, this may require detailed the submission of survey accurate data or other title/property research that information, which shall be the applicant's responsibility to procure.~~

~~(i) The type and intensity of existing and/or any proposed land uses; and proposed lot boundaries for any subdivision of property;~~

~~(ii) The location of existing and/or proposed streets, driveways, parking areas, field access points, etc.;~~

~~b.c.~~ The location of, and distance to, all existing public or private access serving

~~adjacent parcels; accesses within one-eighth (1/8) mile of the proposed access changes, including any streets, driveways, parking areas, or field access points; and~~

~~d. Proposed lot boundaries for any subdivision of property.~~

~~2. The type and intensity of existing and proposed uses; for example, the number of dwelling units planned for development.~~

~~3. A Traffic Impact Study, if requested by the County Engineer;~~

~~2.4. A development phasing plan if the property is planned to be developed in phases, if applicable;~~

~~(iii) A traffic impact study, if requested and determined necessary by the County Highway Engineer; and~~

~~3.5. A signal justification report or warrant analysis, if a traffic signal is proposed or anticipated as a need as part of any application;~~

~~6. Access design specifications, such as turning radii, driveway width, culvert sizing, or other specifications that may be applicable or requested by the County Engineer; and~~

~~4.7. Proof of the appropriate watershed permit for culvert sizing.~~

~~E.H. Approval Guidelines and Criteria. In reviewing an Access Permit request and/or an Access Plan the County Highway **Review Standards.** The County Engineer shall consider the following ~~to determine whether the permit shall be approved;~~ standards in granting Access Permits:~~

1. ~~Consistency~~The proposed development is consistent with all provisions ~~and guidelines pursuant to Section 8.3.6 of this Code section~~ and any other applicable requirements as set forth within the County Code;
2. ~~Provides~~ Adequate capacity ~~to accommodate the conveyance of~~ is provided to convey drainage within the public right-of-way;
3. Adequate ~~intersection~~ sight distance is provided; at intersections; and

~~b. Adequate space is provided between access points to accommodate turn lanes under present or future conditions;~~

~~e. Design details such as turning radii, driveway slope, angle of entry, width~~Access spacing and other specifics are consistent with good engineering design practice.

~~C. Construction.~~ All work completed on an Access Connection shall be consistent with conforms to the approved Access Permit and/or Access Plan. Completed work shall be inspected and approved by the County Highway Engineer, or a designated representative, in order to finalize the Access Connection and permit. Requests for final inspections shall be submitted to the County Highway Department in writing.

~~1. Construction Responsibilities.~~ The applicant shall be responsible for all costs associated with the construction of an Access Connection, including any improvements required to meet any conditions of approval. Improvements may include, but not limited to, the construction of the driveway or intersection, turn lanes, raised medians, traffic control devices (ie. signs, pavement markings, signals, etc.) or other access control measures, connections to other roadways, drainage structures, grading/site restoration and the acquisition or dedication of necessary right of way (as identified and determined by the County).

~~2. Duration of Permit.~~ If the Access Connection has not been constructed within two (2) years after approval of the Access Permit or Access Plan, the permit shall become null and void unless a request for a time extension to complete the Access Connection has been granted by the County.

~~3. Performance Guarantee.~~ An (irrevocable) letter of credit, certified check or bond may be required in an amount to be determined by the County Highway Engineer to insure compliance with the requirements and conditions of an Access Permit and/or Access Plan.

4. **Standards for Access Connection.** The following sub-standards of this section defines the key principles and provisions that shall be used to guide decisions relative to Access Connection permitting.:

~~4. **Access.** As contemplated in MN Statute §160.08 and established under Minnesota case law, [*Hendrickson v. State*, 267 Minn. 436, 446, 127 N.W.2d 165, 173 (1964)] property owners have a right of “reasonably convenient and suitable access” to a public street or highway that abuts their property. Property(ies) are not entitled by right to approval of an Access Connection onto a County roadway or highway as consideration shall be given to access via connections to local streets or via joint or shared access with a parcel that has conforming access.~~

~~5. **Minimum Access Spacing (Roadways, Driveways and Intersections) and Access Connection Requirements.** The following table defines All access modifications on County roadways shall conform to the minimum spacing requirements for full and limited Access Connections. A *full* Access Connection is considered as an access that allows allthrough~~

~~and turning movements whereas a *limited* Access Connection does not allow all movements. Generally, although not all inclusive, *limited* Access will include right-in/right-out configurations and/or the elimination of some or all left turn movements.~~

~~F.I. In addition, the table outlines minimum access spacing requirements for driveways (see Driveway definition per §8.8.2) of Table 9-2 (Minimum spacing between an intersection and any Access Connection shall be 500 feet; however, the county Engineer may issue a permit, at his/her discretion, which allows spacing less than the 500 feet if requested and supported by the Access Spacing Requirements), as measured from the centerline of each access, unless these requirements are superseded by city and deemed appropriate based on existing and anticipated future conditions policy or the applicant is granted a deviation or exception as provided by 8-9-2(J), below.~~

Table 9-2. Minimum Access Spacing Requirements

Road Classification	<u>Intersection Spacing Between Roadways</u>		<u>Driveway Spacing Between Driveways</u>		
	Full Access	Limited Access	Posted Speed Limit		
			<u><< 35 mph</u>	<u>35-45 mph</u>	<u>> 45 MPH</u> 45mph
Major <u>Principal Arterial*</u>	n/a <u>NA</u>	n/a <u>NA</u>	Not Permitted <u>*N</u> <u>A</u>	Not Permitted <u>*N</u> <u>A</u>	Not Permitted <u>*N</u> <u>A</u>
<u>Minor Arterial*</u>	1320 <u>1,320</u> <u>feet</u>	<u>660 feet</u>	<u>330 feet</u>	<u>660 feet</u>	<u>660 feet</u>
<u>Collector</u>	<u>660 feet</u>	<u>330 feet</u>	<u>160 feet</u>	<u>330 feet</u>	<u>330 feet</u>
<u>Township (Local) Road</u>	<u>330 feet</u>	<u>120 feet</u>	<u>50 feet</u>	<u>160 feet</u>	160 <u>NA</u>

*Note: All principal arterials and most minor arterials are State facilities and are thereby subject to regulations and guidelines as set forth and administered by the Minnesota Department of Transportation.

~~*To note, pursuant to Figure 2-18 (County Comprehensive Plan—Clay County Existing Functional Classification) all *Major Arterials* and a majority of the *Minor Arterials* are state facilities and are thereby subject to regulations and guidelines as set forth and administered by the Minnesota Department of Transportation.~~

J. Access Spacing Deviations and Exceptions.

1. Deviations. The County Engineer may authorize a deviation of up to 15 percent or 200 feet from the minimum spacing requirement, whichever is less, if the property cannot reasonably meet the minimum access spacing requirements and the deviation

~~will not create any safety concerns.~~ For sites or ~~property(ies)properties~~ with inadequate roadway or ~~ROWright-of-way~~ frontage to meet the minimum ~~access~~ spacing requirements, the County ~~Highway~~ Engineer shall work with the applicant to determine the most appropriate access point~~(s)~~, which may require, ~~consistent with §8.3.6(G)(1),~~ access via connections to local streets or developed service roads or via ~~joint/shared~~ access with a ~~pareellot~~ that has conforming access.

2. ~~Temporary Access.~~ The County ~~Highway~~ Engineer may ~~grantapprove~~ a temporary access ~~approval for a permanent use~~ that does not ~~meetingmeet~~ the ~~minimum access~~ spacing requirements, ~~on an interim basis,~~ if ~~anthe~~ Access Plan ~~demonstratingdemonstrates~~ how ~~access~~ spacing requirements will ultimately be met and ~~appropriate assurances in the form of applicant submits~~ a ~~recordable and enforceablerecorded~~ easement or access agreement ~~insuring future provision of a conforming access are submitted.~~ to ensure the final access configuration conforms to the requirements of this section.
3. ~~Field Access.~~ The County ~~Engineer~~ may permit field access that is inconsistent with the ~~access spacing regulations~~ if the field has no other reasonable access. Typically, one (1) field access is permitted per lot but an additional field access may be granted if ~~topographical conditions or agricultural activities necessitate.~~ An Access Permit issued for a field access shall specify any conditions attached to the permit, including that the field access shall only be used for specific purposes.

~~K. Additional Design Standards and Considerations.~~ In addition to the minimum access spacing standards, the following standards shall apply to access design on County roadways.

- ~~3-1. Access Alignment with Existing Access.~~ On undivided highways, ~~Aeess~~ ~~Connectionsaccesses~~ on opposing sides of the roadway should be aligned with one another or offset an adequate distance to minimize or eliminate overlapping left turns and other issues that may result in roadway operational problems.
2. ~~Driveway Width.~~ Points of ingress to and egress from County roads shall be limited to a width of not more than 35 feet.
6. ~~Auxiliary Lanes.~~ The County ~~Highway~~ Engineer may require auxiliary lanes (~~ie. left or right turn bays, bypass lane, acceleration/deceleration lanes, etc.)~~ where deemed necessary ~~due to on the major roadway if warranted by~~ traffic volumes or other operational ~~or safety~~ issues.
- 4.3. ~~Access Adjacent to Turn Lanes or Bypass Lanes.~~ ~~Access Connections shall~~ ~~access~~ shall not be approved within any auxiliary lane; ~~inclusive of turn lanes, acceleration lanes, deceleration lanes or taper sections.~~ The County Highway Engineer shall have the authority to waive this requirement if ~~unless there is~~ no other reasonable or ~~suitable access is available.~~ alternative.
7. ~~Restricted Turn Movements and Limited Access.~~ In certain circumstances, ~~the~~ County Engineer may require turning or through movements ~~mayto~~ be restricted ~~in~~ which only ~~limited access is permitted.~~ Outlined below are scenarios which typically warrant consideration to ~~limited access:~~

- ~~a. Where numerous low volume access points exist and the spacing between them does not permit adequate left turn tapers and storage bays for inbound vehicles without blocking adjacent access points;~~
- ~~b. At access points close to an intersection where left turn bays would conflict with inbound or outbound left turn movements for an existing or proposed access;~~
- ~~c. Where other conditions, such as sight distance, prevent left turn movements from being made safely;~~
- ~~d. Where a particular parcel is provided with more than one (1) access point and volumes do not justify left turn access into and/or from both access points;~~
- ~~e. When a parcel has access provided by both a signalized access point and an un-signalized access point, left turns may be prohibited at the un-signalized intersection;~~
- ~~f. When the median opening for left turn movements would be too close to another median opening;~~
- ~~g. When other capacity, delay, operational or safety conditions make specific left turns detrimental to the health, safety and welfare of the public.~~

~~5.4. reduce vehicular conflicts.~~ Turning movement restrictions shall be enforced with barrier median channelization or driveway channelization, as determined ~~appropriate~~ by the County ~~Highway~~ Engineer.

~~6.5. Indirect Access.~~ To reduce the number of new access points on the County roadway system, direct access to a County roadway may be prohibited when a if the property abutting a county roadway has frontage on one or more streets and reasonable access can reasonably be accommodated on these facilities via indirect access or shared access. The County Engineer shall determine, on a site-specific basis, ~~whether access will which lot or lots shall~~ be permitted direct access to the County roadway. Direct access to a County roadway may be prohibited if:

~~a. When~~ The property abuts multiple roads and access can be reasonably accommodated via an alternative road.

~~a.b.~~ The property abutting a County roadway is to be subdivided or developed into more than two lots. Direct access to a County roadway shall not be used in lieu of an adequate internal traffic circulation system ~~which itself that~~ provides access to the County roadway or another ~~facility.~~ The County Engineer shall determine, on a site-specific basis, which lots abutting the County public roadway may have direct access (if any) and which lots shall have indirect access.

~~8.—**Field Access.** Field access or openings that are inconsistent with spacing standards may be permitted by the county Engineer if the field has no other reasonable access. Typically, one (1) field opening to a property under the same ownership or controlling interest may be granted and additional openings shall only be granted if topographical or agricultural activities necessitate. An Access Permit issued for a field opening shall specifically cite any conditions attached to the permit, inclusive of the condition that the opening shall only be granted and valid for specific use, intensity and access purposes. See Field Access/Opening definition within §8.8.2 for additional~~

~~information.~~

~~7.6. **Discontinuance of Existing Access Connections, Closure.** When a development activity is pursued which that requires an Access Permit and results would result in the relocation of an existing access Connection; any existing access Connection(s) not approved for continuance shall be removed and the land shall be graded and landscaped to conform with adjacent land. In addition, if curb/gutter is present, these improvements shall be installed by the applicant per the standards of the County Highway Engineer.~~

~~8.7. **Culverts.** Pursuant to MN Statute §160.18, and as acknowledged by Clay County Policy statement adopted by the County Board on November 20th, 2012 (as may be amended from time to time) the County may provide the necessary culvert(s) for access onto a Highway for an abutting landowner; upon issuance of an Access Permit consistent with the provisions of this ordinance section.~~

~~L. **Dedications and Plats.** Any subdivision plat approved and filed after the effective date of this implementing ordinance Access Construction. The following standards shall include dedication language granting apply to all access control rights and rights to any construction:~~

~~9.1. All access opening(s) to Clay County; as determined appropriate and applicable construction activities shall be consistent with the approved Access Plan. Completed work shall be inspected and approved by the County Highway Engineer. Requests for final inspections shall be submitted to the County Highway Department in writing.~~

~~2. The applicant shall be responsible for all costs associated with the construction of an access, including any improvements required to meet any conditions of approval. Such improvements may include but are limited to the construction of the driveway or intersection, turn lanes, raised medians, traffic control devices, drainage structures, grading or site restoration, and the acquisition or dedication of right-of-way.~~

~~3. If the access has not been constructed within two (2) years after approval of the Access Permit, the permit shall become null and void unless the County grants a time extension to complete access construction.~~

~~K.M. **Nonconforming Access.** The purpose of this section subsection is to recognize the existence of Access Connections which accesses that were lawfully established prior to the effective date of this Ordinance but that do not meet the requirements of this Ordinance and; to discourage the expansion and/or intensification of such access alteration of nonconforming accesses; and to encourage the elimination or mitigation of non-conforming nonconforming accesses or as opportunities arise to reduce their negative impact on the County roadway system as opportunities arise.~~

~~1. **Continuation.** Access Connections in place as of the effective date of this ordinance that do not conform with the standards shall be A nonconforming access shall be allowed to continue as long as there is no physical change in the access, change in; the land use served by the access, intensification of the land use served by the access or any activity remains unchanged and does not intensify; and no development is~~

~~contemplated as development under this code as set forth in §8.1.6(A)(j).~~ Normal maintenance and repair of ~~the access shall not be considered to be a physical change in the access.~~ a nonconforming access is permitted.

2. **Discontinuation.** If the use of a nonconforming access is discontinued for more than one (1) year, the access shall not be re-established unless ~~approval of~~ an Access Permit is issued pursuant to this ~~code section.~~ If a ~~non-conforming nonconforming~~ access serves a ~~non-conforming nonconforming~~ use or structure, the use of which has been discontinued for more than one (1) year, or if a ~~non-conforming use is damaged to an extent exceeding fifty (50) percent of its market value or replacement cost, whichever is less~~ nonconforming structure sustains substantial damage, any subsequent access serving the property shall conform to the ~~provision of this ordinance. For additional information on non-conforming uses and structures, see §8.2.2 of the County Development Code.~~ provisions of this section.

~~**D. Modifications and Deviations from Access Standards.** Deviations up to fifteen (15) percent of the minimum spacing standard or 200 feet, whichever is less, may be authorized by the County Highway Engineer where a property is unable to meet the minimum Access Connection standards and where the deviation will not create any safety concerns. The County Highway Engineer shall have the authority to require the applicant to complete a traffic impact study or similar document (as appropriate) to analyze whether the deviation would negatively impact the roadway under existing or future conditions.~~

~~E.—**Appeal Procedures.** An applicant whose Access Permit, Access Plan or proposed Access Connection is not approved, or is approved with conditions which are not agreeable to the applicant, shall have ten (10) days to appeal the decision in writing, specifically citing the reasons for which an appeal should be approved.~~

8-9-3. Fences

~~1.—**Process.** Appeals on decisions regarding an Access Permit, Access Plan or proposed Access Connection shall be handled by the Board of Adjustment pursuant to §8.4.4 of this Code and Minnesota Statute §394.27. Any appeal shall be filed by the applicant within ten (10) days of the date of any denial.~~

~~2.—**Criteria for Appeal Approval.** Appeals shall be considered under the criteria set forth within §8.4.4 of this Code and Minnesota Statute §394.27.~~

~~F.—**County Highway Engineer and Use of the Highway Tracking Committee.** The County Highway Engineer reserves the right to forward any Access Permit or Access Plan to the Highway Tracking Committee for discussion, direction or interpretations relative to this ordinance; although the County Highway Engineer shall still retain final decision making authority. If a permit is forwarded to the Highway Tracking Committee, a ‘final decision’ on the permit is contemplated in §8.3.6(E)(3) shall be extended by thirty (30) calendar days.~~

8-3-7 : MANUFACTURED HOMES:

The following provisions apply to mobile homes in all zoning districts.

~~A.—**Manufactured Home Parks Prohibited:** Manufactured home parks are not permitted in any zoning district within the county.~~

~~B.—**Single Family Residence:** Manufactured homes as single family residences are allowed in all zoning districts that allow single family residences. Manufactured homes must comply with the applicable sections of this Ordinance dealing with residential uses.~~

~~**Foundation, Anchoring, and Skirting:** Manufactured homes that meet the provisions of subsection B., above, shall be placed upon a permanent foundation for the entire perimeter of the manufactured home or shall be anchored and skirted to meet the requirements of Minnesota Rules, Chapter 1350:shall apply to fences in all Districts:~~

8-3-8 : TREES; TREE PLANTING:

~~A. No fence shall exceed a height of six (6) feet without first obtaining a permit from the Zoning Administrator.~~

~~B. No sight-obscuring fence over 48 inches in height shall be erected within the front yard of~~

any lot used for residential purposes.

C. No fence shall be erected within right-of-way or within the ditch backslope.

D. Electric fences shall conform to Minnesota’s electric code and shall be energized only with underwriters’ laboratories approved equipment. Electric fences located within or adjacent to a residential subdivision shall be marked by warning signs every 50 feet.

E. Fences erected to confine animals on lots shall conform to 8-8-7(E).

8-9-4. Trees, Shelterbelts, and Windbreaks

The following tree and tree planting requirements apply in all zoning districts:

~~A. **Projection Over Public Ways Prohibited:** No person, whether owner or tenant of any property along the streets or roadways of the county, shall permit any trees to project over the sidewalks, streets, and roadways, and twelve feet (12') above streets and roadways.~~

A. **Responsibility to Trim: Minimum Roadway Clearance.** Trees shall be trimmed to provide at least 12 feet of clearance above roadway surfaces. It is the ~~duty~~responsibility of all persons, whether owners or tenants, to ~~keep the trim~~ trees along public streets and roadway on property adjoining such property trimmed in such manner that trees shall not public roads so they do not interfere with travel on ~~said streets, roadways, roads~~ and sidewalks.

B. **Road Planting Prohibited in Right-of-Way; Ditch Back Slope.** No person shall plant any tree, shrub, or other vegetable growth except lawn grass ~~on any road~~in the right-of-way, or within ~~confines of the ditch~~ backslope.

~~B. **Intersections:** For the purpose of ensuring reasonable visibility at street or roadway intersections, trees shall be trimmed to at least twelve feet (12') above street or roadway surface.~~

C. Shelterbelts: Vegetation Setbacks from Roadway

1. Shelterbelts shall not be planted ~~closer than one hundred twenty five feet (125')~~ from within 125 feet of the roadway centerline.

~~center of road.~~

~~C. Windbreaks:~~

- ~~2. **North and West:** Farmstead windbreaks, when planted located north and/or west of a road, stay one hundred shall not be planted within 100 feet (100') away from center of road, the roadway centerline.~~
- ~~1. **East and South:** Farmstead windbreaks, when planted Windbreaks located east and/or south of road, stay seventy five feet (75') away from center of road.~~
- ~~3. **Hedges:** Hedges may a road shall not be planted seventy feet (70') from the center of road if they do not exceed a height of twenty four inches (24") within 75 feet of the roadway centerline.~~
- ~~4. **Platted Areas:** In platted areassubdivisions, trees and shrubs mayshall not be planted no closer than seventywithin 70 feet (70') from center of roadthe roadway centerline.~~

~~8 3 9 : HOME OCCUPATIONS, STANDARDS FOR APPROVAL:~~

~~The following standards apply to home occupations:~~

~~A. **Home Occupations within Subdivisions:** Home occupations within dwellings in subdivisions are a permitted use if all of the following provisions are met:~~

~~a. **Where Located:** The home occupation shall be located wholly within the dwelling and shall be incidental and subordinate to the residential use of the property.~~

- ~~1. **Size Limited:** The area of the dwelling where the home occupation is located shall not exceed twenty five percent (25%) of the main floor area, but not including basement or garage floor space.~~
- ~~2. **Structural Changes:** Structural changes shall not be made in the dwelling.~~

Employees: Employees 8-9-5. Parking and Loading Areas

~~A. **General Requirements.** Parking and loading areas shall conform to all applicable provisions of this Ordinance, including but not limited to requirements pertaining to parking areas design or construction in Floodplain Hazard Districts (Chapter 3) and Shoreland Districts (Chapter 4). In addition, parking shall conform to the following:~~

- ~~1. Parking areas shall only be used for the storage of operational motor vehicles.~~
- ~~3. Off-street parking facilities existing at the effective date of this Ordinance shall be limited to person(s) residing in the dwelling and immediate family members.~~
- ~~4. **Sign:** One non illuminated sign only of a maximum size of four (4) square feet and attached to the dwelling is allowed to advertise the home occupation on site. Such sign shall meet the setbacks for structures for the zoning district within which the home occupation is located.~~
- ~~5. **Evidence of Occupation:** Evidence of the occupation such as outdoor storage shall not be visible from the road, except one sign that meets the provisions of subsection 5, immediately above.~~

~~6.—Traffic: No traffic shall be generated by the home occupation beyond that which is reasonable and normal for the area in which it is located.~~

~~7.—Adverse Effect: The occupation shall not adversely affect the character of the uses permitted in the district in which it is located.~~

~~8.—Septic: The septic system shall be adequate for the residential and home occupation use combined.~~

~~B.—Permitted Home Occupations Outside of Subdivisions: Rural Home occupations operated on residential lots not located in platted subdivisions are a permitted use if all of the following provisions are met:~~

~~1.—Where Located: Home occupations operated on residential lots not located in platted subdivisions may be located within the dwelling or in a separate nonresidential or farm building~~

~~and shall be incidental and subordinate to the residential use of the property.~~

~~2.—**Size Limited within Dwelling:** If the home occupation is located within the dwelling, the area of the dwelling where the home occupation is located shall not exceed twenty-five percent (25%) of the main floor area, but not including basement or garage floor space. Structural additions may be made to a dwelling to accommodate a home occupation provided the alterations shall not exceed twenty-five percent (25%) of the main floor of the area of the dwelling, but not including basement or garage floor area.~~

~~3.—**Size Limited in Accessory structure:** Any accessory structure principally used for the home occupation shall not exceed twelve hundred (1200) square feet. Home occupations located in accessory structures may result in a split tax classification for the parcel where the structures are located. A commercial property tax rate may apply to home occupations in accessory structures.~~

~~4.—**Employees:** Employees shall be limited to person(s) residing in the dwelling, immediate family members and one additional non-family employee.~~

~~5.—**Sign:** One non-illuminated sign only of a maximum size of four (4) square feet and attached to the dwelling is allowed to advertise the home occupation on site. Such sign shall meet the setbacks for structures for the zoning district within which the home occupation is located.~~

~~6.—**Evidence of Occupation:** Evidence of the occupation such as outdoor storage shall not be visible from the road, except one sign that meets the provisions of subsection 5, immediately above.~~

~~b.a.—**Traffic:** No traffic shall be generated by the home occupation beyond that which is reasonable and normal for the area in which it is located.~~

~~7.—**Adverse Effect:** The occupation shall not adversely affect the character of the uses permitted in the district in which it is located.~~

~~8.—**Septic:** The septic system shall be adequate for the residential and home occupation use combined.~~

~~9.—**Parking:** One (1) additional parking space may be provided for the use of clients, deliveries, etc.~~

~~C.—**Conditional Home Occupations:** Conditional home occupations not located in subdivisions may exceed the provisions of subsection B, immediately above, if they meet all of the following provisions:~~

~~1.—**Conditional Use:** Home occupations allowed under this section shall be processed as a conditional use permit meeting the requirements of this section in addition to the general requirements for a conditional use permit. A site plan shall be submitted with the conditional use permit application showing the location of all existing structures and describing the proposed use.~~

~~2.—**Review of Permit:** Conditional home occupation uses shall be reviewed and inspected by the planning department at least once every five years for compliance with conditions.~~

~~3.—**Where Located:** Conditional home occupations shall be located on lots not located in platted subdivisions. Conditional home occupations may be located within the dwelling or in a separate nonresidential or farm building.~~

~~4.—**Size Limited within Dwelling:** If the home occupation is located within the dwelling, the area of the dwelling where the home occupation is located shall not exceed twenty-five percent (25%) of the main floor area, but not including basement or garage floor space. Structural additions may be made to a dwelling to accommodate a home occupation provided the alterations shall not exceed twenty-five percent (25%) of the main floor of the area of the dwelling, but not including~~

~~basement or garage floor area.~~

- ~~5. **Size Limited in Accessory structures:** A new accessory structure or structures principally used for the home occupation shall not exceed ten thousand (10,000) square feet in total for all structures thus used. A new accessory structure shall mean any structure built at the time the conditional home occupation permit is applied for or a structure built within the immediately preceding five (5) years. If an existing accessory structure, or combination of structures, is proposed to be used for the home occupation, the structure or structures shall not exceed thirty thousand (30,000) square feet in total for all structures thus used. Existing accessory structures shall have been in existence for a period of more than five (5) years prior to the application for a conditional home occupation. If a combination of new and existing accessory structures is proposed to be used for the home occupation, only one new structure is allowed and shall not exceed ten thousand (10,000) square feet and the existing structures combined with the new structures shall not exceed thirty thousand (30,000) square feet in total. Proposed uses exceeding the size limits in this paragraph shall be located in ASC Agricultural Service Center Districts or other commercial districts because of associated traffic, parking, employee, utility and signage needs. Home occupations located in accessory structures may result in a split tax classification for the parcel where the structures are located. A commercial property tax rate may apply to home occupations in accessory structures.~~
- ~~6. **Minimum Lot Size:** The minimum lot size required for a lot on which a conditional home occupation is permitted shall be eighty thousand (80,000) square feet.~~
- ~~7. **Employees:** Employees shall be limited to person(s) residing in the dwelling, immediate family members and up to five (5) additional non-family employees. The Planning Commission may allow additional employees if traffic, parking, utility and impact on surrounding properties are addressed.~~
- ~~8. **Sign:** One non-illuminated sign only of a maximum size of thirty-two (32) square feet is allowed to advertise the home occupation on-site. Such sign shall meet the setbacks for structures for the zoning district within which the home occupation is located.~~
- ~~9. **Traffic and Roads:** Traffic generated by the use shall be considered by the Planning Commission and traffic generated by the home occupation shall not exceed that which is reasonable for the area in which it is located and the road adjacent to the home occupation.~~
- ~~10. **Adverse Effect:** The occupation shall not adversely affect the character of the uses permitted in the district in which it is located.~~
- ~~11. **Performance Standard:** No equipment or processes used in the conditional home occupation shall create noise, vibration, glare, fumes, odors or electrical interference detectable off the premises.~~
- ~~12. **Buffering:** Buffering may be required by the Planning Commission to minimize adverse effects on adjacent properties and roadways.~~
- ~~13. **Utilities:** The home occupation shall not create usage exceeding the capacity of available on-site sewage treatment and drinking water.~~
- ~~14. **Parking:** Additional parking spaces may be required by the Planning Commission for the use of clients, deliveries, etc.~~

~~8-3-10 : ESSENTIAL SERVICES:~~

~~A. **Permitted:** Essential services extending from the system to serve en route parcels of land abutting a~~

~~public right of way or easement are not subject to yard or setback regulations, zoning certificates, other than the approval of the owner.~~

~~**3.1 Buildings and Structures:** Essential services buildings and structures shall not be located less than fifty feet (50') from any lot line. This subsection shall be considered a variance to permit a lot area less than the minimum required for the district in which such building structure is located. In consideration of an application for a conditional use, the Planning Commission shall find:~~

~~a. **Landscaping:** That the landscape treatment is in keeping with the neighborhood and provides screening where appropriate.~~

~~b. a. **Public Hazard Not Created:** That the installation is secure from the public and does not create a potential public hazard.~~

~~1. **Architectural Style:** That the building is of an architectural style in keeping with the neighborhood.~~

~~2. **Access; Parking:** That access and parking is adequately provided.~~

~~3. **Maintenance Program:** That the proposed maintenance program of the building, structure, and grounds is in keeping with the neighborhood.~~

~~**B. Transmission Services:** The applicant for such a conditional use shall conform to the following procedures and standards:~~

~~1. **Procedure for Transfer:** Essential service such as high voltage (200 KV or less) electrical power or bulk gas or fuel being transferred from station to station and not intended for en route consumption nor located within highway and street rights of way shall follow the following procedure:~~

~~a. **Filing of Maps:** The owner shall file with the Zoning Administrator such maps indicating the location, alignment, and type of service proposed as shall be requested.~~

~~b. **Public Hearing:** The Planning Commission shall hold a public hearing.~~

~~2. **Ordinary Service Extensions:** It is not intended that the Zoning Administrator shall request maps or filings for ordinary service extensions which would delay by virtue of such filings or town board considerations the services public utilities must immediately provide to customers.~~

~~**C. Existing Lines or Facilities; Reconstruction, Relocation:**~~

~~1. **Permit Required:** No filing or application shall be necessary under this Section to maintain, reconstruct or relocate existing lines or facilities where the general line and conformation thereof remains essentially the same unless said construction is within the traveled roadway. In such case, the permit shall be obtained from the Zoning Administrator.~~

~~2. **Emergency Work:** Emergency work otherwise requiring a filing or application shall be accomplished provided such filing or application is made as soon thereafter as possible.~~

~~**D. Location; Construction:** Essential services shall be located and constructed at such places and in such manner that they will not segment land of any one farm, and will not interfere with the conduct of agriculture by limiting or interfering with the access to fields or the effectiveness and efficiency of the farmer and farm equipment including crop spraying~~

~~aircraft.~~

~~8-3-11: FLOODPROOFING MEASURES:~~

~~A. General Flood Plain District:~~

- ~~1.—**Regulations Adopted:** Permitted and conditional uses proposed for the General Flood Plain District that incorporate floodproofing techniques must comply with sections 209 through 1406 of the 1972 Edition, and any amendments thereto, of "Floodproofing Regulations" (FPR), as developed by the office of the Chief of Engineers, U.S. Army, Washington D.C., a copy of which is hereby incorporated by reference and declared to be part of this Ordinance.~~
- ~~2.—**Definitions:** Where definition of terms as set forth in section 301 of FPR conflict in meaning with the definition of terms as set forth in this Ordinance, the latter shall prevail.~~
- ~~3.—**Conditions Attached to Permit:** Appropriate conditions may be attached to the granting of a conditional use permit, including, but not limited to, the following:
 - ~~a.—**Design:** Floodproofing measures shall be designed in a manner consistent with the flood protection elevation of the particular area, flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces and other factors associated with the regulatory flood.~~
 - ~~b.—**Submission of Plan:** The applicant shall submit a plan certified by a registered engineer stating that the floodproofing measures are consistent with the regulatory flood protection and associated factors.~~
 - ~~c.—**Required Measures:** The following floodproofing measures may be required without limitation:
 - ~~(1)—**Anchoring:** Anchorage to resist flotation and lateral movement.~~
 - ~~(2)—**Doors; Bulkheads:** Installation of watertight doors, bulkheads or similar methods of construction.~~
 - ~~(3)—**Reinforcement of Walls:** Reinforcement of walls to resist water pressure.~~
 - ~~(4)—**Reduction of Seepage:** The use of paints, membranes, or mortar to reduce the seepage of water through walls.~~
 - ~~(5)—**Water Supply, Waste Treatment Systems:** The construction of water supply and waste treatment systems which will prevent the entrance of flood waters.~~
 - ~~(6)—**Flotation Reduction:** The addition of mass or weight to structures to reduce flotation.~~
 - ~~(7)—**Pumps:** The installation of pumps to lower water levels in structures.~~
 - ~~(8)—**Subsurface Drainage Systems:** The installation of pumping facilities or comparable practices for subsurface drainage systems for buildings to relieve external foundation, wall, and basement floor pressures.~~
 - ~~(9)—**Electrical Equipment:** The location of all electrical equipment, circuits, and installed appliances in a manner which will ensure they are not subject to flooding and to provide protection from inundation by the regional flood.~~
 - ~~(10)—**Storage of Toxic, Hazardous Materials:** The location of all structural storage facilities for chemicals, explosives, buoyant materials, flammable liquids or other toxic materials which could be hazardous to public health, safety and welfare above the flood protection elevation or the provision of adequate floodproofing to prevent flotation of storage containers which could result in the escape of toxic materials into flood waters.~~~~~~

8 3 12 : GENERAL PARKING REQUIREMENTS:

~~All parking hereafter constructed shall conform to the provisions of this Ordinance and meet the~~

~~regulations of the district in which they are applied.~~

~~A. **Minimum Size Requirements:** The following requirements shall be considered to be the minimum requirements per parking space:~~

- ~~1. **Area:** Three hundred (300) square feet (including access drive).~~
- ~~2. **Width:** Ten feet (10').~~
- ~~3. **Depth:** Twenty feet (20').~~

~~1.2. **Reduction and Use of Parking Space:** On-site parking facilities existing at the effective date hereof shall not subsequently not be reduced to less than the minimum requirements of this section. Required parking spaces shall not be used for storage of goods or storage of vehicles which are inoperable.~~

~~B. **Computing Requirements:**~~

- ~~1. **Floor Space:** Floor space shall mean gross floor area of the specific use.~~
- ~~2. **Parking Space Requirements:** Parking space requirements for a use not specifically mentioned herein shall be the same as required for a similar use and as determined appropriate by the County Planning Commission.~~

~~B. **Yards: Site Plan.** A Site Plan must be submitted with any application for development that includes an off-street parking area, except for agricultural uses and single-family dwellings.~~

~~C. **Parking Area Design Standards.** All off-street parking areas constructed after the effective date of this Ordinance, except those serving agricultural uses or single-family dwellings, shall conform to the following design standards, as indicated on the Site Plan:~~

- ~~1. Each parking space shall be at least 10 feet wide, 20 feet deep, and 300 square feet in area, inclusive of the area for driving aisles.~~
- ~~2. Off-street parking areas shall be subject to front yard requirements in accordance with the district in which such parking area is located set back at least 10 feet from the edge of the way right-of-way.~~

~~C. **Design, Maintenance of Commercial or Industrial Parking Areas:**~~

- ~~3. **Lighting:** Any lighting used to illuminate an off-street parking area shall be reflected away from public right-of-way, and adjacent residences or agricultural land property.~~
- ~~4. **Design:** Fencing or landscaping shall be required between off-street parking areas shall be designed so that no part of any vehicle parked therein shall be nearer than fifteen feet (15') from the property line.~~
- ~~4. **Screen; Fence:** On-site parking or loading areas abutting facilities and adjacent platted residential districts or within fifty feet (50') of residential structures shall be screened or fenced. Such fencing shall be included as part lots for the entire length of the site plan parking or loading facility.~~
- ~~5. **Access Drives:** The number and width of access drives Parking aisles shall be located so as to minimize designed for safe, efficient traffic congestion and traffic hazard flow.~~
- ~~6. **Surfacing; Drainage:** The surfacing and drainage of Off-street parking areas accommodating designed for more than four (4) vehicles shall meet the surfacing and drainage requirements of the County Engineer.~~

~~D. **Required Site Plan:** Any application for a development permit shall include a site plan showing on-site parking and loading requirements as stated in this Ordinance.~~

~~B.D. **Required Number of On-Site Minimum Off-street Parking Spaces: Requirements.**~~

~~Table 9-3 (Minimum Off-Street Parking Requirement) lists the minimum number of on-site required off-street parking spaces for the following common uses. These requirements shall be interpreted and administered as follows:~~

Type	Parking Spaces	Unit of Measure/ Gross Area
Residential dwelling units	2	Unit
Offices	1	500-square feet
Automotive, trailer or marine sales and service	1	500-square feet
Drive-in eating establishments	20+1	500-square feet

Public or religious assemblies	1	4 seats
Automotive service stations	4 + 2 for each	Service bay
Public and private health clubs	20 + 1 for each	500 square feet (main building)
Commercial recreation areas	20 + 1 for each	500 square feet
Motels and hotels	1	Rental sleeping unit
Restaurants, cafes or nightclubs	1	75 square feet customer area
Retail sales and service establishments	1	100 square feet customer area
Storage, wholesale and warehousing		The greater of 1 space per each 2 employees in a shift or 1 space per each 2,000 square feet

~~1. **Company Vehicles:** In addition to the above requirements, company vehicles normally kept on the premises shall be provided an additional space.~~

~~1. **Schedule A.** Developments often have multiple components or uses of the site that generate varying levels of parking demand. Such uses are identified as “Schedule A” in *Table 9-3*. The minimum number of parking spaces for Schedule A uses shall be computed as follows:~~

- ~~a. Office or administrative area: 1 space per 300 square feet~~
- ~~b. Indoor sales, service, or display area: 1 space per 500 square feet~~
- ~~c. Outdoor sales, service, or display area: 1 space per 1,000 square feet~~
- ~~d. Indoor storage, warehousing, equipment service, or manufacturing area: 1 space per 2,000 square feet.~~

~~2. **Parking Study.** A parking study is recommended for uses that are large, complex, or unique, including several uses that are listed in *Table 9-3*. In addition, the Planning Commission or County Engineer may require a parking study for any use at their discretion.~~

~~3. **Unlisted Uses.** For unlisted uses, the minimum number of parking spaces shall be the same as required for a similar listed use, as determined by the Planning Commission, or a parking study may be required.~~

~~4. **Use Expansion or Change.** Off-street parking minimums shall apply to the expansion~~

of an existing use or a change in use that would result in a requirement of more parking spaces than the existing use. When an existing use expands, additional parking spaces are required only to serve the expansion area, provided that the total number of spaces required to serve the expanded use is at least 75 percent of the minimum ratio established in Table 9-3.

5. **Parking Reduction.** The Zoning Administrator is authorized to reduce the required number of off-street parking spaces for any commercial or industrial use by up to 20 percent if the Developer demonstrates that actual parking needs are lower than required in Table 9-3. Demonstrated parking may include evidence of similar uses or locational situations operating successfully with lower amounts of parking, evidence that the proposed use will have a high rate of parking turnover, or other evidence. Any requested reduction above 20 percent shall only be permitted via variance.

~~C.E.~~ **Loading/ and Unloading Areas:** Loading and unloading areas for goods, supplies, and services shall be sufficient to meet the ~~requirements~~needs of each use.

~~2. **Single Car Garage and Driveway:** A single car garage and driveway shall be considered two
(2) parking spaces for single family residential uses.~~

~~8 3 13 : SIGNS:~~

~~All signs hereinafter erected, altered, substantially repaired, relocated and maintained in Clay County, except official traffic and road or street signs, shall conform to the following provisions:~~

~~A. **Permit Required:** No sign shall be erected unless the owner of the land on which the sign will be placed obtains a sign permit.~~

~~B. **Billboards Prohibited:** Off-premise signs, more commonly known as billboards, shall be prohibited.~~

~~C. **Sign Types — Where Allowed:** Wall signs and monument signs are allowed in any zoning district. Pylon signs are allowed only in the HC and LHC districts.~~

~~D. **Number Per Lot:** A maximum of one (1) large sign, or two (2) small signs that combined do not exceed the maximum size per lot as specified in subsection E.2., below, shall be permitted in all districts except HC and LHC Districts. In HC and LHC Districts a maximum of one (1) sign not exceeding the maximum size as specified in subsection E.1., below, per frontage is allowed.~~

~~E. **Maximum Size:** The maximum size of a permitted sign is as follows:~~

~~1. **Commercial Districts:** In the HC and LHC districts, maximum size is one hundred and twenty-eight (128) square feet for each of two allowed sign faces, or for wall signs, five percent (5%) of the area of the building wall on which the sign is located.~~

~~2. **Residential Uses and Home Occupations:** In all zoning districts the maximum size of a permitted sign is as follows:~~

- ~~a. For residential uses and permitted home occupations, four (4) square feet for each of two allowed sign faces.~~
- ~~b. For conditional home occupations, thirty two (32) square feet for each of two allowed sign faces.~~
- ~~3. **Two Faces:** If two sign faces are proposed, they shall be touching on one vertical side and shall be at an angle of no greater than ninety (90) degrees to one another.~~
- ~~F. **Maximum Height:** Monument signs shall not exceed twelve (12) feet in height above the average grade at the base of the sign. No part of a pylon sign shall exceed thirty (30) feet in height above the average grade at the base of the sign. No building mounted sign shall extend above the roof of the building. Ground mounted signs are encouraged instead of building-mounted or pylon signs.~~

***Illumination:** Table 9-3. Minimum Off-Street Parking Requirements*

<u>Land use</u>	<u>Minimum Number of Parking Spaces</u>
<u>Automotive repair</u>	<u>1 per service bay + 1 per 300 square feet of office/administrative space</u>
<u>Commercial entertainment</u>	<u>Parking study</u>
<u>Dwelling unit</u>	<u>2 per dwelling unit (single garage + driveway)</u>
<u>Gas station/convenience store</u>	<u>4 + 2 for each service bay</u>
<u>Kennel</u>	<u>Schedule A</u>
<u>Industrial uses</u>	<u>Schedule A or parking study</u>
<u>Landscaping, nursery, or building material sales</u>	<u>Schedule A</u>
<u>Motels and hotels</u>	<u>1 per guest room + 1 per 300 square feet of office/administrative space</u>
<u>Offices and government facilities</u>	<u>Schedule A or parking study</u>
<u>Public or religious assembly</u>	<u>1 per 4 seats or parking study</u>
<u>Recreational uses (public and private)</u>	<u>Parking study</u>
<u>Restaurants and bars</u>	<u>1 per 75 square feet of customer area or parking study</u>
<u>Retail sales and services</u>	<u>1 per 300 square feet of customer area</u>
<u>Retreat center or wedding venue</u>	<u>Parking study</u>
<u>School</u>	<u>Parking study</u>
<u>Shop condo</u>	<u>Schedule A</u>
<u>Vehicle and equipment sales</u>	<u>Schedule A</u>

8-9-6. Signs

A. Purpose. The purpose of this section is to promote the health, safety, and general welfare of the public and to conserve the natural and scenic views of the County. It is necessary to reasonably regulate erection of signs while preserving the right of free speech and expression, facilitating communication between people and their surroundings, and avoiding excessive levels of visual clutter and distraction that are potentially harmful to traffic and pedestrian safety, property values, business opportunities, or community appearance. This section is not intended to and does not restrict or limit the content or message of signs.

B. Prohibited signs. To ensure the safety and wellbeing of the public, the following signs are prohibited in Clay County:

1. Signs advertising any activity that is illegal under Federal, State, or local law.
2. Signs that, in whole or in part, show specified anatomical areas or specified sexual activities.
3. Signs that resemble or conflict with any official traffic sign or signal so as to mislead or confuse persons traveling in the public right-of-way.
4. Signs that display non-static images or video.
5. Signs mounted to the roof of a structure, as well as wall signs that extend above the roof line.
6. Projecting signs.
7. Signs that may constitute a health or safety hazard, including signs that are structurally inadequate due to inadequate design, construction, or maintenance.

C. Exemptions. The following signs and activities are allowed by right in all zoning districts and do not require a sign permit:

1. Signs authorized or required by any government agency, including but not limited to signs regulating or directing vehicle or pedestrian movements and signs identifying public property.
2. Signs placed by a utility company as part of the operation and maintenance of facilities such as telephone lines or underground facilities.
3. Property address signs.
4. Window signs.
5. Temporary signs, including but not limited to banners, yard signs, contractor signs, real estate signs, and portable signs.
6. Warning or instructional signs, such as “No Soliciting”, “No Trespassing”, or “Beware of Dog.”
7. For any permitted sign, the replacement of a sign face with a new sign face of the same dimensions, including the substitution of non-commercial speech for commercial speech or vice versa.

D. General Standards.

1. **Sign permit.** A sign permit is required for the erection of all on-premise signs and off-premise signs, as described under 8-9-6(E) and 8-9-6(F), respectively. Sign permit application forms shall be furnished and approved by the Zoning Administrator. Any dispute related to the approval or disapproval of a sign permit may be appealed to the Board of Adjustment as provided by 8-11-1(B).
2. **Prohibited on Public Property.** All signs, other than official signs authorized by a public agency, are prohibited within public right-of-way, easements, and any other public property.
3. **Setbacks.** All on-premise signs and off-premise signs shall be set back at least 10 feet from the right-of-way of public roads and 10 feet from lot lines, as measured from the closest part of the sign.
4. **Sign Maintenance.**
 - a. All permanent signs shall be securely affixed to a structure or the ground and shall be maintained from disrepair.
 - b. Signs that present a potential safety hazard shall be repaired or removed within 10 days upon receipt of notice from the Zoning Administrator.
- ~~G. signs for residential uses and home occupations shall not be illuminated. If a permitted sign in a commercial district is externally illuminated, the illumination shall be directed only on to the sign and the light source shall not be visible from neighboring properties.~~
- ~~H. **Safe Condition:** All signs shall be maintained in a safe condition. No sign shall be permitted that shall in any way endanger the health or safety of the general public.~~
 - ~~a.c. **Clean Area:** All areas surrounding a permitted sign shall be kept free from unreasonable growth, and debris or rubbish. Failure to correct such conditions after being so directed in writing by. Unkempt areas shall be corrected within 30 days upon receipt of notice from the Zoning Administrator shall be cause for revocation of the existing sign permit and removal of the sign.~~
 - ~~d. Failure to correct such conditions within the required timeframe shall be cause for revocation of the sign permit and removal of the sign at the owner's expense.~~
- ~~I. **Illumination.** Illuminated signs may be permitted, provided the light source is focused directly onto the sign, is not visible from neighboring properties, and does not give off a rotating or intermittent beam of light. signs for residential uses and home occupations shall not be illuminated. Temporary Signs: Signs of a temporary nature that do not exceed twelve (12) square feet in area shall be exempt from the permitting requirement. Temporary signs may be displayed for a period not to exceed thirty (30) days, on a maximum of two (2) occasions per year.~~
5. _____
6. **Number of Faces.** No sign shall have more than two (2) faces.
- ~~2.7. **Removal for Roadway Construction:** Signs shall be removed by the sign owner at no expense or claim of damage to any governmental unit, if necessary for the construction, reconstruction, or relocation of any public roadway.~~

E. On-Premise Signs.

1. **Wall Signs.** Wall signs are permitted in all districts. The maximum area per wall sign is five (5) percent of the wall on which the sign is located, but not to exceed 128 square feet. For permitted home occupations, the maximum area per wall sign is six (6) square feet. For interim home occupations, the maximum area per wall sign is 40 square feet.
2. **Monument Signs.** Monument signs are permitted in all districts. The maximum height is 12 feet above the grade at the base of the sign.
3. **Monopole Signs and Pylon Signs.** Monopole signs and pylon signs are only permitted in the HC, Highway Commercial District and the LHC, Limited Highway Commercial District. The maximum area per sign face is 128 square feet and the maximum height is 30 feet above the grade at the base of the sign.
4. **Allowed Signage.**
 - a. In the HC, Highway Commercial District and the LHC, Limited Highway Commercial District, a maximum of one (1) on-premise sign is permitted per lot.
 - b. In the AG, Agricultural General District and the ASC, Agricultural Service District, all commercial and industrial uses, civic and institutional uses, golf courses, and shooting/archery ranges are permitted a maximum of two (2) signs per lot.
 - c. In all districts, home occupations are permitted one (1) sign.

F. Off-Premise Signs.

1. **Directional Signs.** Directional signs are permitted in all districts, subject to the following standards:
 - a. No sign shall be located on property adjacent to a State or Federal highway unless the property is zoned HC, Highway Commercial District or LHC, Limited Highway Commercial District or is permitted by the Minnesota Department of Transportation.
 - b. A maximum of one (1) Directional sign shall be permitted per lot. The maximum area per sign face is 42 square feet and the maximum sign height is 12 feet above grade.
2. **Billboards.** Billboards may be permitted as a conditional use in the HC, Highway Commercial District and the LHC, Limited Highway Commercial District, and shall be prohibited in all other districts, subject to the following requirements:
 - a. Billboards may be permitted on property adjacent to a State or Federal highway, subject to approval from the Minnesota Department of Transportation.
 - b. A maximum of one (1) billboard is permitted per lot.
 - c. The maximum area per sign face for billboards located on property adjacent to a principal arterial roadway is 600 square feet.
 - d. The maximum area per sign face for billboards located on a collector roadway is 400 square feet.

- e. The maximum height of the billboard shall not exceed 30 feet above grade.
- f. No billboard shall be located within 500 feet of a park, historical site, or rest area, nor within 200 feet of a church or school, as measured from the base of the billboard to the lot line.
- g. No billboards shall be closer than 500 feet from the entrance or exit ramp widening in the vicinity of interstate or fully controlled access freeway intersection.
- h. No billboards shall be located closer than 300 feet from the intersection of any primary highway at grade with another highway, or with a railroad.
- i. No billboard shall be located within 1,300 feet of any other billboard in any direction, as measured between the bases of the billboards.

8-9-7. Site Plans

A detailed Site Plan may be required for the issuance of a Development Permit or use permit. Except where otherwise specified in this Ordinance, Site Plans shall delineate the following features:

- A. **Property Boundary.** Clearly marked boundaries and acreage of the site.
- B. **Existing Structures.** Location, type, and dimensions of all existing buildings and structures.
- C. **Proposed Structures.** Location, type, dimensions, and height of all proposed buildings and structures.
- D. **Setbacks.** Distances from lot lines to existing and proposed structures.
- E. **Parking and Driveways.** Location, dimensions, and materials for driveways and parking areas.
- F. **Signage.** Location and dimensions of all existing and proposed signs.
- G. **Outdoor lighting.** Location of all outdoor lighting, especially if adjacent to residential areas.
- H. **Landscaping.** Location and type of existing and proposed landscaping elements (e.g., trees, shrubs).
- I. **Utilities.** Location of utilities such as wells, sewage treatment systems (including secondary backup systems), soil dispersal sites, and utility lines.
- J. **Easements.** Areas where others have the right to use the property (e.g., utility access).
- K. **Access Points.** Locations of entrances and exits for vehicles and pedestrians.
- L. **Topography.** Contour lines to show elevation changes and drainage patterns.
- M. **Natural Features.** Locations of existing natural features (e.g., wetlands, river and streams) on the property.
- N. **Impervious Surfaces.** Areas covered by non-porous materials, including but not limited to asphalt, concrete, and compacted gravel, impacting stormwater management.
- O. **Stormwater Management.** Stormwater management features.
- P. **Additional Items.** Additional items as may be required by the Zoning Administrator.

Chapter 8-10. Subdivision Regulations

Chapter Contents:

8-10-1. Purpose

8-10-2. Required Conformity and Approvals

8-10-3. Subdivision Review within Extraterritorial Jurisdiction of Cities

8-10-4. Environmental Review

8-10-5. Township Approval Required

8-10-6. Subdivision of Land Described by Metes and Bounds

8-10-7. Methods of Subdivision

8-10-8. Pre-application Meeting

8-10-9. Administrative Subdivision Procedures

8-10-10. Major Subdivision Preliminary Plat Procedures

8-10-11. Major Subdivision Final Plat Procedures

8-10-12. Plat Specifications

8-10-13. Major Subdivision Design Standards

8-10-14. Subdivision Improvements

8-10-15. Common Interest Communities

8-10-16. United States Public Land Survey Monuments

8-10-1. Purpose

The purpose of these Subdivision Regulations is to promote the health, safety, and welfare of the public by ensuring the orderly, safe, and economic division land; a safe and integrated roadway system; the proper survey of land and recording of titles; and the protection of Clay County’s natural and agricultural resources. This Chapter establishes application requirements, review processes, and review standards for subdivisions in Clay County.

8-10-2. Required Conformity and Approvals

It shall be unlawful for any person to subdivide land except as specifically permitted by the processes established in this Chapter. All subdivisions in Clay County shall fully comply with the provisions of this chapter. No Development Permit shall be issued unless all requirements of this Ordinance are met and all final approvals have been granted, including, but not limited to, approval of the major subdivision Final Plat or administrative subdivision.

8-10-3. Subdivision Review Within Extraterritorial Jurisdiction of Cities

Applications for development within the Extraterritorial Jurisdiction area of a municipality shall be subject to the subdivision review of such municipality, which may vary from Clay County’s subdivision regulations. However, the zoning regulations of Clay County shall remain in effect within any municipal Extraterritorial Jurisdiction. Any approvals required by Clay County shall only be issued after proof is submitted to Clay County that required municipal approval has been officially granted. Township authority for review and approval of new roads, as provided by 8-10-5 (*Township Approval Required*), shall exist within Extraterritorial Jurisdiction areas.

8-10-4. Environmental Review

An environmental review may be required for projects that could result in significant environmental impacts. The Minnesota Environmental Policy Act of 1973 and Minnesota Rules 4410 allow for the preparation of Environmental Assessment Worksheets (EAW) and Environmental Impact Statements (EIS) for mandatory development thresholds or discretionary environmental reviews ordered by Clay County. If an environmental review is required, no Preliminary Plat shall be approved, nor shall any land disturbance activity be allowed, until such EAW or EIS, has been prepared, referred for review, and acted upon. The County shall prepare, at the applicant’s expense, and with the applicant’s input and assistance, any required EAW or EIS.

8-10-5. Township Approval Required

Township preliminary approval is required prior to County consideration of a major subdivision Preliminary Plat. All developable lots shall have frontage along a public right-of-way. If the dedication of new right-of-way is required, as for a cluster subdivision or an agricultural or natural resource subdivision, the applicant must obtain a written agreement from the Township Board of Supervisors stating the township will accept full and permanent responsibility for road maintenance and snow removal on the new right-of-way. The applicant must present the executed township agreement in recordable form to the Planning Department prior to County consideration of the subdivision application. The agreement for right-of-way acceptance and road maintenance responsibilities shall be recorded with the Final Plat.

8-10-6. Subdivision of Land Described by Metes and Bounds

- A. **Survey Required.** When a tract of land is intended to be subdivided and described by metes and bounds, the County Auditor shall require a survey and certificate showing the location and dimensions of the tract in relation to the two nearest recorded section corners. The legal description on the survey must match the legal description on the document presented for recording.
- B. **Subdivision of Land for Agricultural Use.** Subdivision of a tract of land described by United States Public Land Survey Description may occur without the requirement of a survey or surveyor's certificate; however, no lot described as an area less than 10 acres or an area including a reference to a measurement by feet may be transferred under this provision. In addition, the transferred lot shall be used for agricultural purposes only. All other subdivisions shall comply with the subdivision provisions of this chapter.
- C. **Survey Requirements.** All surveys must be completed by a registered land surveyor under the laws of the State of Minnesota. All surveys shall be certified by the surveyor and shall bear their registration number. All surveys must be legible and reproducible. A copy must be submitted in an electronic format compatible with the software in use by the County at the time of submittal. Surveys shall be filed with the Planning and Zoning Department and the Office of the County Recorder.
- D. ~~Limits on Location~~**Recording of Deeds.** The County Recorder shall not record any deed for the transfer of ownership of any tract made in violation of this section.

8-10-7. Methods of Subdivision

- A. **Administrative Subdivisions.** The administrative subdivision process shall be used for all lot line adjustments and lot combinations, as well as subdivisions that result in two (2) lots intended for agricultural or residential use. All other subdivisions shall follow the major subdivision process.
- B. **Major Subdivision Plats.** The major subdivision process is required for all standard subdivisions, cluster subdivisions, and agricultural or natural resources subdivisions in the AG District, as outlined under 8-2-1 (*Agricultural General District*), for Common Interest Community plats, and for lot splits intended for uses other than agricultural or residential, ~~following limits on location shall~~ the procedures for major subdivisions outlined under 8-10-10 (*Major Subdivision Preliminary Plat Procedures*) and 8-10-11 (*Major Subdivision Final Plat Procedures*).

8-10-8. Pre-application Meeting

- A. **Meeting Requirement.** Prior to the submission of an application for an administrative subdivision, major subdivision Preliminary Plat, or a common interest community plat, the applicant shall meet with Planning Department staff to discuss all regulations that apply to the subject property. The purpose of this meeting is to expedite review of subdivisions and to avoid undue expenditure of time and money to prepare and review a proposed subdivision that will not meet the requirements for County approval without extensive revision.
- B. **Sketch Plan.** To facilitate discussion at the pre-application meeting, the Applicant shall submit a general sketch plan of the proposed subdivision. The sketch plan shall include the following information:
1. A line drawing to scale showing proposed lot lines, roads, access, and a general

location of proposed structures and uses;

2. An aerial image showing existing watercourses, wetlands, ground cover, and structures; and
3. Other information as may be requested by Planning Department staff.

8-10-9. Administrative Subdivision Procedures

- A. **Pre-application Meeting.** Prior to submittal of an application for an administrative subdivision, the applicant complete the pre-application meeting consistent with the requirements of 8-10-8 (Pre-application Meeting).
- B. **Application Submittal.** All applications for administrative subdivision shall be submitted to the Planning Department on the form provided. The application shall not be processed until payment of the required fee, as set in Clay County’s fee schedule by resolution of the County Board. The applicant may apply concurrently for a Development Permit.
- C. **Administrative Review and Approval.** After the application submittal is complete, the Planning Department shall review the application and sketch plan and conduct a site assessment within 10 business days or as soon thereafter as reasonably possible. Following the site assessment, the Zoning Administrator shall approve, approve with conditions, or disapprove the application. The final decision shall be documented in writing and shall advise the applicant of any stipulations or conditions that are required. The applicant shall certify in writing that development will comply with all requirements of this Ordinance, together with any additional conditions as stipulated in the Zoning Administrator’s approval.
- D. **Appeal of Decision.** Within 30 days of receipt of the Zoning Administrator’s decision, the applicant may appeal the decision, or any conditions attached thereto, to the Board of Adjustment, as provided under 8-11-1(B).
- E. **Preparation of Surveyor’s Certificate.** Approval of the administrative subdivision shall constitute authorization to prepare and file a surveyor’s certificate with the Zoning Administrator.
- F. **Expiration.** Applications for administrative subdivision expire 15 months after approval if the approved subdivision has not been finalized either by the recording of a conveyance document, creation of a new parcel or modification of an existing parcel in the County tax system.

8-10-10. Major Subdivision Preliminary Plat Procedures

- A. **Pre-application Meeting.** Prior to the submission of an application for a Preliminary Plat for major subdivision, the applicant shall complete the pre-application meeting consistent with the requirements of 8-10-8 (Pre-application Meeting).
- B. **Application Submittal.** All applications for major subdivision shall be submitted to the Planning Department on the form provided. The application shall not be processed until payment of the required fee, as set in Clay County’s fee schedule by resolution of the County Board. The application shall be submitted with the following materials:
 1. A description of existing site conditions and the proposed development, including any proposed covenants, easements, utilities, or street improvements.

2. The Preliminary Plat meeting the requirements of 8-10-12(A).
 3. An aerial map, clearly showing the location of all existing structures, watercourses, shorelines, and wetlands in relationship to the proposed subdivision.
 4. A contour map with grading plans, meeting the requirements of 8-10-12(B);
 5. A stormwater management and erosion control plan meeting Minnesota Pollution Control Agency standards, to the extent required;
 6. Plans for public improvements, meeting the requirements of 8-10-13 (Major Subdivision Design Standards) and 8-10-14 (Subdivision Improvements);
 7. A copy of the executed Township agreement for acceptance of new right-of-way, as pursuant to 8-10-5 (Township Approval Required); and
 8. Any other information as may be requested by the Zoning Administrator or the Planning Commission to aid in their review.
- C. Staff Review.** Applications for Preliminary Plat approval shall be reviewed within 14 business days for completeness by the Zoning Administrator. An incomplete application shall be returned to the applicant with requested revisions as necessary to conform with the requirements of this Ordinance. Upon receipt of a completed application, the Zoning Administrator shall conduct a site assessment to evaluate the site characteristics and limitations, if any, of the proposed site for development. The Zoning Administrator shall prepare a written staff report that evaluates the proposed subdivision for conformity with this Ordinance and shall forward the staff report and application materials to the Planning Commission.
- D. Planning Commission Review and Public Hearing.** The Planning Commission shall review the Preliminary Plat for conformance with the regulations of this Ordinance, development suitability, and consistency with the Comprehensive Plan. At the meeting, the Planning Commission shall conduct a public hearing, during which all interested parties shall have a chance to be heard. Notice of the public hearing shall be given in accordance with Minnesota Statutes Section 394.26. After the public hearing, the Planning Commission shall:
1. Approve the Preliminary Plat;
 2. Approve the Preliminary Plat with conditions, stating all improvements, variances, or other conditions of approval; or
 3. Recommend denial of the Preliminary Plat to the County Board.
- E. Additional Information.** In considering a Preliminary Plat, the Planning Commission may request additional information from the applicant, input from any affected public service facility provider or special service district, and input from contiguous, affected, or potentially affected jurisdictions. If required, the applicant shall bear the full cost of meeting this requirement.
- F. Record of Decision.** The Planning Commission's action and findings shall be documented in the official record of the proceedings.
- G. Appeal of Decision.** Any person aggrieved by the Planning Commission decision to recommend disapproval the Preliminary Plat or impose conditions on approval may appeal the decision to the County Board of Commissioners.

H. **Approval Authorizes Preparation of Final Plat.** Approval of a Preliminary Plat is not an acceptance of the plat of record but is rather an expression of authorization to prepare the Final Plat for approval and recording, upon fulfillment of all requirements of this Ordinance.

8-10-11. Major Subdivision Final Plat Procedures

A. **Submittal Schedule.** The Final Plat shall be submitted within six (6) months of the date of Preliminary Plat approval. Failure to submit the Final Plat within this timeframe shall void the Preliminary Plat.

B. **Submittal Items.** The applicant shall submit the Final Plat meeting all requirements as set forth in 8-10-12(C). In addition, the following information and materials must be provided before the Final Plat is approved by County Board:

1. All covenants affecting the platted parcels;
2. Plans for the provision of safe and potable water, sewage disposal, drainage, and flood control.
3. **Soil borings, if required by the Planning Commission or County Board.**
4. ~~all signs.~~ Evidence that ground water control is at least 10 feet below the level of any finished grades, or a plan provided to resolve ground water problems.
5. Certification that all taxes currently due on the property to be subdivided have been paid in full.
6. Attorney's title opinion.
7. The Development Agreement, if required, as outlined in 8-10-14B).

C. **Review by County Recorder.** All Final Plats shall be submitted to the County Recorder for review at least 10 days before the Planning Commission meeting to consider the Final Plat under 8-10-11(E) or, in the event of a waiver under 8-10-11(F), the County Board meeting to consider the Final Plat under 8-10-11(G).

D. **Review by Commissioner of Natural Resources.** All Final Plats that are impacted by the shoreland management provisions of this Ordinance shall be reviewed by the Commissioner of Natural Resources before final County approval. A copy of the Final Plat shall be mailed to the Commissioner at least 10 days before the Planning Commission meeting to consider the Final Plat under 8-10-11(E) or, in the event of a waiver under 8-10-11(F), the County Board meeting to consider the Final Plat under 8-10-11(G). A lack of response by the Commissioner shall not delay County action.

E. **Planning Commission Review and Public Hearing.** Except as provided under 8-10-11(F), the Planning Commission shall consider the Final Plat at a meeting scheduled at least 20 days following submittal of the Final Plat. At the meeting, the Planning Commission shall conduct a public hearing, during which all interested parties shall have a chance to be heard. Notice of the public hearing shall be given in accordance with Minnesota Statutes Section 394.26. After the public hearing, the Planning Commission shall take one of the following actions:

1. Recommend approval of the Final Plat, stating all improvements or conditions as may be required for approval, including the reason for such conditions; or
2. Recommend denial of the Final Plat, stating the reason for disapproval.

- F. Waiver of Planning Commission Review.** To expedite review, the Planning Commission may waive its authority to review the Final Plat if the Final Plat is substantially the same as the Preliminary Plat. Waiver of Final Plat review by the Planning Commission shall constitute a recommendation to approve the Final Plat, which shall be forwarded to the County Board with that recommendation. If the Final Plat is determined to be substantially different from the Preliminary Plat recommended by the Planning Commission, the Planning Commission’s waiver shall be void and the Zoning Administrator shall forward the Final Plat to the Planning Commission for review consistent with 8-10-11(E).
- G. County Board Meeting and Public Hearing.** After receiving the Planning Commission’s recommendation or upon waiver of the Planning Commission’s review pursuant to 8-10-11(F), the County Board shall review and decide on the Final Plat at its next regularly scheduled meeting following review by the Planning Commission, or waiver of Planning Commission Review as provided by this section. At the meeting where it considers the Final Plat, the County Board shall conduct a public hearing, during which all interested parties shall have a chance to be heard. Notice of the public hearing shall be given in accordance with Minnesota Annotated Statutes, Section 394.26, or successor statute. After the public hearing is closed, the County Board shall take one of the following actions:
1. Approve the Final Plat;
 2. Approve the Final Plat with conditions; or
 3. Deny the Final Plat.
- H. Additional Information.** In considering a Final Plat, the Planning Commission or County Board may request additional information from the applicant, input from any affected public service facility provider or special service district, and input from contiguous, affected, or potentially affected jurisdictions. If required, the applicant shall bear the full cost of meeting this requirement.
- I. Notice to the Commissioner of Natural Resources.** The Commissioner shall be notified of all approved plats within 10 days of final action by the County Board.
- J. Filing.** The decision to approve the Final Plat shall become final upon receipt of the filing of the plat and any additional agreements or issuances with the County Recorder. Upon receiving final approval, the applicant shall submit a copy of the approved version of the plat in an electronic format compatible with the software in use by the County at the time of submittal. The electronic plat shall be referenced in Clay County coordinates and shall provide a seamless edge match to the existing County database.
- K. Appeal.** Any person aggrieved by a decision of the County Board regarding a decision on a Final Plat may appeal the decision to the appropriate court pursuant to state law.

8-10-12. Plat Specifications

- A. Preliminary Plat Specifications.** All Preliminary Plats shall be submitted in an electronic format compatible with the software in use by the County at the time of submittal, and on paper of 22 inches by 34 inches. All survey data shall be drafted in accordance with Minnesota Statutes 505. Common Interest Community survey data shall be drafted in accordance with Minnesota Statutes Chapter 515B. Preliminary Plats shall be drawn to scale and shall contain the following information:

1. **Subdivision Name and Legal Description.** Proposed name of subdivision, which shall not duplicate the name or be similar in spelling or pronunciation, of any plat previously recorded in the County along with the subdivision identification by section, township, range or by other legal description.
 2. **Certification.** The name and licensure of the surveyor or engineer who prepared the plat.
 3. **Graphic Scale, Reference System, and North Arrow.** Graphic scale, with a minimum scale of 1-inch equals 100 feet, reference system used, and north arrow.
 4. **Date of preparation.**
 5. **Subdivision Area.** Boundary of the proposed subdivision delineated by a solid line, with the total approximate area of the subdivision annotated in acres.
 6. **Adjoining Land.** Boundary lines for adjoining land delineated by dashed lines, with the ownership of each tract annotated on the plat.
 7. **Existing Rights-of-Way.** All existing public right-of-way or railroad right-of-way within or adjacent to the subdivision, clearly delineated with annotations for all right-of-way names and widths, if known. Right-of-Way adjacent to the subdivision boundary shall be delineated with dashed lines.
 8. **Existing Utilities.** All existing utility easements, clearly delineated with sufficient survey data to determine easement boundaries. The purpose and grantee for each easement shall be labeled.
 9. **Proposed Lots, Blocks, and Outlots.** Boundaries for all proposed lots, blocks, and outlots, delineated by solid lines. Lots and blocks shall be identified with consecutive numbering. Outlots shall be identified with consecutive lettering. The area of each lot shall be annotated in square feet.
 - 1-10. **Proposed Easements.** All proposed easements as permitted and temporary by Minnesota Statutes Chapter 505, delineated by dashed lines with sufficient survey data to determine easement boundaries. The purpose and grantee for each easement shall be labeled.
- B. **Contour Map.** In addition to the Preliminary Plat, the applicant shall provide a contour map in a Portable Document Format (PDF) format that shows the proposed subdivision in relation to the following:
1. **Contours at vertical intervals of not more than two (2) feet. Plats in Shoreland Districts shall delineate all grades of 10 percent or greater.**
 2. **The boundaries of the floodplain, shorelines, and the ordinary high-water level, if applicable.**
 3. **Preliminary street grades and drainage plan, if applicable;**
- C. **Final Plat Specifications.** All Final Plats shall be submitted in an electronic format compatible with the software in use by the County at the time of submittal, and on paper of 22 inches by 34 inches. All survey data shall be drafted by a registered engineer or surveyor licensed in the state of Minnesota in accordance with Minnesota Statutes Chapter 505. Common Interest Community survey data shall be drafted in accordance with Minnesota Statutes Chapter 515B. Final Plats shall be drawn to scale and contain the following

information:

1. All specifications required for the Preliminary Plat;
2. Point of beginning, which must be at a recorded government corner;
3. **Dimensions and Labels.** All straight line segments shall include annotated dimensions, expressed in feet and hundredths of a foot, and bearings, expressed in degrees, minutes, and seconds. All curved line segments shall be labeled with the central angle, arc length, and radius length.
4. **Monuments.** The location of durable monuments, which shall be set at each angle and curve point on the boundary lines of the plat prior to recording. In addition, monuments shall be set at all other block, lot, outlot, park, survey line, and witness corners within one (1) year after recording of the plat. All U.S., State, County, or other official benchmarks, monuments, or triangulation stations in or adjacent to the property shall be preserved in precise position.
5. **Floodplain Delineation.** For all subdivisions within the floodplain, floodway, or flood fringe boundaries, the Regulatory Flood Protection Elevation (RFPE) and the required elevation of all access roads shall be clearly labeled.
6. **Signatures and Certifications.** The Final Plat shall include the following certifications:
 - a. Surveyor's signature, certifying the accuracy of all dimensional and geotechnical details, and the placement of all monuments and markers as shown on the plat.
 - b. Signatures of any fee owners, contract for deed vendees, and mortgage holders, or to the extent allowed, a written acknowledgement statement, certifying their agreement to the Final Plat and the dedication of any public areas and right-of-way as shown consistent with Minnesota Statutes Section 505.021.
 - c. Township Board signature, certifying their agreement to accept ownership and maintenance responsibility for any right-of-way as shown, following the provisions set forth in 8-10-5 (Township Approval Required).
 - d. Signature of the County Board Chair, Planning Commission Chair, County Attorney, County Engineer, and Zoning Administrator, certifying plat approval.
 - e. Certification of County Auditor-Treasurer that all taxes have been paid in full.
 - f. Certification of County Recorder authenticating recording of the plat.
7. **County Access.** Statement of dedication granting access control rights and rights to any access to Clay County, as may be required by the County Engineer.

8-10-13. Major Subdivision Design Standards

A. **Streets.** Streets shall be designed in accordance with the following standards:

1. **Layout.** The layout and design for new streets shall consider their relation to existing and planned streets, traffic circulation, topographic conditions, stormwater runoff, and

- the proposed uses of the subdivision. The street layout shall not limit the ability of adjoining landowners to access or subdivide their property.
2. **Right-of-Way Width.** The minimum right-of-way width shall be 80 feet for collector roads and 70 feet for township (local) roads, as measured from lot line to lot line.
 3. **Street Extensions.** Street extensions shall be designed with the same or greater width of existing streets. Subdivision design shall provide for future street extensions to areas adjoining the subdivision unless the subdivision is served by an approved cul-de-sac.
 4. **Access Standards.** Access design and permitting shall comply with 8-9-2 (County Roadway Access Standards).
 5. **Grade.** For all Streets, the minimum grade shall be 0.5 percent and the maximum grade shall be six (6) percent.
 6. **Tangents.** Tangents of at least 100 feet in length shall be introduced between reverse curves on collector streets and 50 feet on lesser streets.
 7. **Street Jogs.** Street jogs with centerline offsets of less than 125 feet shall be avoided.
 8. **Intersections.** To the extent practical, streets shall intersect at right angles. No intersection shall contain an angle of less than 60 degrees.
 9. **Street Corners.** Street corners that are not at intersections shall be curved and shall not turn at right angles.
 10. ~~Setbacks: All signs~~ **Cul-De-Sacs.** Unless approved by the Planning Commission, the maximum length of permanent cul-de-sac streets is 1,320 feet, as measured along the centerline from the intersection of origin to end of right-of-way. Each cul-de-sac shall be provided at the closed end with a turnaround having a minimum outside right-of-way diameter of 75 feet and a minimum road surface diameter of 60 feet. Cul-de-sacs in the UE, Urban Expansion District shall meet city standards.
 11. **Township Roads Maintained by County.** Any township road in a new subdivision that is intended to be maintained by Clay County shall meet construction and design specifications established by the County Engineer.
 12. **Street Names.** Street names and numbering shall conform to the established County street numbering system and in accordance with the Clay County Address standard.
 13. **Private Streets.** Private streets are prohibited.
 14. **Property Lines at Intersections.** Property lines at street intersections shall be rounded at a radius of not less than 10 feet and curb lines on a radius of not less than 20 feet.

B. Easements.

1. **Utility Easements.** Easements for utilities shall have a minimum width of 10 feet. Utility easements shall be aligned with lot lines or within alley right-of-way and shall have continuity from lot to lot. At deflection points, easements for pole line anchors shall be provided where necessary.
2. **Stormwater Easement.** Where a subdivision is traversed by a watercourse or drainageway, a stormwater easement or drainage right-of-way shall be provided

substantially within the lines of such watercourse as will be adequate for stormwater runoff. The easement shall include not only the stream channel but also adjoining areas that have been subject to flooding in years of heavy runoff.

C. Blocks.

1. Length. Block lengths shall not exceed 1,320 feet and, if possible, shall not be less than 300 hundred feet in length. Additional access to schools, parks, or other destinations may be required.
2. Design. A block shall be designed to provide two (2) tiers of residential lots of appropriate depth, unless lots are served by a frontage road, or topographic conditions necessitate a single tier of lots.

D. Lots.

1. Side Lot Lines. Where possible, side lot lines shall be at right angles to straight street lines or radial to curved street lines. ~~yard~~
2. Double-Fronting Lots. Lots with frontage on two (2) parallel streets shall be avoided.

E. Flag Lots. Flag lots shall be avoided.

A-F. Minimum Setbacks. Minimum lot line setbacks ~~for structures~~ shall be those specified for the ~~zoning~~ district within which the ~~sign~~ subdivision is located.

G. Vehicular Access. All lots shall abut a public right-of-way or have deeded access to a public right-of-way. There shall be no direct vehicular access from residential lots to arterial roads. Residential lots shall be separated from arterial roads and railroad right-of-way by a 25-foot-wide buffer strip, which may be in the form of added depth or width to rear or side yards. Where a proposed plat is adjacent to an arterial highway, the County may require the applicant to provide a frontage road or internal subdivision road to restrict direct access to the highway.

H. Natural Features. In the subdivision of land, due regard shall be shown for all natural features which, if preserved, will add attractiveness and stability to the development.

8-10-14. Subdivision Improvements

A. Requirements. Before the County Board approves a Final Plat, the applicant shall give satisfactory assurance that all necessary improvements will be completed according to the engineering standards and specifications as required by the County. The County may require the applicant to provide financial assurance through a Development Agreement, as outlined in 8-10-14(B), below. Required improvements may include but are not limited to the following:

1. Streets. All streets shall be improved in accordance with the engineering specifications established by the County Engineer. Street surfacing completed by the applicant shall be approved by the County Engineer. Street name signs will be provided and installed by the County.
2. Water Supply. Safe and potable water shall be provided by a central distribution system serving the subdivision or by individual wells. In all cases, water shall be supplied in accordance with County specifications. In Flood Hazard Areas, water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

~~4.—**Sanitary System.** Sanitary sewage disposal shall be by a central system serving the subdivision or by individual systems. **Road Right of Way:** No sign except as erected by an official unit of government for the direction of traffic or necessary public information shall be permitted within the right-of-way of any public road.~~

~~8 3 14 : **STORAGE OF MANURE:**~~

~~Animal waste produced by an animal feedlot or stable facility shall not be stored within three hundred feet (300') of edge of a drainage ditch, wetland or public water.~~

~~8 3 15 — **PROVISIONS FOR KEEPING ANIMALS ON RESIDENTIAL PARCELS:**~~

~~A. **Residential Parcel:** a parcel of land that meets the criteria set forth either in Minnesota Statute 273.13, as amended, or by the Clay County Assessor for classification as “residential” (Class 1) for property taxation purposes. This definition does not apply to parcels in legally platted subdivisions.~~

~~**B. Animals on Residential Parcels:** The keeping of chickens, ducks, geese, turkeys or other domestic fowl and/or cattle, horses, pigs, goats, sheep or other domestic livestock on residential parcels shall conform to the following provisions:~~

- ~~1. Minimum Parcel Size: None of the aforementioned animals shall be kept on a parcel smaller than two (2) acres in size.~~
- ~~2. Useable Area: Useable area is calculated by subtracting one (1) acre from the parcel's total acreage. The number of whole acres remaining after subtracting one (1) acre is considered the "Useable Area".~~
- ~~3. Number of Animals Allowed Per Parcel: A maximum of one (1) animal unit per fenced acre of useable area is allowed.~~
- ~~4. Fences: Fences confining animals shall be located at least ten (10) feet from adjoining property lines.~~
3. All manure generated by animals on the propertyIn all cases, sewage treatment systems shall be provided in accordance with Title 6, Chapter 1 of the Clay County Code of Ordinances. In flood hazard areas, new and replacement sanitary sewers shall be designed to minimize or eliminate infiltration of flood waters into the system and on-site water disposal systems shall be located to avoid impairment or contamination during flooding.
4. Drainage Facilities. Drainage facilities and easements shall be disposed of in an appropriate manner installed as will adequately provide for the drainage of surface waters.
- 4.5. Traffic Control. Stop or yield signs shall be placed at all streets intersecting arterial or collector roads as approved by the Clay County Planning Office Engineer.
- ~~5. The Clay County animal unit definitions shall be used to determine the actual number of animals that constitute one (1) animal unit.~~

**CHAPTER 4
ADMINISTRATION AND**

- ~~841: ADMINISTRATIVE OFFICERS~~
- ~~842: BOARD OF COUNTY COMMISSIONERS~~
- ~~843: PLANNING COMMISSION~~
- ~~844: BOARD OF ADJUSTMENT~~
- ~~845: VARIANCES~~
- ~~846: AMENDMENTS~~
- ~~847: CONDITIONAL USE PERMITS~~
- ~~848: DEVELOPMENT PERMITS AND APPLICATIONS~~
- ~~849: VIOLATION, PENALTIES AND ENFORCEMENT~~

841: ADMINISTRATIVE OFFICERS:

B. Zoning Administrator, Planning Director: ~~The title of Zoning Administrator and Planning Director as used in this Ordinance shall refer to the Director of the Clay County Planning and Zoning Department or a staff person delegated such~~ **Development Agreements.** ~~Prior to installation of any required public improvements, the applicant may be required to enter into a written agreement with Clay County. The Development Agreement may require the applicant to construct or maintain public facilities at the applicant's expense, specify a phasing plan for the completion of said improvements, and require issuance of a financial security, such as a performance bond, to guarantee the completion of improvements. In addition, the Development Agreement may require financial assurance for the restoration or reclamation of a site following the cessation of use, or provide for any restrictions, covenants, or other conditions of the plat, as necessary. Approval shall be by the County Board in conjunction with the Final Plat.~~

8-10-15. Common Interest Communities

Any proposed land division that involves the creation of a common interest community shall be processed as a major subdivision and shall conform to the plat specifications, subdivision design standards, Minnesota Statutes Chapter 515B, and required improvements of this chapter.

8-10-16. United States Public Land Survey Monuments

- A. Statutory Requirements.** A certificate of location of government corner must be prepared as part of any land survey that includes or requires the use, perpetuation, or restoration of a public land survey corner, consistent with the requirements of Minnesota Statutes Section 381.12 and Minnesota Statutes Section 160.15, subdivision 3.
- B. Filing of Certificate.** The engineer or surveyor placing and establishing the markers or monuments shall file a certificate and survey in the office of the County Recorder. Each certificate shall contain only the record of markers and monuments at one corner. The County Recorder will not charge a fee for filing the certificate but may charge a fee for filing the survey. If an existing corner certificate is on file for an applicable corner, the document number of that certificate must be provided along with the survey, plat, or other document.

C. **Failure to Comply.** Failure to comply with the provisions of this section shall result in the Clay County Auditor rejecting any affected documents for recording or filing in the office of the Clay County Recorder, which may include, but is not limited to, deeds, mortgages, surveys, and plats.

Chapter 8-11. Administration and Procedures

Chapter Contents:

- 8-11-1. Zoning Administrator
- 8-11-2. County Board
- 8-11-3. Planning Commission
- 8-11-4. Board of Adjustment
- 8-11-5. Development Permits
- 8-11-6. Variances
- 8-11-7. Conditional Use Permits
- 8-11-8. Interim Use Permits
- 8-11-9. Land Development Ordinance Text Amendments
- 8-11-10. Zoning Map Amendments
- 8-11-11. Environmental Review
- 8-11-12. Violation, Penalties, and Enforcement

8-11-1. Zoning Administrator

~~A. Powers and Duties.~~ The Clay County Zoning Administrator or their designee is responsible for fulfilling all administrative duties by the Director.

~~B. Duties of Director of Planning and Zoning:~~

- A. ~~Duties:~~ The duties of the Director of the Clay County Planning and Zoning Department shall include planning activities as defined by this Ordinance, including but are not limited to, the following specific duties ~~or~~ and any additional duties so delegated by the County Board. ~~The Director may delegate these duties to a Zoning Administrator or other staff:~~
- ~~1. Coordination of Activities:~~ Coordination of all codes ~~Administer and enforce the provisions of this Ordinance.~~
 - ~~1.2.~~ Coordinate Ordinance administration and County planning activities ~~as authorized by this Ordinance.~~
 - ~~3. Review Applications:~~ Review applications for and issue ~~Receive and provide administrative support in handling applications for conditional or Interim Use Permits, variances, zoning amendments, and other approvals under this Ordinance.~~
 - ~~2.4.~~ Review and decide on applications for Development Permits and maintain records thereof, including ~~the recording records~~ of the elevation of the first floor (including basement) ~~and the elevation at which of all structures are floodproofed for construction of new or additions to existing structures located in Flood Plain Districts in Flood Hazard Districts.~~ The Zoning Administrator shall also maintain a record of the elevations to which structures or additions are floodproofed.
 - ~~5.~~ Inspections: Review and decide on applications for administrative uses as identified in Table 8-1 (Use Table) of this Ordinance.
 - ~~6.~~ Review applications for Zoning Certificates and issue Zoning Certificates.
 - ~~3.7.~~ Conduct necessary inspections of ~~buildings structures~~ and uses of land to determine compliance with the provisions of this Ordinance.

~~4.8. **Public Information Bureau:** Provide and maintain a public information bureau relative to matters records of this Ordinance and the Clay County Land Use Comprehensive Plan, and any amendments thereto.~~

~~5.9. **Advisor:** Act as official advisor to Advise the County Board of Commissioners, Planning Commission, and Board of Adjustment on matters originating from administration of this Ordinance.~~

~~a. **Zoning Certificates:** Review applications and issue all zoning certificates.~~

~~b. **Conditional Use Permits; Subdivision Review:** Review applications and issue all conditional use permits and applications for subdivision review.~~

~~6.10. **Additional Duties:** Perform all duties in addition to those listed herein that may be necessary for the proper administration of this Ordinance.~~

~~c. **Appeals of Administrative Decisions:** Administrative decisions of the Planning Director or . Any decision by the Zoning Administrator that are not reviewed by the Planning Commission, County Board or Board of Adjustment, including but not limited to the issuance of sewage disposal permits and zoning~~

- B. ~~certificates authorized by 8-11-1(A), above, shall be considered final administrative decisions. Such final administrative decisions may be appealed constitute a final decision. Any person or entity aggrieved by such decision of the Zoning Administrator may appeal the decision to the Board of Adjustment by the applicant within thirty (30) calendar days of the date of any denial by filing with the Board of Adjustment a notice of appeal specifying the grounds of the appeal.~~

~~8-4-2: BOARD OF COUNTY COMMISSIONERS:~~

~~The Clay~~8-11-2. County Board of

- A. Powers and Duties. ~~The County Commissioners Board~~ shall have jurisdiction in all matters permitted by law ~~and shall have the specific and general powers provided in this Ordinance as follows including the following:~~
- ~~1. Provide Enforcement and Administration:~~ The County Board shall provide for the enforcement and administration of this Ordinance by creating a Planning Commission and Board of Adjustment with appropriate duties and responsibilities and ~~to impose by assigning~~ enforcement duties of any officer, department, agency, or employee of the County.
 - ~~2. Public Hearings:~~ The County Board shall assign responsibility to conduct public hearings to the Planning Commission, ~~the~~ Board of Adjustment, or any official or employee of the County, except as provided in Minnesota Statutes Annotated Section 375.51, for the purpose of administration of this Ordinance.
 - ~~3. Zoning Amendments:~~ The County Board shall have the power to initiate, consider, adopt, or reject proposed Zoning ~~district or text~~Map amendments or ~~repeal of this Ordinance. County Board decisions on zoning district or Ordinance text amendments shall constitute final decisions and as such may be appealed to the District Court.~~
 - ~~4. Subdivision Plats:~~ ~~To~~ The County Board shall have the power to consider, approve, ~~conditionally~~ approve ~~with conditions,~~ or disapprove any Final Plats forwarded by the Planning Commission.
- B. Appeals. ~~Any decision by the County Board decisions on plats authorized by 8-11-2(A), above, shall constitute a final decisions and as such decision. Any aggrieved persons may be appealed appeal the decision of the County Board to the District Court appropriate court pursuant to state law.~~

~~8-4-3: PLANNING COMMISSION:~~

~~A. Creation; Membership:~~

~~Established: The County Board of Commissioners hereby establishes the County~~8-11-3. Planning Commission:

- A. Establishment. A Planning Commission is hereby established and vested with such authority

as provided by Minnesota Statutes Section 394.30, with the following provisions:

1. ~~Membership:~~ Membership of the Planning Commission shall be comprised of 11 members determined according to Minnesota Statutes ~~Annotated~~ Section 394.30, ~~as amended.~~
2. ~~Term:~~ Each member of the Planning Commission shall be appointed by the County Board to serve a three (3) ~~-~~ year term of office. No ~~one~~ member shall serve more than three (3) consecutive three (3) ~~-~~ year terms on the Planning Commission. ~~Appointments of~~ Interim appointments for less than three (3) years may be made to fill vacancies for unexpired terms.

B. **Powers and Duties:** The Planning Commission shall have the following powers and duties:

1. ~~Planning and Zoning:~~ The Planning Commission shall have the authority to cooperate with employees of the County in preparing and recommending to the County Board the adoption of Comprehensive Plans, recommendations for official controls, and other measures and amendments thereto.
2. ~~Conditional Use Permits:~~ The Planning Commission shall have the authority to hear and decide on all applications for Conditional Use Permits. ~~Planning Commission decisions on conditional use permits may be appealed within thirty (30) calendar days of decision to the County Board by filing with the County Board a notice of appeal specifying the grounds of the appeal. County, Interim Use Permits, and use permit revocations.~~

3. ~~Board decisions on conditional use permits appeals from~~The Planning Commission ~~are considered final~~shall have the authority to make Environmental Impact Statement ~~needs~~ decisions and ~~may be appealed to the District Court.~~Environmental Impact Statement adequacy decisions.
4. ~~Subdivisions; Amendments:~~ The Planning Commission shall have the authority to review ~~and make recommendation~~proposed Preliminary Plats, Final Plats, Zoning Map amendments, and Zoning Ordinance Text Maps and make recommendations to the County Board ~~on subdivision plats and amendments to this Ordinance.~~approve, conditionally approve, or disapprove such items.
1. ~~Temporary Uses:~~ The Planning Commission shall have the power to allow the temporary use of a building or premises in any district for a purpose or use that does not conform to the conditions prescribed by this Ordinance; provided, that such use be of a truly temporary nature and does not involve the erection of substantial buildings or a use existing for a period of more than three (3) months.

~~8-11-4: BOARD OF ADJUSTMENT:~~

~~A. Creation; Membership; Authority:~~

- C. ~~Established:~~Appeals. Any decision by the Planning Commission authorized by 8-11-3(B), above, shall constitute a final decision. Any aggrieved persons may appeal the decision of the Planning Commission to the appropriate court pursuant to state law.

8-11-4. Board of Adjustment

- A. Establishment. A Board of Adjustment is hereby established and vested with such authority as provided by Minnesota Statutes Annotated Section 394.27, ~~as amended with the following provisions:~~
 1. ~~Membership; Term:~~ The Board of Adjustment shall be comprised of five (5) members, ~~each with membership determined according to Minnesota Statutes Section 394.27.~~
 - 1.2. ~~Each Board of Adjustment member shall be~~ appointed to serve a three (3)-year term of office. No ~~one~~ member shall serve more than three (3) consecutive three (3)-year terms on the Board of Adjustment. ~~Appointments of~~Interim appointments for less than three (3) years may be made to fill vacancies for unexpired terms.
- B. Authority; Powers and Duties. The Board of Adjustment shall have the following powers and duties:
 - 2.1. ~~The Board of Adjustment shall have the~~ authority to hear and decide on all variance applications. ~~All appeals shall be in accordance with the procedures and standards of Minnesota Statutes Annotated section 394.27, and the additional procedures as prescribed in subsection C of this Section.~~
 1. ~~Conveyance Agreements in Agricultural District:~~ The Board of Adjustment shall hold public meetings to make decisions regarding the conveyance of rights for development of residential property when ownership within a quarter-quarter proposed for development lies with more than one property owner. Approval of such conveyance

~~agreements must be made by the Board of Adjustment prior to the initiation of any other land division review procedures.~~

~~**3-2. Appeals of Administrative Decisions:** The Board of Adjustment shall have the authority to hear and decide on appeals of final administrative decisions ~~of the Planning Director or Zoning Administrator that are not reviewed by the Planning Commission, County Board or Board of Adjustment.~~ Such final administrative decisions may be appealed to the Board of Adjustment by the applicant within ten (10) days of the date of any denial by filing with the Board of Adjustment a notice of appeal specifying the grounds of the appeal.~~

8-4-5: VARIANCES:

C. Appeals. Any decision by the Board of Adjustment authorized by 8-11-4(B), above, shall constitute a final decision. Any Person aggrieved by such decision of the Board of Adjustment may appeal the decision to District Court.

8-11-5. Development Permits

A. General Requirements.

1. It shall be unlawful for any person to commence development without first obtaining all necessary Development Permits. A Development Permit is required for development activities defined by 8-1-6 (Development Defined). The term “Zoning Certificate” is synonymous with Development Permit. A Development Permit shall only be issued for an allowed use or development activity that conforms to all provisions of this Ordinance, or for which a variance has been granted in accordance with the provisions of 8-11-6 (Variances). Failure to obtain a Development Permit shall be deemed a violation of this Ordinance and shall be punishable as provided in 8-11-12 (Violations, Penalties, and Enforcement).
2. There are seven (7) types of Development Permits:
 - a. Development – Structure (Building Permit)
 - b. Development – Sign
 - c. Development – Solar Energy
 - d. Development – Septic
 - e. Development – Land Alteration (Shoreland Districts only)
 - f. Development – Administrative (administrative home occupations, administrative mining, administrative feedlots, and administrative subdivisions)
 - g. Development – Access (connection to the County road system)
3. Development Permits issued on the basis of approved plans and applications, or on written order, shall authorize only the use, arrangement of structures, or construction as described in the application. All development shall be consistent with the approved application, Site Plan, and recorded subdivision plat. Any development that is not consistent with the approved application, Site Plan, or recorded subdivision plat shall

be deemed a violation of this Ordinance and shall be subject to penalty and enforcement as provided in by 8-11-12 (Violations, Penalties, and Enforcement).

B. Application and Procedures.

1. The application for Development Permit shall be submitted to the Planning Department on the form provided. The application shall be submitted with:
 - a. The required application fee, as determined by resolution of the County Board. The application fee shall be waived in the case of redevelopment following substantial damage sustained through fire, flood, or other disaster.
 - b. All information indicated on the application and any additional information as may be requested by the Zoning Administrator to ensure the site's suitability for the intended use and ensure that a compliant sewage treatment system will be provided.
 - c. For development of or substantial improvements to habitable structures in Flood Hazard Districts, certification by a registered professional engineer, registered architect, or registered land surveyor that the finished elevations on fill will conform with the provisions of this Ordinance, or certification of alternative floodproofing measures as may be permitted by Chapter 8-3 of this Ordinance.
 - d. Documentation showing that the applicant has obtained all state or federal permits as may be required, including Section 404 of the Clean Water Act (33 USC 1334).
2. Within 10 working days from the date of application submittal, the Zoning Administrator must either approve, deny, or refer to the appropriate County authority any application for Development Permit.
3. The holder of any Development Permit shall notify the Zoning Administrator immediately upon completion of construction for final inspection.

C. Expiration of Permit.

1. If the construction authorized by a Development Permit has not begun within six (6) months from the date of approval, said permit shall expire. If the construction described in any Development Permit has not been substantially completed within one (1) year of the date of approval, said permit shall expire unless a request is made to the Zoning Administrator to extend the permit.
2. If the administrative use authorized by a Development – Administrative Permit has not begun within 12 months from the date of approval or has been discontinued for a period of 12 or more consecutive months, said permit shall expire unless a request is made to the Zoning Administrator to extend the permit.
3. To the extent practicable, upon expiration of a Development Permit, written notice will be provided to the permitholder, together with notice that further work or resumption of use shall not proceed unless and until a new permit has been obtained. Such notice shall not be required to effect the expiration of a Development Permit in accordance with this section.
4. An expired Development Permit may be extended at the discretion of the Zoning Administrator if there have been no major changes to the development.

D. **Nonconforming Sewage Treatment System.** A Development Permit authorizing an addition to an existing structure shall stipulate that any nonconforming sewage treatment system shall be reconstructed or replaced in accordance with the provisions of this Ordinance.

E. **Development Permits in Flood Hazard Districts.** Additional requirements apply to permitting of construction in Flood Hazard Districts. See 8-3-6 (*Requirements for all Flood Hazard Districts*) and 8-3-12 (*Administration*).

F. **Development Permits in Shoreland Districts.** Additional requirements apply to permitting of construction and land alteration in shoreland Districts. See 8-4-9(C) and 8-4-11 (*Vegetation and Land Alterations*).

8-11-6. Variances

A. **Purpose and Function.** A variance allows development of a lot or structure with a slight deviation from the terms of this Ordinance, where strict adherence to the requirements of this Ordinance would cause the owner a practical difficulty. A variance shall run with the land and remain in effect so long as any condition imposed by the Board of Adjustment is met.

A.B. **Power to Authorize; and Revoke.** The Board of Adjustment may authorize upon appeal in specific cases such relief or variance from the terms of this Ordinance as will not be contrary to the public interest and only for those circumstances provided for in Minnesota Statutes Annotated Chapter 394, including restrictions placed on nonconformities as described in 8-1-8 (*Nonconformities*). Nothing in this section shall prevent the Board of Adjustment from enacting this Ordinance nor any ordinance to change the status of a variance. The Board of Adjustment has the authority to revoke variances that do not comply with the established conditions.

C. **Finding Require Specific Conditions: Application and Procedures.**

1. The application for variance shall be submitted to the Planning Department on the form provided. The application shall be submitted with:
 - a. The required application fee, as determined by resolution of the County Board.
 - b. A map, subdivision plat, or legal description identifying the subject property.
 - c. The existing zoning district of the subject property.
 - d. A written letter of hardship stating the reason for the variance request.
 - e. A copy of the Site Plan if requested by the Zoning Administrator.
 - f. A description of the sewage treatment system if the subject property is located in a Shoreland District.
 - g. Applicant responses to the review standards outlined under 8-11-6(D).
2. Upon receipt of a complete application, the variance request shall be scheduled for a public hearing before the Board of Adjustment as soon as practicable.
3. Notice of the public hearing shall be given in accordance with Minnesota Statutes, Chapter 394.
4. When the subject property is located within a Flood Hazard District or Shoreland District, the Zoning Administrator shall notify the Commissioner of Natural Resources at least 10 days prior to the public hearing.

5. The Zoning Administrator shall prepare a written staff report to review the application for variance and advise the Board of Adjustment in its recommendation, including any recommended conditions for consideration.
 6. At the public hearing, the Board of Adjustment shall hear testimony and comments regarding the request for variance. The Board of Adjustment may deem to continue the public hearing or hold additional public hearings at their discretion.
 7. After the public hearing or hearings, the Board of Adjustment shall make one of the following decisions:
 - a. Grant the variance;
 - b. Grant the variance with conditions; or
 - c. Deny the variance.
 8. Written notice of the Board of Adjustment decision must be provided to the Applicant and any interested party.
- A. **Review Standards.** In the granting or denial of ~~such a~~ variance, the Board of Adjustment shall ~~clearly~~ identify in writing ~~the specific~~ conditions-findings of fact that ~~exist~~ are consistent with the criteria specified in Minnesota Statutes Annotated Section 394.27 ~~which justify~~ and the ~~granting criteria~~ of the variance.

~~B.D. Compliance with Statute: this section. The Board of Adjustment shall not grant a variance unless it finds at a public hearing that all of the following standards of Minnesota Statutes Annotated section 394.27, subsection 7 have been met.:~~

~~B. Criteria for granting variances. All of the following criteria must be met before a variance may be granted:~~

- ~~1. Intent of Ordinance: The variance is in harmony with the general purposes and intent of this Ordinance.~~
- ~~2. Consistent with Comprehensive Plan: The variance is consistent with the Clay County Comprehensive Land Use Plan.~~
- ~~3. Practical Difficulty: A variance may be granted when the The applicant for the variance establishes that there are is a practical difficulties difficulty in complying with the strict letter of this Ordinance. Practical difficulties," as used in connection with the granting of a variance, mean the property owner, by demonstrating:
 - ~~a. The applicant proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Variances shall be granted for earth sheltered construction as defined in section 216C.06, subdivision 14, when in harmony with the official controls.~~
 - ~~b. Extraordinary Circumstances: Exceptional or extraordinary circumstances apply to the property that do not apply generally to other properties in the same zoned district or vicinity, and which result from lot size or shape, topography, or other circumstances over which the owners of property have had landowner has no control or influence.;~~ and
 - ~~c. Literal Interpretation Unfair: The Granting the variance will not alter the essential character of the property's locality.~~~~
- ~~3-4. A literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties landowners in the same district under the terms of this Ordinance.~~
- ~~4-5. Minimum Variance Necessary: The variance granted shall be is the minimum variance that would is necessary to alleviate the practical difficulty.~~
- ~~6. The variance does not permit a lower degree of flood protection than the Regulatory Flood Protection Elevation (RFPE) for the area, or permit standards lower than those required by state law. See also 8-3-6 (Requirements for all Flood Hazard Districts).~~
- ~~7. Any sewage treatment system, if the subject property is located within a Shoreland District, conforms to the intended use of the property. The variance, as issued, must require reconstruction of a nonconforming sewage treatment system.~~

~~C.E. Prohibited Variances: No variance shall be granted where any of the following conditions are present:~~

- ~~1. Adequate sewage treatment systems or water supply capabilities cannot be provided;~~
 - ~~a. The plight of the landowner or hardship is due to circumstances created by the~~

- ~~landowner;~~
- ~~2. The landowner's practical difficulty is self-imposed;~~
 - ~~2.3. The variance would allow a use that is not allowed in that prohibited by zoning district;~~
 - ~~b. The variance would result in a lower degree of flood protection than noncompliance with the Regulatory Flood Protection Elevation (RFPE); however, variances may be used to modify permissible methods of flood protection;~~
 - ~~3.4. The essential character of the locality would be altered or there would be a significant adverse effect on the surrounding properties;~~
 - ~~5. There~~ The variance would have significant adverse effect on the public health or safety;
- F. After-the-Fact Variances. The Board of Adjustment may use the following standards with consideration to after-the-fact variances:
1. Whether construction was completed;
 2. Whether there are similar structures in the area;
 - 4.3. Whether the violation was intentional or unintentional; and
- ~~e. No variance shall confer on the applicant any special privilege that is denied by this Ordinance to owners of other lands, structures or buildings in the same district.~~
4. The benefit to the County of enforcement compared to the burden on the applicant if compliance were required.
- D.G. Conditions: Conditions may be imposed in the granting of a variance. ~~Any~~ condition must be directly related to and must bear a rough proportionality to the impact created by the variance.
- H. Variances in Flood Hazard Districts and Shoreland Districts: ~~For existing developments, Special provisions apply to the consideration and granting of variances to property located within the a Flood Hazard District or shoreland districts, District. See 8-3-12(B) and 8-4-4(C).~~

8-11-7. Conditional Use Permits

- A. Purpose and Function. The purpose of the Conditional Use Permit process is to allow certain uses, which may not be appropriate generally, to exist subject to conditions as set forth in this Ordinance or as may be established by the Planning Commission. A Conditional Use Permit runs with the land and is designed to mitigate negative impacts to the environment, public infrastructure and services, or other landowners or occupants of property. Conditional uses are allowed subject to conformance with the requirements of this section and with any applicable requirements of Chapter 8 (Use Regulations). Table 8-1 (Use Table) identifies uses that require a Conditional Use Permit.
- B. Application and Procedures.
1. The application for variance must clearly demonstrate whether a conforming sewage

treatment system is present a Conditional Use Permit shall be submitted to the Zoning Administrator on the form provided. The application shall be submitted with:

- a. The required application fee, as determined by resolution of the County Board.
- b. A copy of the Site Plan or operations plan, as requested by the Zoning Administrator.
- c. Responses to review standards found in 8-11-7(C).
- a.d. Any additional application submittal materials required for the intended proposed use of the property. The variance, as issued, must require reconstruction of a nonconforming sewage treatment system in Chapter 8 (Use Regulations).

C. Flood Hazard Zones:

~~1—Regulatory Flood Protection Elevation: No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.~~

~~2—FEMA Variance Criteria: The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:~~

~~a. Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.~~

~~b. Variances shall only be issued by a community upon:~~

~~(i) a showing of good and sufficient cause;~~

~~(ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and~~

~~(iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.~~

~~e. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.~~

e. Flood Insurance Notice and Record Keeping: Any other information relevant to the need for the proposed use or the expected effect of the proposed use on surrounding areas and Clay County in general, as requested by the Zoning Administrator of the Planning Commission.

2. Upon receipt of a complete application, the Conditional Use Permit request shall be scheduled for a public hearing before the Planning Commission as soon as practicable.

3. Notice of the public hearing shall be given in accordance with Minnesota Statutes, Chapter 394.

~~3—When the subject property is located within a Flood Hazard District or Shoreland District, the Zoning Administrator shall notify the applicant for a variance that:~~

- ~~a. **Increased Costs:** 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 twenty five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage; and~~
- ~~b. **Risks:** Such construction below the 100 year or regional flood level increases risks to life and property.~~
- ~~c. **Record of Variances in Floodplains:** Such notification shall be maintained with a record of all variance actions. The County shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.~~

~~4 **Variance Notification:**~~

~~Hearing. The Board of Adjustment shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive notice at least ten (10) days prior to the hearing.~~

- ~~a. **Decisions.** A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.~~

846: AMENDMENTS:

A. ~~Initiation:~~ Proceedings for amendment shall be initiated by:

- ~~1. A petition of the owner or owners of the actual property;~~
- ~~2. A recommendation of the Planning Commission; or~~
- ~~3. Action of the Board of County Commissioners.~~

B. ~~Application and Filing:~~

~~2.4. Time of Filing:~~ All applications shall be filed at least thirty (30) days prior to the public hearing.

~~1. Required Information, Text Amendment:~~ The following information Zoning Administrator shall be required prepare a written staff report to accompany an review the application for a text amendment of this Ordinance:

- ~~a. Stated reason for requested change;~~
- ~~b. Text of the Ordinance provision to be amended;~~
- ~~c. Additional information requested by Conditional Use Permit and advise the Planning Commission-~~

~~3.5. Required Information, Rezone or Change in District Boundary:~~ The following information shall be required for a rezoning or change in district boundary: its decision.

- ~~d. Names and addresses of the petitioner and their signatures on the petition;~~
- ~~e. A legal description of the property to be rezoned, the names and addresses of all owners in the area, and a description of the property owned by each;~~
- ~~f. A site plan showing existing or proposed buildings, uses of land and structures of the property to be rezoned and all lands within five hundred feet (500') of the property in incorporated areas and one half (1/2) mile in unincorporated areas together with the names and addresses of the owners of the land in such areas;~~
- ~~g. The present district classification of the area and proposed classification;~~
- ~~h. Additional information as may be requested by the Planning Commission.~~

C. ~~Authorization:~~

~~6. Filing with County Board; Official Date of Application:~~ Following the closing of At the public hearing, the Planning Commission shall hear testimony and comments regarding the request for Conditional Use Permit. The Planning Director/Commission may deem to report its findings and recommendation to continue the public hearing or hold additional public hearings at their discretion.

~~4.7. After the County Board public hearing, the Planning Commission shall file the application with the County Board within sixty (60) days of application submission. For the purpose of this provision, the date of the first regularly scheduled meeting of the Planning Commission at which any amendments shall be heard shall be considered the official date of the application. make one of the following decisions:~~

- ~~1. Absence of Report:~~ If no report is transmitted by the Planning Commission within sixty (60) days after the hearing, the Board of County Commissioners may take action

~~without awaiting a recommendation.~~

- ~~2. **Time Limitation:** The Board of County Commissioners shall take action on the proposed amendment within sixty (60) days following the receipt of the recommendations by the Planning Commission.~~
- ~~3. **Public Hearings; Board Action:** In considering the amendment, the County Board may hold such public hearings as it deems necessary. After conclusion of the hearings, if any, the County Board may adopt the amendment or any part thereof in such form as it deems necessary to carry~~

- a. ~~out the intent of this Ordinance. Action for approval by the Board Grant the Conditional Use Permit with established conditions;~~
- b. ~~Deny the Conditional Use Permit, stating its findings of facts for denial;~~

~~If the Conditional Use Permit is granted, it shall be not less than a four-fifths (4/5) vote of its members. The person making application for amendment filed at the office of the County Recorder, and the original shall be notified in writing of the Board's action.~~

- ~~4. **Flood Plain District Amendments:** Amendments provided to the applicant. The Zoning Administrator shall provide to the flood plain districts shall not be made unless it has been demonstrated that designations have been made in error or that the area in question has been filled to or above the regulatory flood protection elevation and is contiguous to land outside the flood plain. Special exceptions can be permitted by the Commissioner of Natural Resources if it is determined that, through other measures, lands are adequately protected for the intended use.~~

~~5.8. **Approval of Commissioner of Natural Resources:** Amendments to the flood plain provisions of this Ordinance, including the Flood Plain a copy of any Conditional Use Permit applying to property within a Flood Hazard District or Shoreland District Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Flood Plain District Map changes must also receive prior approval by the Federal Emergency Management Agency. The Commissioner of Natural Resources must be given within 10 -days written notice of all hearings to consider an amendment to this Ordinance and said notice shall include a draft of the Ordinance amendment or technical study under consideration of the approval decision.~~

- ~~5. **Denial; Resubmission:** In the event the request for amendment is denied by the Board of County Commissioners, no further request for the same district change in the same property shall be considered for at least one year.~~

~~D. **Criteria and General Review Standards for Granting Zoning District Amendments:**~~

~~B.C. **Effect of Proposed Use:** In granting a zoning district amendment Conditional Use Permit, the Planning Commission shall consider the effect of the proposed use upon the health, safety, morals, and general welfare of occupants of surrounding lands; the effect on existing and anticipated traffic conditions on adjacent streets uses and land, and especially the effect on Agricultural usage in the surrounding area uses; the effect on traffic conditions; and other criteria as may be relevant. No Conditional Use Permit shall be approved by the Planning Commission unless the following standards have been considered and written findings have been made that:~~

- ~~1. **Additional Findings:** In addition, the Planning Commission shall make the following findings, among others, where applicable:~~
 - ~~a. **Burden on Public Utilities:** The development authorized by the rezoning will not create an excessive burden on any public facilities or utilities which serve or are proposed to serve the area.~~
 - ~~b. **Related to Overall Needs:** The rezoning is reasonably related to the overall needs of the County and to the existing land use.~~
 - ~~c. **Consistency with Ordinance:** The rezoning is consistent with the purposes of this Ordinance and the purposes of the zoning district in which the applicant seeks classification.~~

~~d.—**Conflict with Comprehensive Plan:** The rezoning is not in conflict with the comprehensive plans of any township or city of the County or the County Land Use Plan.~~

~~e.—**Prematurely Stimulate Public Investment in Utilities:** The rezoning will not either individually or cumulatively stimulate prematurely, public investment in the facilities and utilities described in subsection D.2.a. of this Section.~~

~~**847: CONDITIONAL USE PERMITS:**~~

~~A.—**Application:** An application for a conditional use permit shall ~~will not~~ be filed with the Planning Director thirty (30) days prior to the regularly scheduled meeting of the Planning Commission.~~

~~B. **Notice to Commission or Natural Resources:** The Commissioner of Natural Resources shall receive at least ten (10) days' notice of hearings for conditional uses for flood plain or shoreland areas.~~

~~C. **Findings and General Review Standards:** No conditional use permit shall be approved by the Planning Commission unless the following general standards have been considered and written findings have been made:~~

- ~~1. **Effect of Use:** In granting a conditional use, the Planning Commission shall consider the effect of the proposed use upon injurious to the health, safety, morals and general welfare of occupants of surrounding lands, existing and anticipated land uses, traffic conditions including parking facilities on adjacent streets and land, and the effect on agricultural usage and values of property and scenic views in the surrounding areas, and the effect of the proposed use on existing comprehensive plans residents of Clay County.~~
- ~~2. **Use and Enjoyment of Other Property:** The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, and not substantially diminish or impair property values within the immediate vicinity.~~
- ~~3. **Development of Surrounding Property:** 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.~~
- ~~4. **Utilities, Access Roads, Drainage, Off-Street Parking and Loading Spaces:** Adequate measures have been or will be taken to provide utilities, access roads, drainage and off-street parking and loading spaces as required by this Ordinance.~~
- ~~5. **Nuisance Conditions:** Adequate measures have been or will be taken to prevent or control offensive noxious odor, fumes, dust, noise, and/or vibration, water pollution and soil erosion, so that none of these will constitute a nuisance; to control water pollution and soil erosion; and to control lighted signs or other lights in such manner that no disturbance to neighboring properties will result.~~
- ~~1. **Burden on Current and Anticipated Public Services:** The conditional use will not create an excessive burden on current or anticipated public infrastructure or services that serve or are proposed to serve the area, including but not limited to parks, schools, public safety services, streets roads, water supply, sanitary sewers, and storm sewers and other public facilities or utilities which serve or are proposed to serve the area.~~
- ~~2. **Compatibility:** The use will be sufficiently compatible or separated by distance or screening from adjacent agriculturally zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to agricultural use of said land.~~
- ~~6. **Appearance of Structure and Site:** The structure and site shall have an appearance, unless the County and the applicant establish a Development Agreement that will not have an adverse effect upon adjacent residential properties determines how such impacts will be resolved.~~
- ~~3. **Relationship to Overall Needs:** The use is, in the opinion of the Planning Commission, reasonably related to the overall needs of the district and to the existing land use. In the~~

~~ease of flood plain areas, the proof that the location is necessary for facility operation and that alternative sites not susceptible to flooding are not available.~~

~~7. **Consistency with Ordinance:** The conditional use is allowed by this Ordinance and conforms with any specific use standards established in *Chapter 8 (Use Regulations)* as may be applicable.~~

~~4. The conditional use is consistent with the ~~purposes of this Ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use.~~~~

~~7.8. **Conflict with** goals and objectives of the Clay County Comprehensive **Plans:** The use is not in conflict with the and Transportation Plan and any comprehensive plan, if any, of ~~the~~ township or city ~~or County~~ as may be applicable.~~

~~5. **Traffic Hazards, Congestion in Flood Plain Areas:** The use will not cause traffic hazards ~~or~~~~

~~congestion and in flood plain areas has access during flooding for ordinary and emergency vehicles.~~

~~6.—Existing Businesses: Existing businesses nearby will not be adversely affected because of curtailment of customer trade brought about by intrusion of noise, glare or general unsightliness.~~

~~D.—Authorization and Conditions for Authorization:~~

~~1.—Action by Planning Commission:~~

~~a.—Time Limitation: Following the closing of the public hearing, the Planning Commission shall take action on the conditional use permit application within sixty (60) days.~~

~~b.—Official Submission Date: For the purpose of this provision, the date of the public hearing shall constitute the official submission date.~~

~~c.—Forwarding to Commissioner of Natural Resources: Copies of all decisions granting conditional use permits in flood plain or shoreland areas shall be forwarded to the Commissioner of Natural Resources within ten (10) days of that decision.~~

~~C.D. _____~~ **General Conditions and Requirements:** In permitting a new conditional use, ~~or the~~ alteration of a conditional use, or the renewal of a Conditional Use Permit, the Planning Commission may impose, in addition to the standards and requirements expressly specified by this Ordinance, additional conditions which they consider necessary to protect the best interest of the surrounding area and County as a whole. These conditions may include, but are not limited to, the following:

1. ~~Increase~~Increasing the required lot ~~size~~area or ~~yard dimension~~setbacks;
2. Limiting the height, size, or location of ~~buildings~~structures;
3. Controlling the location and number of vehicle access points;
4. Increasing the ~~street~~required road width;
5. Increasing the number of required off-street parking spaces;
6. Limiting the number, size, location or lighting of signs;
7. Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property;
8. Designating sites for open space; and

~~2.—Specific Conditions: Additional development conditions~~ All standards and requirements for specific ~~conditional uses in Article _____ of this Ordinance shall be met in addition to the general review standards in this section.~~

~~E.—Standards for Shoreland Conditional Uses: Conditional uses in shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established communitywide. A thorough evaluation of the water body and the topographic, vegetation, and soils condition on the site must be made to ensure:~~

~~1.—Susceptibility to Flood Damage: That the facility, its contents, and its water supply and sanitary system are not susceptible to flood damage and during flooding will not contribute~~

~~to the creation of disease, contamination, and other unsanitary conditions.~~

~~2. **Increased Flood Heights or Velocities:** Life and property will not be endangered due to increased flood heights or velocities caused by encroachment into the floodway.~~

- ~~3.—**Dangerous Materials:** During flooding dangerous materials will not be swept downstream and cause injury to others.~~
- ~~4.—**Soil Erosion:** The prevention of soil erosion or other possible pollution of public waters, both during and after construction;~~
- ~~5.—**Visibility of Structures:** The visibility of structures and other facilities as viewed from public waters is limited;~~
- ~~6.—**Water Supply; Sewage Treatment:** The site is adequate for water supply and on-site sewage treatment; and~~
- ~~7.—**Watercraft:** The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.~~
9. **Conditions Attached to Conditional Use Permits in Shoreland Areas:** The Planning Commission, upon consideration of the criteria listed above and the purposes of this Ordinance, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following: in Chapter 8 (Use Regulations).
- ~~8.—**Setbacks:** Increased setbacks from the ordinary high water level;~~
- ~~9.—**Vegetation:** Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and~~
- ~~10.—**Special Provisions:** Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.~~

~~F.—Reserved for future use~~

~~G.—Reserved for future use~~

H.—Revocation of Conditional Use Procedures for All Flood Plain Zoning Districts:

- ~~1.—**Information Required:** Require the applicant to furnish such of the following information and additional information as deemed necessary by the County Planning Commission for determining the suitability of the particular site for the proposed use:
 - ~~a.—**Plans:** Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, floodproofing measures, and the relationship of the above to the location of the stream channel.~~
 - ~~b.—**Specifications:** Specifications for building construction and materials, floodproofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.~~
 - ~~c.—**Transmittal to Engineer:** Transmit one copy of the information described in subsection I. 1.
 - ~~a.—of this Section 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.~~~~~~

~~1. **Determination of Flood Hazard:** Based upon the technical evaluation of the designated engineer or expert, the Planning Commission shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.~~

~~2. **Considerations:** In passing upon conditional use applications, the Planning Commission shall consider all relevant factors specified in other sections of this Ordinance; and:~~

- ~~a. The danger to life and property due to increased flood heights or velocities caused by encroachments.~~
- ~~b. The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.~~
- ~~c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.~~
- ~~d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.~~
- ~~e. The importance of the services provided by the proposed facility to the community.~~
- ~~f. The requirements of the facility for a waterfront location.~~
- ~~g. The availability of alternative locations not subject to flooding for the proposed use.~~
- ~~h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.~~
- ~~i. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
 - ~~a. The safety of access to the property in times of flood for ordinary and emergency vehicles.~~~~
- ~~j. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.~~
- ~~k. Such other factors which are relevant to the purposes of this Ordinance.~~

~~3. Conditions Attached in Flood Plain Districts:~~

- ~~a. **Duty to Prescribe:** In granting a conditional use permit the County Planning Commission shall prescribe appropriate conditions and safeguards, in addition to those specified below, which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this Ordinance punishable under Section 8-4-9 of this Chapter. A copy of all decisions granting conditional use permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.~~
- ~~b. **Conditions Applied:** Conditions applied to a permit may include, but are not limited to, the following:
 - ~~(1) Modification of waste treatment and water supply facilities.
 - ~~b.a. Limitations on period of use, occupancy, and operation.~~
 - ~~e.a. Imposition of operational controls, sureties, and deed restrictions.~~~~
 - ~~(2) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.~~
 - ~~(3) Floodproofing measures, in accordance with the State Building Code and this Ordinance. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are~~~~

~~consistent with the regulatory flood protection elevation and associated flood factors for the particular area.~~

~~848 : DEVELOPMENT PERMITS AND APPLICATIONS:~~

~~A. General Requirements:~~

- ~~1. **Permit Required Prior to Development:** It shall be unlawful for any person to commence development without first obtaining a development permit.~~
- ~~2. **Subdivision Approval:** No subdivision plat shall be approved unless all lots of said subdivision abut a public right of way or have deeded access to a public right of way.~~
- ~~3. **Compliance Required:** Before a permit is issued, the terms of all County ordinances shall be met.~~

~~B. **Application:** Application for a permit shall be made to the administrative officer or other designated official on the forms provided. The application shall include the necessary information so that the administrative officer or designated official can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.~~

- ~~1. **Information Required; Issuance:** Applications for any kind of development permit shall contain such information as may be deemed necessary for proper enforcement of this Ordinance. Development permits shall be issued only after determining that the application, building plans or plats comply with the terms of this Ordinance.~~
- ~~2. **Certification of Building Elevations:** In flood plain districts, 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 Code. Floodproofing measures shall be certified by a registered professional engineer or registered architect.~~
- ~~3. **Record of Elevations:** In flood plain districts, the Zoning Administrator shall maintain a record of the elevation of the first floor (including basement) of all structures or additions to existing structures. The Zoning Administrator shall also maintain a record of the elevations to which structures or additions to structures are floodproofed.~~

~~C. **Permits from Other Agencies:** All proposed development will be reviewed by the Zoning Administrator to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.~~

~~D. **Staff Review:** Within ten (10) working days, the Zoning Administrator must take action to either approve, reject or refer to the appropriate County authority any application for construction of any building or the use of any land or building.~~

~~E. **Unapproved Use, Arrangement or Construction Prohibited:** Development permits issued on the basis of approved plans and applications, or as written order shall authorize only the use, arrangement of lots or buildings and construction set forth in such approval plans and applications and no other use, arrangement or construction. Any use, arrangement or construction at variance with that authorized or required shall be deemed a violation of this Ordinance.~~

~~F. **Involuntary Loss:** In cases of involuntary loss through catastrophe, such as fire, wind, etc., no fee shall be charged in these instances for a permit to redevelop.~~

~~G. **Final Inspection:** The holder of every development permit involving construction shall~~

~~notify the Zoning Administrator immediately upon completion of work authorized by such permit for a final inspection.~~

~~D.E. Term of Permit. If the start conditions of construction of any development described in a development the permit are not being satisfied, the Planning Commission has not begun within six (6) months from the date of issuance thereof, said permit shall expire. If the construction described in any development permit has not been substantially completed within one year of the date of issuance thereof, said permit shall expire and be cancelled by the administrative officer. Written the authority to revoke the permit upon public notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new permit has been obtained and hearing.~~

~~F. Failure Conditional Uses in Flood Hazard Districts and Shoreland Districts. Any conditional use located within a Flood Hazard District or Shoreland District shall conform to Obtain the standards of Chapter 3 (Flood Hazard Districts) or Chapter 4 (Shoreland Districts), respectively.~~

8-11-8. Interim Use Permits

~~A. Purpose and Function. The purpose of the Interim Use Permit: Failure process is to obtain a development permit shall allow a use, which may not be deemed a violation of appropriate generally or on a permanent basis, to exist for a definite duration, subject to conditions as set forth in this Ordinance and or as may be established by the Planning Commission. An Interim Use Permit runs with the use or landowner and not with the land. Table 8-1 (Use Table) identifies uses that require an Interim Use Permit.~~

~~B. Application and Procedures. The application and review process for Interim Use Permits shall be punishable the same as those for Conditional Use Permits as provided in 8-11-7(B).~~

~~C. Review Standards. The Planning Commission shall grant or renew an Interim Use Permit only if it finds that such use at the proposed location:~~

- ~~1. Meets the review standards for a Conditional Use Permit as set forth in 8-11-7(C).~~
- ~~2. Will terminate upon a date or an event that can be identified with certainty.~~
- ~~3. Will be subject to, by agreement with the applicant, any conditions that the County has deemed appropriate for the permission of the use, including the condition that the owner may provide an appropriate financial surety to cover the cost of removing the interim use and any interim structures upon expiration of the Interim Use Permit.~~

~~D. Termination. An Interim Use Permit shall terminate upon the first occurrence of any of the following events:~~

- ~~1. Within 90 days of change of ownership of property, unless extended by the Planning Commission.~~
- ~~2. The termination date stated in the permit occurs;~~
- ~~3. In the case where the conditions of the permit are not being satisfied, the Planning Commission has the authority to revoke the permit upon public notice and hearing; or~~
- ~~4. The use has been discontinued for a period of 12 or more consecutive months.~~

8-11-9. Land Development Ordinance Text Amendments

A. **Authority.** The County Board may amend this Ordinance by supplementing, modifying, or repealing any provisions herein. A proposed amendment may be initiated by the County Board upon its own motion, upon a recommendation of the Planning Commission, or upon receipt of petition from any interested Person.

B. Application and Procedures.

1. The County Board shall require a recommendation from the Planning Commission on any proposed amendment before acting thereon. All amendments shall be considered by the Planning Commission in a public hearing, a notice of which shall be given in accordance with Minnesota Statutes Annotated Section 8-5-8 of this Chapter. 394.26. The Planning Commission
2. Text amendments shall be initiated by complete petition and shall be scheduled for a public hearing before the Planning Commission as soon as practicable. If the text amendment affects any provision of this Ordinance pertaining to floodplains or shorelands, the application shall be forwarded to the Commissioner of Natural Resources at least 10 days prior to the public hearing. For any adoption or amendment of regulations pertaining to feedlots, the Zoning Administrator shall notify the Minnesota Pollution Control Agency and commissioner of agriculture no later than the notice of the first hearing proposing to adopt or amend said regulations, pursuant to Minnesota Statutes, Annotated Section 394.25, or successor statutes. See 8-3-4 (Flood Hazard Zone Boundaries) for additional requirements pertaining to floodplain amendments and 8-4-4(G) for additional requirements pertaining to shoreland amendments.
3. Petitions shall contain the following information:
 - a. The required petition fee, as determined by resolution of the County Board.
 - b. Identification of the person or body that is initiating the amendment;
 - c. Stated reason for the amendment;
 - d. Text of the amended Ordinance provision or provisions; and
 - e. Any additional information requested by the Planning Commission.
4. At the public hearing the proposed text amendment be submitted for discussion, parties in interest shall have an opportunity to be heard, and the Planning Commission shall determine whether the proposed amendment is consistent with the goals and objectives of the Clay County Comprehensive and Transportation Plan and the general purpose of this Ordinance.
5. The Planning Commission shall submit its written recommendation to the County Board.

~~H. After receipt of the Planning Commission's recommendation on the proposed text amendment, the County Board may act to adopt the proposed text amendment with such changes as it may deem advisable. In considering the amendment, the County Board may hold such public hearings as it deems necessary. **Violation:** Any use, arrangement, construction or occupancy different than that authorized by permit shall be deemed a violation of this Ordinance and shall be punishable as provided in Section 8-5-8 of this Chapter.~~

~~I. Specific Permits Required:~~

- ~~1.—**Construction of Buildings or Additions:** A permit is required for the construction of buildings or building additions (and including such related activities as construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by Sections 8-3B-10 through 8-3B-12 of this Ordinance.~~
- ~~2.—**Nonconforming Sewage Treatment System:** A permit authorizing an addition to an existing structure shall stipulate that an identified nonconforming sewage treatment system, as defined by Section 8-3B-19 of this Ordinance, shall be reconstructed or replaced in accordance with the provisions of this Ordinance.~~
- ~~J.—**Certificate of Zoning Compliance:** In Flood Hazard Zone and shoreland districts it shall be unlawful to use, occupy or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered or enlarged in its use or structure until a certificate of zoning compliance has been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Ordinance. Where a nonconforming use or structure is extended or substantially altered, the certificate of zoning compliance shall specifically state the manner in which the nonconforming structure differs from the provisions of this Ordinance.~~
- ~~K.—**Certificate of Occupancy:** A copy of certificates of occupancy shall be filed with the Department of Natural Resources for their records.~~
- ~~L.—**Permits in Flood Hazard Zones:** A Permit issued by the Zoning Administrator in conformity with the provisions of this Ordinance shall be obtained prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the construction of a dam, fence, or on-site septic system; prior to the change or extension of a nonconforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado, or any other source; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood hazard zone.~~
- ~~M.—**Notification for Watercourse Alterations:** The Zoning Administrator shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the community authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minnesota Statute, Chapter 103G, this shall suffice as adequate notice to the Commissioner of Natural Resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).~~

~~N. **Notification to FEMA When Physical Changes Increase or Decrease the 100-year Flood Elevation:** As soon as is practicable, but not later than six (6) months after the date such supporting information becomes available, the Zoning Administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.~~

~~8-4-9: **VIOLATION, PENALTIES AND ENFORCEMENT:**~~

~~6. Action for approval by the County Board shall require not less than a four-fifths (4/5) vote of its members. If the text amendment affects any provision of this Ordinance pertaining to floodplains or shorelands, the amendment must also be approved by the Commissioner of Natural Resources.~~

~~C. **Review Standards.** In recommending approval of a text amendment, the Planning Commission shall consider the effect of the proposed amendment upon the health, safety, morals, and general welfare of County residents; the effect on existing and anticipated Land uses and especially the effect on agricultural uses; the degree to which the text amendment will affect nonconformities or variance requests; and other criteria as may be relevant. The Planning Commission shall not recommend approval of a text amendment, and the County Board shall not approve a text amendment unless it finds the following:~~

- ~~1. Development authorized by the text amendment will not create an excessive burden on public facilities or utilities.~~
- ~~2. The text amendment is consistent with the general purposes of this Ordinance.~~
- ~~3. The text amendment is consistent with the goals and objectives of the Clay County Comprehensive and Transportation Plan.~~

8-11-10. Zoning Map Amendments

~~B. **Authority.** A Zoning Map amendment may be initiated by the County Board upon its own motion, upon a recommendation of the Planning Commission, or upon receipt of petition from any interested Person. Zoning Map amendments are legally equivalent to Ordinance text amendments, because the Zoning Map is adopted by reference.~~

~~C. **Application and Procedures.**~~

- ~~1. The County Board shall require a recommendation from the Planning Commission on any proposed Zoning Map amendment before acting thereon. All Zoning Map amendments shall be considered by the Planning Commission in a public hearing, a notice of which shall be given in accordance with Minnesota Statutes Section 394.26.~~
- ~~2. Zoning Map amendments shall be initiated by complete petition and shall be scheduled for a public hearing before the Planning Commission as soon as practicable. If the Zoning Map amendment affects any provision of this Ordinance pertaining to floodplains or shorelands, the application shall be forwarded to the Commissioner of Natural Resources at least 10 days prior to the public hearing. See 8-3-4 (Flood Hazard Zone Boundaries) for additional requirements pertaining to floodplain amendments and 8-4-4(G) for additional requirements pertaining to shoreland amendments.~~

3. Petitions shall contain the following information:
 - a. The required fee, as determined by resolution of the County Board.
 - b. Name, address, and signature of the applicant;
 - c. A map, subdivision plat, or legal description of the property or area to be rezoned;
 - d. A description of the existing and proposed use(s) of the property or area;
 - e. The existing and proposed zoning districts.
 - f. A Site Plan if requested by the Zoning Administrator;
 - g. Additional information as may be requested by the Zoning Administrator.
 2. At the public hearing the proposed Zoning Map amendment shall be submitted for discussion, parties in interest shall have an opportunity to be heard, and the Planning Commission shall determine whether the Zoning Map amendment is consistent with the goals and objectives of the Clay County Comprehensive and Transportation Plan and the general purpose of this Ordinance. In considering the amendment, the Planning Commission may hold such public hearings as it deems necessary. If the Zoning Map amendment involves a related application for subdivision, both items may heard at the same public hearing.
 3. The Planning Commission shall submit its written recommendation to the County Board.
 4. After receipt of the Planning Commission's recommendation on the proposed Zoning Map amendment, the County Board may act to adopt the proposed Zoning Map amendment with such changes as it may deem advisable. In considering the amendment, the County Board may hold such public hearings as it deems necessary. Action for approval by the County Board shall require not less than a four-fifths (4/5) vote of its members. If the Zoning Map amendment affects any provision of this Ordinance pertaining to floodplains or shorelands, the amendment must also be approved by the Commissioner of Natural Resources.
 5. The decision and all supporting statements shall be recorded in the official records of the County Board.
 6. If the request is disapproved, the decision of the County Board shall be communicated in writing to the applicant and no further request for the same zoning change to the same property shall be considered for at least three (3) months.
- C. Review Standards.** In recommending approval of a Zoning Map amendment, the Planning Commission shall consider the effect of the proposed amendment upon the health, safety, morals, and general welfare of occupants of surrounding lands; the effect on existing and anticipated land uses and especially the effect on agricultural uses; the degree to which the Zoning Map amendment will affect nonconformities or variance requests; and other criteria as may be relevant. The Planning Commission shall not recommend approval unless it finds the following:
1. The development authorized by the Zoning Map amendment will not create an excessive burden on any public facilities or utilities which serve or are proposed to serve the area, unless the County and the applicant establish a Development

- Agreement that determines how such impacts will be resolved.
2. The Zoning Map amendment is consistent with the general purposes of this Ordinance and the existing or proposed use.
3. The Zoning Map amendment is consistent with the goals and objectives of the Clay County Comprehensive and Transportation Plan.
4. The proposed use or zoning district is compatible with surrounding uses or zoning districts.

8-11-11. Environmental Review

A. Minnesota Environmental Policy Adopted. The provisions of the rules for the Environmental Review Program, Minnesota Rules chapter 4410 through 4410.7900 are hereby adopted, together with the other provisions of this section, as the environmental review operating procedures the County will follow in implementing the provisions of Minnesota Statutes 116D relating to the Environmental Review Program and any rules adopted thereunder by the Minnesota Environmental Quality Board. All terms used in this section shall have the same meaning as the terms used in Minnesota Statutes 116D and the rules adopted thereunder.

B. Administration.

1. The Zoning Administrator shall be responsible for the administration of the Environmental Review Program, this section, and the rules adopted by reference by this section.
2. The Zoning Administrator shall be responsible for determining whether an action for which a permit is required is an action for which an Environmental Assessment Worksheet (hereinafter referred to as “EAW”) is mandatory under Minnesota Rules 4410.4300 or if an Environmental Impact Statement (hereinafter referred to as “EIS”) is mandatory under Minnesota Rules 4410.4400. The Planning Commission, on recommendation from the Zoning Administrator, shall also determine those proposed actions for which discretionary EAW may be required under the provisions of this section.
3. All EAWs and EISs shall be prepared under the supervision of the Zoning Administrator and reviewed and approved by the Planning Commission.
4. When reviewing an EAW or EIS, the Zoning Administrator and the Planning Commission may suggest design alterations which would lessen the environmental impact of the action. The Planning Commission may require these design alterations to be made as a condition for issuing the permit when it finds that the design alterations are necessary to lessen the environmental impact of the action.
5. After an EAW is prepared, the Planning Commission shall review the EAW and make an EIS needs decision. The Planning Commission shall require an EIS when it finds that an action is major and has potential for significant environmental effects.
6. After an EIS is prepared, the Planning Commission shall review the EIS and make a determination of adequacy.

C. Cost of Preparation and Review.

1. **Information to Be Provided.** The project proposer shall supply in the manner

prescribed by the Zoning Administrator all unprivileged data or information reasonably requested by the Planning Commission that the project proposer has in possession, or to which has reasonable access.

2. **Environmental Assessment Worksheets.** The project proposer shall pay all costs of preparation and review of the EAW, and, upon the request of and in the manner prescribed by the Zoning Administrator shall prepare a draft EAW and supply all information necessary to complete that document.
3. **Environmental Impact Statement.** The Planning Commission and the project proposer may comply with the provisions of the Rules Governing Assessment of Costs for Environmental Impact Statements unless the applicant and the Planning Commission provide otherwise by a written agreement.
4. **Payment of Costs.** No permit or approval for an action for which an EAW or an EIS is required shall be issued until all costs of preparation and review which are to be paid by the project proposer are paid, and all information required is supplied, and until the environmental review process has been completed as provided in this section and the rules adopted by reference by this section, and pursuant to any written agreement entered into by the applicant for the permit and the Planning Commission under the provision.
5. **Agreements Concerning Cost of Preparation and Review.** The project proposer and the Planning Commission may, in writing, agree as to a different division of the costs of preparation and review of any EAW or EIS.

D. Discretionary Environmental Review

1. The Planning Commission may, upon recommendation by the Zoning Administrator, require that a discretionary EAW be prepared on any proposed action if the action may be a major action and appears to have the potential for significant environmental effects. The following guidelines shall also be considered in determining whether a discretionary EAW shall be required:
 - a. Is the action to be in or near an area that is considered to be environmentally sensitive or aesthetically pleasing?
 - b. Is the action likely to have disruptive effects such as generating traffic and noise?
 - c. Are there public questions or controversy concerning the environmental effects of the proposed actions?

8-11-12. Violation, Penalties, and Enforcement

- A. **Violation; and Penalty.** Any person who violates the provisions of this Ordinance, fails to comply with any of its requirements, ~~including violations of conditions and safeguards established in connection with grants of variances or conditional uses,~~ or makes ~~any false statement~~ statements in any document ~~required to be~~ submitted under the provisions thereof shall be guilty of a misdemeanor and shall be punished as defined by law.

A.—After the Fact Permits:

~~Any person making application for a permit after the commencement of work requiring a permit, shall be charged an additional administrative fee as established by resolution of the~~

~~County Board. In the event the application for a permit is denied or the action permitted does not include all or part of the work commenced prior to approval of said permit, the review and approval body shall require correction and/or restoration of the concerned property to its original state, including removal of structures or improvements.~~

B. Enforcement:

~~1. Administrative Officer:~~ The Zoning Administrator, ~~Planning Director~~ or other appointed official is responsible for the administration and enforcement of this Ordinance.

1. ~~Additional Actions or Proceedings:~~ In the event of a violation or threatened violation of this Ordinance, ~~the administrative officers~~said official, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, or abate such violations or threatened violations, and it shall be the duty of the County Attorney to institute such action.
2. ~~Suspected Ordinance Violation:~~ In responding to a suspected Ordinance violation, the Zoning Administrator and the County may utilize the full array of enforcement actions available to ~~it~~them, including, but not limited to, prosecution and fines, injunctions, Stop Work Orders, 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. ~~After the fact permits are permits applied for after construction or use has been initiated.~~ 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.
3. ~~Discovery of Violation:~~ When ~~an ordinance violation is either discovered by or brought to the attention of~~ the Zoning Administrator learns of an Ordinance violation, the Zoning Administrator shall ~~immediately~~ investigate the situation and as soon as is reasonably possible and shall document the nature and extent of the violation ~~of the official control. As required and as soon as is reasonably possible, this information will be submitted to the appropriate agency, Department of Natural Resources and/or Federal Emergency Management Agency Regional Office, along with the County's plan of action to correct the violation to the degree possible.~~
4. ~~Notification of Violation and Remedies:~~ The Zoning Administrator shall notify the suspected party of the requirements of this Ordinance and all other official controls and the nature and extent of the suspected violation of these controls. If the structure ~~and~~ or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until the proper permit(s) or approval is granted by the County.

~~5. development immediately halted until a proper permit or approval is granted by the County. As may be necessary and as soon as is granted by the County. A permit or approval applied for after construction or use has been initiated, an after the fact permit, shall be subject to an administrative remedy for failure to comply comprised of an increased application fee. After the fact application for a permit does not guarantee approval. If the construction or development is already completed, then reasonably possible, the Zoning Administrator may either: a) issue an order identifying the violation and the County's plan for corrective actions that must be made within a specified time period to bring the use or structure into compliance with the action to the Department of Natural Resources, the Federal Emergency Management Agency Regional Office, or other appropriate agency.~~

C. Administrative Penalties and Fines.

~~1. The Zoning Administrator or any other appointed official controls, or b) responsible for enforcing this Ordinance has the authority to issue administrative penalties and fines for violations. This includes violations of conditions and safeguards established when granting Administrative Permits, Conditional Use Permits, Interim use Permits, and variances. These penalties and fines are set forth by resolution of the Clay County Board of Commissioners and included in the County Fee Schedule.~~

D. After-the-Fact Permits.

~~1. Any person or entity who commences or completes development, a use or construction without obtaining all required permits from the County shall be deemed in violation of this Ordinance. The Zoning Administrator or Planning Director must notify the responsible party to apply for any necessary permit(s) after the fact. Said application(s) shall be submitted to the Zoning Administrator, Planning Director, or any other appointed official responsible for enforcing this Ordinance within a period to be determined by the Zoning Administrator or Planning Director.~~

~~2. After-the-fact permits shall require an additional administrative penalty and fine as set forth in the County Fee Schedule by resolution of the Clay County Board of Commissioners.~~

~~3. The submission of an application for an after-the-fact permit/development approval does not guarantee approval. If said permits are denied or the action permitted does not include all or part of the work commenced prior to approval of the permit, the review and approval body shall require correction or restoration of the concerned property to its original state, including discontinuance of the use or removal of structures or improvements, within a specified period of time not to exceed thirty (30) days specified by the Zoning Administrator, Planning Director, or any other appointed official responsible for enforcing this Ordinance.~~

~~C.E. Failure to Comply: If the responsible party does not appropriately respond to the Zoning Administrator, Planning Director, or any other appointed official responsible for enforcing this Ordinance within the specified period of time, each additional day that lapses shall constitute an additional violation of this Ordinance and shall be prosecuted accordingly. The Zoning Administrator or Planning Director shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this Ordinance.~~

~~2. Mandamus Proceedings: Any taxpayer or taxpayers of the County may institute~~

~~mandamus proceedings in the District Court to compel specific performance by the proper official or officials of any duty required by this Ordinance.~~

CHAPTER 5
ZONING DISTRICTS, LAND USE AND

INTRODUCTORY PROVISIONS

~~ARTICLE 5A. FLOOD HAZARD ZONE AND DISTRICTS (GFP, FW, FF)~~

~~ARTICLE 5B. SHORELAND ZONE LAND USE DISTRICTS (SP, RD, SP-LD)~~

~~ARTICLE 5C. RESOURCE PROTECTION OVERLAY DISTRICTS (RP-WHP, RP-BIO, RP-AGG)~~

~~ARTICLE 5D. AGRICULTURAL GENERAL DISTRICT (AG)~~

~~ARTICLE 5E. AGRICULTURAL SERVICE CENTER DISTRICT (ASC)~~

~~ARTICLE 5F. URBAN EXPANSION DISTRICT (UED)~~

~~ARTICLE 5G. HIGHWAY COMMERCIAL DISTRICT (HC)~~

~~ARTICLE 5H. LIMITED HIGHWAY COMMERCIAL DISTRICT (LHC)~~

~~ARTICLE 5I. LANDING FIELD OVERLAY DISTRICT (LF)~~

INTRODUCTORY PROVISIONS

~~8-5-1: CLASSIFICATION OF DISTRICTS~~

~~8-5-2: ZONING MAP~~

~~8-5-3: DISTRICT BOUNDARIES~~

~~8-5-4: SHORELAND CLASSIFICATION SYSTEM AND SHORELAND LAND USE DISTRICTS~~

~~8-5-5: PERMITTED, CONDITIONAL AND ACCESSORY USES~~

~~8-5-6: INTERIM USE PERMITS~~

~~8-5-1: CLASSIFICATION OF DISTRICTS:~~

~~The following zoning districts are hereby established as part of the Clay County Zoning Ordinance:~~

~~A. Flood Hazard Zones:~~

~~FW — Floodway District~~

~~FF — Flood Fringe District~~

~~GFP — General Flood Plain District~~

~~B. Shoreland Zones:~~

~~SP — Special Protection District~~

~~RD — Residential District~~

~~SP-LD — Special Protection — Low~~

~~Development GD — General Use District~~

~~C. Resource Protection Zone:~~

~~RP-WHP Resource Protection Wellhead Protection District~~

~~RP-BIO Resource Protection Biologically Significant Areas~~

~~District RP-AGG — Resource Protection Aggregate~~

~~Resources District~~

~~D. Agricultural Zones:~~

~~AG — Agricultural General District~~

~~ASC — Agricultural Service Center District~~

~~E. Residential Zone:~~

~~UED — Urban Expansion District~~

~~F. Commercial Zones:~~

~~HC — Highway Commercial District~~

~~LHC — Limited Highway Commercial District~~

~~G. Special Zone:~~

~~LF — Landing Field Overlay District~~

~~H. Detachments:~~ Any land detached from an incorporated municipality and placed under the jurisdiction of this Ordinance in the future shall initially be placed in the Agricultural General (AG) Zoning District until it is placed in another district by action of the County Board upon recommendation from the Planning Commission.

~~8-5-2: ZONING MAP:~~

~~A. Identification; Copies On File:~~

~~The Official Zoning Map shall be identified by the signature of the Chairman of the Board of County Commissioners, and attested by the County Auditor, together with its date of adoption. Copies of the original Zoning Map shall be filed in the Office of the County Recorder and shall remain without changes to be used for reference purposes when there is a need to determine the original zoning. The Official Zoning Map shall be on file in the office of the County Auditor and County Zoning Administrator.~~

~~B. Changes:~~

~~Changes made on the Official Zoning Map shall be made promptly after an amendment has been approved by the County Board, and bear the date of adoption, and follow the same form as indicated in this subsection.~~

~~C. Electronic Copies:~~

~~A. The original and copies of the Official Zoning Map may be kept and distributed in electronic format. A verification by the County Auditor shall be placed in the electronic file attesting to the identity of the Official Zoning Map.~~

~~D. Adoption of Official Zoning Map:~~

~~The Official Zoning Map which, together with all materials attached thereto, are hereby adopted by reference and declared to be part of this Ordinance. The attached material includes the Flood Insurance Study, Clay County, Minnesota and Incorporated Areas, Flood Insurance Rate Map Index (Map Number 27027CIND2A), and all Flood Insurance Rate Map panels as indicated on the Flood Insurance Rate Map Index that have been printed for the unincorporated areas of Clay County, all of these documents being dated April 17, 2012 and prepared by the Federal Emergency Management Agency (FEMA).~~

~~E. Detachments:~~ The Flood Insurance Rate Map panels adopted by reference into Section 8-5-2(D) above will include floodplain areas that lie inside of the incorporated boundaries of municipalities at the time of adoption of this ordinance. If any of these floodplain land areas

| ~~are detached from an~~

~~incorporated municipality and placed under the jurisdiction of Clay County after the date of adoption of this ordinance, the newly detached floodplain lands shall be subject to the provisions of this ordinance immediately upon the date of the detachment.~~

~~8 5 3 : DISTRICT BOUNDARIES:~~

~~A. Boundaries on Official Zoning Map:~~

~~The location and boundaries of the zoning districts are set forth on the Official Zoning Map.~~

~~B. Boundary Lines:~~

~~Unless otherwise specified, zoning district boundaries shall follow the center lines of streets, highways, railroad rights of way or waterways; section lines, subdivision lines, lot lines, city limits, or such lines extended.~~

~~C. Shoreline Boundaries:~~

~~Boundaries indicated as following shorelines of bodies of water shall be construed to follow the Ordinary High Water Level of such shorelands.~~

~~D. Measurement of Distances:~~

~~Distances not specifically indicated on the Official Zoning Map shall be determined by the scale on the Map.~~

~~E. District Boundaries Dividing Single Parcels:~~

~~Where a district boundary line divides a parcel which is in a single ownership at the time of passage hereof, the Board of Adjustment may permit the extension of the regulations for either portion of the parcel not to exceed fifty feet (50') beyond the district line into the remaining portion of the parcel.~~

~~F. Flood Plain Boundaries:~~

~~1. Location of Boundary Lines:~~

~~The location of boundary lines shall be determined by the Federal Emergency Management Agency (FEMA) and provided on Flood Insurance Rate Maps (FIRM) developed for Clay County. When necessary this subsection shall be amended by addition of the proper flood plain district boundaries as provided for in section 8 5A 5 of this Chapter.~~

~~2. Removal of Flood Plain Designation:~~

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

~~3. Determination of Boundaries; Interpretation:~~

~~Boundaries of the flood plain Districts shall be determined by scaling distances on the FIRM. Where interpretation is needed as to the exact location of the boundaries of the~~

~~district as shown on the FIRM, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary interpretation.~~ **All decisions**

~~will be based on elevations of the regional (100-year) flood profile, the ground elevations that existed on the site at the time the Community adopted its initial floodplain ordinance or on the date of first National Flood Insurance Program map showing the area in the floodplain if earlier, and other available technical data. Persons contesting the location of the district boundaries shall be given reasonable opportunity to present their case to the Board of Adjustment and submit technical evidence.~~

~~4.—Removal of Special Flood Hazard Area Designation:~~

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

~~8-5-4: SHORELAND CLASSIFICATION SYSTEM AND SHORELAND LAND USE DISTRICTS:~~

~~A.—Mapped Shoreland Zones:~~

~~The extent of the shoreland zones for the water bodies listed in subsection C., below, shall be as shown on the Official Zoning Map and shall include all land within the following distances from public waters:~~

- ~~1.—One thousand feet (1,000') from the ordinary high water level or a lake, pond, or flowage; and~~
- ~~2.—Three hundred feet (300') from the ordinary high water level of a river or stream.~~
- ~~3.—The limits of shoreland districts may be reduced whenever the waters involved are bounded by natural topographic divides which extend landward for a lesser distance and when approved by the Commissioner of the Department of Natural Resources.~~

~~B.—Relationship of Mapped Shoreland Zones to Zoning Districts:~~

~~Mapped shoreland zones are classified in subsection D., below. Each mapped and classified shoreland zone is regulated by zoning districts that establish permitted and conditional uses, density, lot size, dimensional standards and other provisions. Mapped shoreland zones that surround Natural Environment Lakes are regulated as SP Special Protection Districts or SP-LD Special Protection Low Development Districts, except Lake Fifteen which is regulated as an RD Residential Development District. Mapped shoreland zones that surround Recreational Development Lakes listed in Section 8-5-4D.2. and General Development Lakes listed in Section 8-5-4D.3. are regulated as RD Residential Development Districts. In addition to the zoning district provisions, other performance standards and provisions of this Ordinance shall apply to mapped shoreland districts.~~

~~C.—Shoreland Classification System:~~

~~The public waters of the County have been classified by the Department of Natural Resources as shown in the tables below consistent with the criteria found in Minnesota Rules part 6120.2500, and the Protected Waters Inventory Map for the County. The criteria used for classification include the following:~~

- ~~1. Preservation of natural areas;~~
- ~~2. Present ownership and development of shoreland areas;~~

- ~~3. Shoreland soil types and their engineering capabilities;~~
- ~~4. Topographic characteristics;~~
- ~~5. Vegetative cover;~~
- ~~6. In-water physical characteristics, values, and constraints;~~
- ~~7. Recreational use of the surface water;~~
- ~~8. Road and service center accessibility;~~
- ~~9. Socioeconomic development needs and plans as they involve water and related land resources;~~
- ~~10. The land requirements of industry which, by its nature, requires location in shoreland areas; and~~
- ~~11. The necessity to preserve and restore certain areas having significant historical or ecological value.~~

D. Lakes:

1. Natural Environment Lakes:

Inventor y I.D.#	Lake Name	Section	Township	Range	Acre s
14-1	Maple	31,36	137	43,44	34
14-2	Anderson*	6,1	139	43,44	59
14-3	Anderson*	30,25	139	43,44	25
14-4	Tilde*	24,25	141	43,44	256
14-5	Homestead	8,9,17	137	44	44
14-9	Solem	21	137	44	70
14-10	Tansem	22,27	137	44	36
14-11	Ranum	23,26,27	137	44	51
14-12	Whiskey	25,36	137	44	48
14-16	One	1,21	138	44	47
14-17	Foulball	1,2	138	44	45
14-18	Eleven	2,11	138	44	139
14-19	Three	31	138	44	106
14-21	Ten	9,10,15	138	44	83
14-24	Unnamed	11,14	138	44	28
14-26	Thirteen	13,14,23	138	44	60
14-28	Fourteen	14	138	44	33
14-30	Fifteen	15	138	44	128
14-33	Nelson	16,21	138	44	41
14-35	Mayfield	22,23	138	44	36
14-37	Emma	26	138	44	36
14-38	Laura	27	138	44	60
14-42	Rollag	31	138	44	42
14-44	Anfinson	4,5,33	138,139	44	53
14-46	Backman	2	139	44	34
14-47	Moe	2,11,12	139	44	60
14-49	Lee	9,16	139	44	148
14-52	Solum	11,12,13	139	44	57
14-53	Christ-Olson	13,14	139	44	74
14-54	Hoe	14	139	44	55
14-56	Knudson	15	139	44	41

Clay County Development
Code Zoning Districts –

March 13,

14-58	Perch	17	139	44	38
14-61	Erickson	23,24	139	44	53
14-62	Jergenson	25,26	139	44	67
14-63	Overson	25,26,35	139	44	60
14-65	Burke (Burk)	28	139	44	41
14-66	Unnamed	28	139	44	34
14-68	Unnamed	33,34	139	44	29
14-71	Ness	35,36	139	44	45
14-72	Rustad-Melby (Rustad)	11	140	44	82

14-78	Swede Grove	10,14,15	140	44	138
14-79	Meyer	15,16	140	44	106
14-81	Unnamed	3,10	141	44	28
14-82	Unnamed	17	141	44	42
14-83	Unnamed	20	141	44	37
14-84	Unnamed	23,26	141	44	54
14-85	Unnamed	25,26	14	144	29
14-86	Goose Prairie Marsh	26,27	141	44	4
14-87	Unnamed	34,35	141	44	41
14-88	Unnamed	36	141	44	39
14-89	Doran	30,25	139	44,45	100
14-90	Solwald	7,1,12	140	44,45	58
14-91	Buhaug	1,31	140,141	44,45	48
14-92	Tatlie	31,36	141	44,45	60

14-94	Unnamed	36	137	45	25
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14-95	Rushfeldt (Rushfield)	3,9,10	138	45	54
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14-96	Bjordahl	12	138	45	56
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14-99	Maria (Marin)	9,16	139	45	106
14-100	Silver	23,26	139	45	123
14-102	Unnamed	1	140	45	34
14-103	Cromwell	1,12	140	45	31
14-104	Anderson	12,13	140	45	41
14-105	Horse Shoe	21,28	140	45	44
14-106	Hotsie	6,32	140,141	45	38
14-107	Unnamed	26,27,34	141	45	41
3-658	Long*	13	138	44	89
3-659	Sand*	7,18;12,13	139	43,44	199
3-660	Axberg*	19,24	139	43,44	47
3-66	Pump*	31,36	139	43,44	57
3-662	Cuba*	6,31,1	139,140	43,44	52
84-15	Unnamed**	3,4,34	136,137	45	31

* Also in Becker County

** Also in Wilkin County

2.—Recreational Development Lakes:

Clay County Development
Code Zoning Districts –

March 13,

Inventor y I.D.#	Lake Name	Section	Township	Range	Acre s
3-657	Turtle*	7,12	138	43,44	183
3-659	Sand*	7,18;12,13	139	43,44	199

~~*Also in Becker County~~

3.—General Development Lakes:

Inventor y I.D.#	Lake Name	Section	Township	Range	Aere s	
14-80	Flora	4,34	140,141	44	66	

E. Rivers and Streams:

1. Transition Rivers

Red River of the North

From

Confluence with Buffalo
River 30, T142N, R48W

To

N. section line in
Sec. 12, T142N,
R49W

2. Agricultural

Rivers Red River of
the North

Border of Wilkin and
Clay Counties

North Section line
Sec. 1, T139N,
R49W

Red River of the North

S. section line, Sec.
32, T140N, R48W

Confluence with
Buffalo R. in Sec.
30, T142N, R48W

Red River of the North

South section line,
Sec. 1 T142N, R49W

Border of
Norman and
Clay Counties

Buffalo River

Border of Becker and
Clay Counties

Confluence with Red
River of the North in
Sec. 30, T142N,
R48W

3. Urban Rivers

Red River of the North

South section line, Sec. 31,
T139N, R48W

15th Ave. North in
City
of Moorhead

4. Tributary Streams: All protected watercourses, including drainage ditches, shown on the Protected Waters Inventory Map for Clay County, a copy of which is hereby adopted by reference, and not given a classification in this subsection shall be considered "Tributary".

~~8-5-5: PERMITTED, CONDITIONAL AND ACCESSORY USES:~~

~~The following table establishes the allowed uses in zoning districts within Clay County. Articles 5B through 5J establish additional requirements for each of the zoning districts. The following rules shall apply to the use table:~~

- ~~A. **Permitted Uses:** Uses specified with a “P” are permitted as of right in the district or districts where designated provided that the use complies with all other applicable provisions of this Ordinance.~~
- ~~B. **Conditional Uses:** Uses specified with a “C” are allowed as conditional uses in the district or districts where designated if granted through the conditional use process described in Section 8-4-6 and provided that the use complies with all other applicable provisions of this Ordinance.~~
- ~~C. **Accessory Uses:** Accessory uses listed in Section G. of the use table and specified with a “P” are allowed as permitted accessory uses in the district or districts where designated provided that the use is accessory to a primary permitted or conditional use and provided that the use complies with all other applicable provisions of this Ordinance. Accessory uses listed in Section G. of the use table and specified with a “C” are allowed as conditional accessory uses in the district or districts where designated provided that the use is accessory to a primary permitted or conditional use and provided that the use complies with all other applicable provisions of this Ordinance.~~
- ~~D. **Prohibited Uses:** Any use not listed as permitted, conditional or accessory in a particular district shall be prohibited in that district. Uses not listed may be added in a district through the text amendment process in Section 8-4-5.~~
- ~~E. **Specific Development Standards:** Any use listed in a row where an abbreviation is indicated in the column headed by “Stds” must conform to specific development standards that are contained in this Ordinance. Specific development standards apply in addition to the general criteria for conditional uses in Section 8-4-6 of this Ordinance, and in addition to all other applicable regulations. The abbreviation indicates the Chapter or Article where the specific development standard is located. Abbreviations shall mean the following:~~

~~AG—Article 5D, *Agricultural General District*~~

~~FW—Article 5A, *Floodway District*~~

~~FF—Article 5A, *Flood Fringe District*~~

~~GFP—Article 5A, *General Floodplain District*~~

~~S—~~

Chapter 8-12. Rules and Definitions

Chapter 6, *Standards for Specific Land Uses* Contents:

~~SL—Article 5B, *Shoreland Zone Land Use Districts*~~

~~8-5-6 : INTERIM USE PERMITS~~

- ~~A. **Purpose:** To allow a use that is neither a permitted use nor a conditional use, for a limited period of time subject to conditions as set forth in this Ordinance.~~
- ~~B. **Conditional Uses:** The application, public hearing, public notice and procedure requirements for Interim Use Permits shall be the same as those for Conditional Use Permits as provided in the Clay County Land Development Ordinance. Any of the uses identified in Section 8-5-6-E below that are currently identified in any zoning district as a conditional use shall be changed to Interim Uses. Table 5-1 shall be amended accordingly.~~

~~C. **Standards:** The County Planning Commission shall issue such Interim Use Permits only if it finds that such use at the proposed location:~~

~~1. Meets the General Review Standards of a Conditional Use Permit as set forth in the Clay County Land Development Ordinance.~~

~~1. Will terminate upon a date or an event that can be identified with certainty.~~

~~2. Will not impose, by agreement, additional costs on the public if it is necessary for the public to take the property in the future.~~

~~3. Will be subject to, by agreement with the owner, any conditions that the County has deemed appropriate for the permission of the use, including the condition that the owner may provide an appropriate financial surety to cover the cost of removing the Interim Use and any Interim structures upon expiration of the Interim Use Permit.~~

~~D. **Termination:** An Interim Use Permit shall terminate upon the occurrence of any of the following events, whichever occurs first:~~

~~2.1. Within 90 days of change of ownership of property, unless extended by the Planning Commission.~~

~~1. The date or event stated in the permit, occurs;~~

~~2. A violation of conditions under which the permit was issued;~~

~~3. The use has been discontinued for a period of 12 or more consecutive months; or,~~

~~4. The zoning district is amended and such a use is no longer allowed.~~

~~E. **Uses that will be considered for Interim Use Permits:**~~

~~1. An occasional special event or short term use. (i.e. music concert, flea market, car-nival, house storage, etc.)~~

~~2. A second dwelling on the parcel to be used by parent(s), grandparent(s), children, sibling(s) by blood, marriage, adoption, or other special relationships consistent with the purpose that meets the following standards:~~

~~a. Said dwelling must be a manufactured home (single or double wide).~~

~~b. Dwelling must not be placed on a permanent foundation.~~

~~c. Dwelling must have a septic system that meets County Health requirements.~~

~~d. Dwelling must share a common well with the principal dwelling.~~

~~e. No more than one (1) additional dwelling shall be allowed on a parcel.~~

~~f. Parcel must be at least five (5) acres in size.~~

~~3. Meteorological towers~~

~~4. Portable concrete and asphalt mixing plants~~

~~5. Farm produce stands or farmers' markets not located on property used in the farming operation.~~

~~6. Aggregate mining and its associated operations~~

~~7. A Bed and Breakfast~~

- ~~8. A Home Occupation located in an accessory building~~
- ~~9. Temporary tire and/or waste collection and/or recycling operations~~
- ~~10. Yard waste composting site (community or neighborhood)~~
- ~~11. Kennels~~
- ~~12. Horse Boarding/Stables.~~

Day care in a primary residence, adult or child	S				P	P	P	P	P	P	P	P	P	P		
Facility for supervised residential program up to six residents	S				P	P	P	P		P	P	P	P	P		
Facility for supervised residential program with more than six residents	S												C	C		
Intentional Community										†						
Second dwelling on the parcel to be used by parent(s), grandparent(s), children, sibling(s) by blood, marriage or adoption, or other special relationship	S							†	†	†	†	†	†	†		

Use Type	Stds	FW	FF	GFP	SP	SP	RD	RP	RP	RP	AG	ASC	UED	UED	HC	LHC
					-			WHP	BIO	AGG			T1	T2		
					LD											

~~C. Recreational Uses, Public and Private~~

Campground	FW S	C			C		C			C	C			C	C	
Golf course or driving range	FW									C	C		C	C		
Marinas and boat range	FW	C			C											
Park	FW	P			P	C	C	C	C	C	P	P	P	P		
Picnic ground	FW	P			P			C	C	C				C		
Hunting or game reserve	FW	P			P			P	P	P	P					
Outdoor shooting preserve, shooting range, archery range	FW S	P			P					C	C					

Uses are those allowed in the base district - see Flood Fringe District for standards

Indoor shooting range, archery range				P							E	E		E	E		
Trails, motorized and non-motorized	FW	P		P	P	P	P	P	E	P	P	P	E	P			
Wildlife and nature preserve	FW	P		P	P	P	P	P	P	P	P		P	P			
Occasional special event or short-term use		†		†	†	†	†	†	†	†	†	†	†	†	†	†	†

Use Type	Stds	FW	FF	GFP	SP	SP	RD	RP	RP	RP	AG	ASC	UED	UED	HC	LHC
				-	-			WHP	BIO	AGG			T1	T2		
				FD												

D. Civic, Educational and Institutional Uses

Cemetery			Uses are those allowed in the base district - see Flood Fringe District for standards								E	E	E		E		
Designated historic site	FW	P		P	E	E	E	E	E	E	E	P	E		E	E	E
Government buildings and facilities								P			E	E	P	P	P	P	P
Religious institutions w/o schools or residences						E	E	E	E			E	P	P	P		
Schools, public or private												E	E	E	P		

Use Type	Stds	FW	FF	GFP	SP	SP	RD	RP	RP	RP	AG	ASC	UED	UED	HC	LHC
				-	-			WHP	BIO	AGG			T1	T2		
				FD												

E. Commercial and Industrial Uses

Motor fuel station												€			€		
Motor sports facility												€			€		
Office												P			P	€	
Outdoor recreation facilities—non-motorized	FW	€			€	€	€	€			€	P	P	€	€	P	€
Precast Concrete Plant											€	€	€			€	
Redi-mix cement plant and uses not associated with such facilities	S										†	†				†	†
Restaurants, with or without drive in													€			P	€
Retail or commercial business													P			P	€

Use Type	Stds	FW	FF	GFP	SP	SP	RD	RP	RP	RP	AG	ASC	UED	UED	HC	LHC
					-			WHP	BIO	AGG			T1	T2		
Retreat center	S					€	€		€	€	€			€		
Salvage yard	S										€				€	
Service business												P	†		P	€
Temporary tire and/or waste collection and/or recycling operation								†	†	†	†	†		†	†	†
Wholesale business, warehousing											€	P		€	P	€
Storage Units	S							€			€	P		€	P	€

Uses are those allowed in the base district - see Flood

Use Type	Stds	FW	FF	GFP	SP - LD	SP	RD	RP- WHP	RP- BIQ	RP- AGG	AG	ASC	UED T1	UED T2	HC	LHC
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F. Public Service and Utility Uses

Essential services	G		Uses are those allowed in the base district - see Flood Fringe District for standards					E	E	E	E	E	E	E	E	E	
Landfill, public												P					
Landfill, demolition wastes only												E					
Communication or other towers	S								E		E	E	E	E	E	E	E
Meteorological towers																	
Radio and television transmission tower, including station office and studio									E		E	E			E	E	E
Railroad, street, bridge, utility transmission line or pipeline	FW	E			E	P	P	P	P	P	P	P	P	P	P	P	P
Towers exclusively for governmental or national defense purposes	FW S	E			E	E	E	E	E	E	E	E	E	E	E	E	E

Use Type	Stds	FW	FF	GFP	SP - LD	SP	RD	RP- WHP	RP- BIQ	RP- AGG	AG	ASC	UED T1	UED T2	HC	LHC
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G. Structures and Uses Accessory to principal

Above ground storage of petroleum products intended for direct use by a permitted activity (i.e., fuel oil for heating) (1,100 gal limit in AG district)	FW S		Uses are those allowed in the base district—see Flood Fringe District for standards									P					C	
Automobiles, storage of	S	P		P	P	P	P	P	P	P	P		P	P	P			
Energy systems associate with a principal use (i.e. solar collectors/wind energy systems)	S				P	P	P	P	P	P	P		P	P	P			
Farm stand, seasonal ag product sales	S						P	P	P	P			P					
Garage, private	FW G	P		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Home occupation, Permitted	G				P	P	P	P	P	P	P	P	P	P				
Home occupation, Conditional	G						+	+	+	+	+		+	+				
Keeping Animals on Residential Parcels	S	P		P	P	P	P	P	P	P	P		P					
Horse Boarding / Stables							+	+	+	+	+		+					
Parking and loading areas	FW G	P		P	P	P	P	P	P	P	P		P	P	P			
Placement of fill	FW SL S	C		C	C	C	C	P	P	P	P	P	P	P	P	P	P	P
Playhouses					P	P	P	P	P	P	P	P	P	P				
Roadside stands for the sale of agricultural produce grown on the site	S				P	P		P	P	P	P	P	P	P				
Storage buildings (accessory, non-commercial)					P	P	P	P	P	P	P		P	P	P			

Storage yards for equipment, machinery, or materials accessory to a commercial site	FW S	C		C					C	C	C	C		C	C		
Swimming pool	S				P	P	P	P	P	P	P	P	P	P			
Travel trailers and travel vehicles	FW S	C		C	P	P	P	P	P	P	P	P		P	P	P	
Use Type	Stds	FW	FF	GFP	SP - LD	SP	RD	RP - WHP	RP - BIO	RP - AGG	AG	ASC	UED - T1	UED - T2	HC	LHC	
Yard waste composting site (community of neighborhood)			Uses are those allowed in the base	†	†	†	†	†	†	†	†	†	†	†	†	†	
Levee, dike or floodwall built by a unit of government	FW	P		P	P	P	P	P	P	P	P	P	P	P	P	P	P
Levee, Farmstead Ring	FW	C		C	C	C	C	C	C	C	C	C	C	C	C	C	C
Use Type	Stds	FW	FF	GFP	SP - LD	SP	RD	RP - WHP	RP - BIO	RP - AGG	AG	ASC	UED - T1	UED - T2	HC	LHC	
Temporary use	S				†	†	†			†	†	†	†	†	†	†	

ARTICLE 5A. FLOOD HAZARD ZONE AND DISTRICTS (GFP, FW, FF)

~~8-5A-1: PURPOSE~~

~~8-5A-2: INFORMATION PROVIDED BY COUNTY~~

~~8-5A-3: WARNING AND DISCLAIMER OF LIABILITY~~

~~8-5A-4: DISTRICTS AND AREA INCLUDED~~

~~8-5A-5: RELATIONSHIP OF FLOOD HAZARD OVERLAY DISTRICTS TO OTHER ZONING DISTRICTS~~

~~8-5A-6: FLOODWAY DISTRICT (FW)~~

~~8-5A-7: FLOOD FRINGE DISTRICT (FF)~~

~~8-5A-8: GENERAL FLOOD PLAIN DISTRICT (GFP) AND ZONE A LAKES AND WETLANDS~~

~~8-5A-9: STANDARDS FOR UTILITIES, RAILROADS, ROADS AND BRIDGES AND ON-SITE SEWAGE TREATMENT SYSTEMS AND WATER SUPPLY SYSTEMS IN FW, FF AND GFP DISTRICTS~~

~~8-5A-1: PURPOSE:~~

~~The purpose of the Flood Hazard Zone is to designate floodplain overlay districts that will maintain Clay County's eligibility in the National Flood Insurance Program, to minimize losses due to periodic flooding including loss of life and loss of property, minimize health and safety hazards, minimize disruption of commerce and governmental services, and minimize the risk of extraordinary public expenditures. The purposes of this Zone may be met by the applicant through floodproofing measures that meet the requirements of this Article, such as elevating structures, or through a map amendment initiated by the landowner that removes the land from the Flood Hazard Zone.~~

~~This Ordinance is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59-78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.~~

~~8-5A-2: INFORMATION PROVIDED BY COUNTY:~~

~~A. Information on flood hazard zones, the location of flood district boundaries, and flood elevation levels may be provided to a landowner or applicant by County staff. Such information is derived directly from the Federal Emergency Management Agency (FEMA). Clay County does not guarantee the accuracy of such information.~~

~~**8-5A-3: WARNING AND DISCLAIMER OF LIABILITY:**~~

~~This Ordinance does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This Ordinance will not create any liability on the part of Clay County or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decisions lawfully made there under.~~

~~**8-5A-4: DISTRICTS AND AREA INCLUDED:**~~

~~The Flood Hazard Zone designates an area that shall be regulated as the FW Floodway District, the FF Flood Fringe District, and the GFP General Floodplain District. The Flood Hazard Zone area shall~~

~~include those areas designated as Zone AE or A on the Flood Boundary and Floodway Map Official Zoning Map and/or attachments thereto as adopted in Section 8-5-2D of this Chapter.~~

~~8-5A-5: RELATIONSHIP OF FLOOD HAZARD OVERLAY DISTRICTS TO OTHER ZONING DISTRICTS:~~

~~The Flood Hazard Districts (FF, FW and GFP) are overlay districts. These districts overlay other underlying zoning districts such as the AG and RR districts. The requirements of the overlay districts in this Article provide regulations that shall apply to structures and the use of land in addition to the regulations of the underlying zoning districts. Where requirements in this Article impose greater restrictions than the underlying zoning district, the provisions of this Article shall apply.~~

~~8-5A-6: FLOODWAY DISTRICT (FW):~~

~~A. **Areas Included:** The Floodway District shall include those areas designated as floodway on the Flood Insurance Rate Map adopted in Section 8-5-2D of this Chapter. For lakes, wetlands and other basins, the Floodway District shall include those areas designated as Zone A and Zone AE on the Flood Insurance Rate Map panels adopted in Section 8-5-2D that are at or below the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.~~

~~B. **Uses:** Because of the potential for flood damage in the FW Floodway District uses are very limited. Permitted and conditional uses in the FW Floodway District are those specified in Table 5-1. All other uses shall be prohibited.~~

~~C. **Standards for Permitted Uses:** Within the FW Floodway District, permitted uses shall conform to the listed standards.~~

~~1. **The use shall have a low flood damage potential.**~~

~~1. The use shall be permissible in the underlying zoning district.~~

~~2. The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.~~

~~D. **Standards for FW Floodway District Conditional Uses:**~~

~~The following standards shall apply to structures and uses in the FW Floodway District:~~

~~1. **All Uses:** No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.~~

~~2. **Placement of Fill:** Placement of fill shall meet the following conditions:~~

~~a. A site plan has been submitted showing: the location of proposed fill, and the volume and components of the proposed fill;~~

- ~~b. An engineering and hydrology/hydraulics impact analysis has been completed and submitted; and~~
- ~~e. An authorized representative of the Federal Emergency Management Agency has approved the application for placement of fill. (FEMA reviews and approves CLOMR involving fills that cause stage increase. Community may want to limit approval to the No Rise model approved at the local and state levels).~~

~~1. **Recreational Vehicles:** Recreational vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, shall meet the requirements of Section 8-6-27 of this Ordinance.~~

~~2. **Accessory Structures:**~~

~~a. Accessory structures shall not be designed for human habitation.~~

8-12-1. Rules

8-12-2. Definitions

8-12-1. Rules

~~b. **Rules of Construction and Location of Accessory Structures:**~~

~~1. Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.~~

~~2. Whenever possible, accessory structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and~~

~~3. So far as practicable, accessory structures shall be placed approximately on the same flood flow lines as those of adjoining structures.~~

~~c. **Floodproofing of Accessory Structures:**~~

~~Accessory structures, if permitted, shall be elevated on fill or structurally dry floodproofed in accordance with the FP-1 or FP-2 floodproofing classifications in the State Building Code.~~

~~As an alternative, an accessory structure may be floodproofed to the FP-3 or FP-4 floodproofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed five hundred seventy-six (576) square feet in size at its largest projection, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage.~~

~~1. **Anchoring:** The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls;~~

~~2. **Mechanical and Utility Equipment:** Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly floodproofed; and~~

~~3. **Hydrostatic Pressure:** To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.~~

~~4. **Accessory Structures Within Farmstead Ring Levee:** Within farmstead ring levee systems, as described in 6-d-3 below, agricultural structures exceeding five hundred (500) square feet in size may be constructed with the lowest floor below the regulatory flood protection elevation provided the structure is internally wet floodproofed as outlined in 6-D below.~~

~~5. **Storage of Materials and Equipment:**~~

~~a. **Prohibited:** 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.~~

- ~~a. **Allowed:** Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the governing body.~~

6. Permanent Structural works for flood control:

- ~~a. Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of Minnesota Statute, Chapter 103G.~~
- ~~b. Levees, dikes or floodwalls intended to remove areas from the regulatory flood plain shall not be allowed in the floodway.~~
- ~~c. Structural works for flood control constructed in the floodway to protect individual structures or agriculture crops or farmsteads shall not cause an increase to the 100-year or regional flood.~~
- ~~d. **Farmstead Ring Levee:** Within farmstead ring levee systems, as described in (3) below, agricultural structures exceeding five hundred (500) square feet in size may be constructed with the lowest floor below the regulatory flood protection elevation provided the structure is internally wet floodproofed as outlined in the following floodproofing and administrative provisions:~~
- ~~i. **Agricultural Structures Defined:** For the purposes of this subsection 8-5A-6D.6 only, agricultural structures shall be defined as structures related to the growing of crops or raising of livestock. This definition of agricultural structures shall include barns, machine sheds, storage buildings, and garages for the storage of farming machinery and equipment. This definition of agricultural structure does not include a principal or accessory structure to a residential, commercial, or other use not needed for the growing of crops or raising of livestock and shall specifically not include a structure used for human habitation or for parking of non-farming related vehicles for the human occupants of structures within the farmstead ring levee system.~~
- ~~ii. **Habitable Space Defined:** For the purposes of this subsection 8-5A-6D.6 only, habitable space (room) is ~~Space in a structure used for living, sleeping, eating, or cooking. Bathrooms, toilet compartments, closets, halls, storage rooms, laundry or utility space and similar areas, are not~~ considered habitable space. Further, no space within an agricultural structure constructed in accordance with this Section with a floor below the regulatory flood protection elevation shall be used as habitable space.~~
- ~~iii. **Farmstead Ring Levee Criteria:** Agricultural structures with the lowest floor below the regulatory flood protection elevation authorized by this Chapter must be located within the confines of a ring levee system meeting the following criteria:~~
- ~~1. **Part of Watershed District Program:** The ring levee system must have been constructed as part of a cost share program of a watershed district established pursuant to Minnesota Statute, Chapter 103D;~~
- ~~2. **Design Certification:** A registered professional engineer or~~

March 13,

~~qualified watershed district staff person must certify that the farmstead ring levee system was constructed in accordance with the design criteria specified by the watershed district as a condition of state/local cost share funding;~~

~~a. **Elevation:** The low point of the ring levee system must be at a minimum at least two (2) feet above the flood of record or one (1) foot above the 100-year flood level, whichever is the greater of the two. A registered professional engineer or land surveyor must establish the elevation of the low point of the ring levee system in a datum as specified by the County. A qualified hydrologist, watershed district staff person, or registered professional engineer must establish the 100-year flood elevation and flood of record elevation for the location of the farmstead ring levee system. A farmstead ring levee constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.~~

~~iv. **Additional Administrative Provisions:** In addition to the permitting and administrative provisions of this Ordinance, the following additional provisions apply to subsection 8-5A-6D.6.:~~

~~1. **Application Requirements:** The application materials for the conditional use permit must clearly indicate the floodproofing classification that is being proposed and shall include a set of floodproofing plans and specifications prepared by a registered professional engineer or architect.~~

~~2. **CUP Requirements:** The conditional use permit issued by the community must specify the floodproofing classification that is being authorized and the regulatory flood protection elevation for the site.~~

~~3. **Engineering Certification:** After construction of an agricultural structure authorized by subsection 8-5A-6-D.6. the applicant shall be required to provide certification by a registered professional engineer or architect that the structure was constructed in accordance with the building/floodproofing specifications authorized in subsection f. below.~~

~~4. **Zoning Compliance Permit Required:** Upon completion, the community must issue a certificate of zoning compliance prior to the use of the structure.~~

~~a. **Flood Insurance Coverage and Cost Notification:** The applicant shall be advised in writing by Clay County that the internal (wet) floodproofing techniques authorized herein will not be credited for insurance rating purposes by the National Flood Insurance Program. Therefore, the lowest floor for flood insurance rating purposes will be the base or floor level of the internally flooded space. Should flood insurance be purchased, the premiums may be extremely expensive.~~

~~5. **Document to be Recorded:** A document must be prepared and recorded that references the property in question such that it would appear in the chain of title and clearly states all of the conditions that have stipulated in the conditional use permit authorizing construction of a structure with the lowest floor below the regulatory flood protection elevation.~~

~~v. **Structural Design:** The following structural design specifications shall~~

~~be met for any farmstead ring levee authorized under this subsection:~~

- ~~1. **Floodproofing:** The structure must be designed to the FP-3/FP-4 Floodproofing Classification (W-4 spaces only) found in the 1995~~

~~b. a version of the US Army Corps of Engineers document titled “Flood Proofing Regulations,” a copy of which is hereby adopted by reference and declared to be a part of this Ordinance. If there is a conflict of terms found in Flood Proofing Regulations and the definition of terms used in this Ordinance, the latter shall prevail.~~

~~e. a. **Design of Openings:** The design of the structure must include a minimum of two “automatic” openings in the outside walls of the structure to allow for the equalization of hydrostatic flood forces on all spaces inside the outer walls of the structure. The automatic openings shall be placed on at least two sides of the structure and the bottom of all openings shall be placed no higher than one foot above the lowest adjacent grade of the structure. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. Opening a garage door during flooding is not considered an automatic opening and shall not meet the requirement for automatic openings. The sizing of the automatic openings shall be in accordance with a design certified by a registered professional engineer or architect. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention. In the design of the openings, the engineer or architect may consult the Federal Emergency Management Agency’s publication entitled “Openings in Foundation Walls for Buildings in Special Flood Hazard Areas in accordance with the National Flood Insurance Program,” a copy of which is hereby adopted by reference and declared to be a part of this Ordinance.~~

~~2. **Storage of Materials:** Special care must be taken to make sure that all contents stored in the structure are placed in accordance with Chapter 11 of the Federal Emergency Management Agency’s publication entitled “Flood Proofing Regulations.” Specifically, the conditional use issued shall indicate those types of chemicals and similar contents for agricultural uses that are: 1) “extremely hazardous (Class XX)” and require prohibition from the floodplain; and 2) “sufficiently hazardous (Class X)” and, if stored in the structure, must be stored above the regulatory flood protection elevation.~~

~~8-5-A-7: FLOOD FRINGE DISTRICT (FF):~~

~~A. **Areas Included:** The Flood Fringe District shall include those areas designated as floodway fringe on the Insurance Rate Map adopted in Section 8-5-2D of this Chapter, as being within Zone AE but being located outside of the floodway. For lakes, wetlands and other basins, the Flood Fringe District shall include those areas designated as Zone AE and Zone A on the Flood Insurance Rate Map panels adopted in Section 8-5-2(D) that are below the 1% annual chance flood elevation (100-year flood elevation) but above the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.~~

~~B. **Uses:** Permitted, conditional and accessory uses in the FF Flood Fringe District shall be those~~

~~permitted, conditional and accessory uses allowed in the underlying zoning district and as indicated in Table 5-1~~

~~C. **Standards for Permitted Structures and Uses in the FF Flood Fringe District:** The following standards shall apply to structures and uses in the FF Flood Fringe District:~~

- ~~1. **Finished Floor Elevation:** All structures, including accessory structures, must be elevated on fill so that the lowest floor is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than one foot (1') below the regulatory flood protection elevation and the fill shall extend at such elevation at least fifteen feet (15') beyond the outside limits of the structure erected thereon.~~
- ~~2. **Internal Floodproofing for Small Accessory Structures:** As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed five hundred seventy six (576) square feet at its largest projection at ground level may be internally floodproofed in accordance with subsection 8-5A-6D4 of this Article.~~
- ~~3. **Cumulative Placement of Fill:** The cumulative placement of fill where at any one time in excess of one thousand (1,000) cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless said fill is specifically intended to elevate a structure in accordance with subsection 1 above.~~
- ~~4. **Storage of Materials and Equipment:** The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.~~

~~D. **Standards for Conditional Uses in the FF Flood Fringe District:**~~

~~**Conditional Uses:** Any structure that is not elevated on fill or floodproofed in accordance with C1 or 2 above, or any use of land that does not comply with the standards in C3 or 4 above shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in Section 8-4-7 of this Ordinance.~~

- ~~1. Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck-under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: 1) the enclosed area is above-grade on at least one side of the structure; 2) it is designed to internally flood and is constructed with flood resistant materials; and 3) it is used solely for parking of vehicles, building access or storage. The above noted alternative elevation methods are subject to the following additional standards:~~

- ~~a. **Design And Certification:** The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.~~

- ~~b. **Specific Standards for Above-Grade, Enclosed Areas:** Above-grade, fully enclosed areas such as crawl spaces or tuck-under garages must be designed to~~

~~internally flood and the design plans must stipulate:~~

- ~~i. **Openings:** A minimum area of “automatic” openings in the walls where internal flooding is to be used as a floodproofing technique. There shall be a minimum~~

~~of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one foot (1') above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention; and~~

~~ii. **Flood Resistant Materials:** The enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.~~

~~2. **Basements:** "Basements", as defined by Section 8-2-2 of this Ordinance, shall be subject to the following:~~

~~a. Nonresidential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry floodproofed in accordance with subsection D-3 below.~~

~~b. Residential basements, as defined by Section 8-8-2 may be constructed below the regulatory flood protection elevation if in compliance with the FP-1 floodproofing classification (i.e., a W1 space) of the Minnesota State Building Code and in accordance with the following minimum requirements, consistent with 44 Code of Federal Regulation 60.6(c):~~

~~i. Flood depth: Flood depths shall not be more than five feet for developable lots that are contiguous to land above the 100-year flood or three feet for other lots;~~

~~ii. Flood velocity shall be limited to five feet per second;~~

~~iii. Flood warning time shall be at least 12 hours. Flood warning times of two hours or greater may be approved if the community demonstrates that it has flood warning system and an emergency plan in operation that is adequate to ensure safe evacuation of affected residents.~~

~~iv. Basement structural requirements:~~

~~1. Basements shall be designed and constructed so that any basement area, utilities and sanitary facilities below the floodproofed level would be floodproofed in accordance with the FP-1 floodproofing classification (e.g. watertight with walls impermeable to the passage of water without human intervention);~~

~~2. Basement walls shall be built with the capacity to resist the hydrostatic and hydrodynamic loads as well as the effects of buoyancy resulting from flooding to the floodproofed design level, and shall be designed so that minimal damage will occur from floods exceeding that level.~~

~~3. Floodproofing design level shall be an elevation no lower than the~~

March 13,

~~regulatory flood protection elevation where the difference between the 100-year flood and the 500-year flood levels is three feet or less and two feet above the 100-year flood level where the difference between the 100-year flood and 500-year flood levels is greater than three feet.~~

~~v. The top of basement floor shall be no lower than five feet below the Regulatory Flood Protection Elevation.~~

~~vi. Fill:~~

- ~~1. The area surrounding the structure must be filled to the 100-year flood level plus one (1) foot or higher on all four sides;~~
- ~~2. Fill must be compacted; and~~
- ~~3. Slopes must be protected by a vegetative cover.~~

~~vii. A registered professional engineer or architect shall develop or review the building's structural design, specifications, and plans, including consideration of depth, velocity, and duration of flooding and type and permeability of soils at the building site, and certify that the basement design and methods of construction proposed are in accordance with accepted standards of practice for meeting the provisions of this paragraph; and~~

~~viii. The community building inspector or authorized representative shall inspect the structure to verify that it meets the provisions of this section.~~

~~3. **Floodproofing of Non-Residential Structures:** All areas of nonresidential structures including basements to be placed below the regulatory flood protection elevation shall be floodproofed in accordance with the structurally dry floodproofing classifications in the State Building Code. Structurally dry floodproofing must meet the FP-1 or FP-2 floodproofing classification in the State Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures floodproofed to the FP-3 or FP-4 classification shall not be permitted.~~

~~4. **Erosion/Sedimentation Control Plan:** When at any one time more than one thousand (1,000) cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted.~~

~~5. **Storage of Materials and Equipment:**~~

~~b.a. **Prohibited Materials:** 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.~~

~~a. **Removable Materials, Equipment:** Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the governing body.~~

~~**Historical, Ecological Value:** Areas having significant historical or ecological value shall be preserved and restored.~~

~~E. **Standards for All Flood Fringe Uses:**~~

~~1. **Vehicular Access:** All new principal structures must have vehicular access at or above~~

~~an elevation not more than two feet (2') below the regulatory flood protection elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.~~

- ~~2. **Commercial Uses:** Accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the regulatory flood protection elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four (4) upon occurrence of the regional flood.~~
- ~~3. **Manufacturing and Industrial Uses:** Measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in subsection 7 above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.~~
- ~~4. **Fill:** Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.~~
- ~~5. **Hydraulic Capacity:** Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.~~
- ~~6. **Recreational Vehicles:** Recreational vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, shall meet the requirements of Section 8-6-27 of this Ordinance.~~
- ~~7. **Manufactured Homes:** All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not 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.~~

~~8-5A-8: GENERAL FLOOD PLAIN DISTRICT (GFP) AND ZONE A LAKES AND WETLANDS:~~

~~A. General Flood Plain District~~

- ~~1. **Areas Included:** The GFP General Flood Plain District shall include those streams designated as Zone A or Zone AE without delineated floodway on the Flood Insurance Rate Map adopted in Section 8-5-2D3 of this Chapter, as these areas do not meet the definition of floodway and flood fringe areas in 8-5A-6(A) and 8-5A-7(A). Floodway~~

~~and flood fringe areas are not currently mapped for the GFP General Flood Plain District.~~

~~2. Permissible Uses:~~

~~a. The floodway permitted uses listed in Table 5-1 shall be permitted uses in the General Floodplain District.~~

~~b. All other uses shall be subject to the floodway/flood fringe evaluation criteria in 3-5 below.~~

~~Section 8-5A-6 shall apply if the proposed use is in the Floodway District. Section 8-5A-7 shall apply if the proposed use is in the Flood Fringe District.~~

~~3.— **Application; Required Information for Development Permits and Other Approvals:**~~

~~Upon receipt of an application for a Development permit or other approval for a use within the General Flood Plain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Zoning Administrator for the determination of the regulatory flood protection elevation and whether the proposed use is within the Floodway or Flood Fringe District:~~

- ~~a.— **Typical Valley Cross Section:** Typical valley cross sections showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.~~
- ~~b.— **Surface View Plan:** Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type.~~
- ~~c.— **Profile:** Profile showing the slope of the bottom of the channel or flow line of the stream for at least five hundred feet (500') in either direction from the proposed development.~~

~~4.— **Technical Assistance:** The applicant shall submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining the 1% annual chance flood (100 Year Flood Elevations), if not available, whether the proposed use is in the Floodway or Flood Fringe District and to determine the regulatory flood protection elevation. Procedures consistent with Minnesota Regulations Parts 6120.5000 through 6120.6200 and 44 CFR Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources area hydrologist prior to commencing the analysis. The designated engineer or expert shall:~~

- ~~a.— **Peak Discharge:** Estimate the peak discharge of the regional flood.~~
- ~~b.— **Water Surface Profile:** Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.~~
- ~~c.— **Necessary Floodway:** Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than five tenths foot (0.5'). A lesser stage increase than five tenths foot (0.5') shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.~~

~~5.— **Action on Application:** The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the County Board. The County Board must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary or deny the permit application. The County Board,~~

~~prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, the Department of Natural Resources or the Planning Commission for review and comment. Once the floodway and flood fringe boundaries have been determined, the County Board shall refer the matter back to the Zoning Administrator who shall process the permit application consistent with the applicable conditions for the proposed conditional use in Section 8-5A-6 and 8-5A-7 this Article.~~

~~**B. Zone A Lakes:** Procedures for determining the 1% annual chance flood elevations (100-Year flood elevations) for lakes and wetlands located in Zone A:~~

- ~~1. Upon receipt of an application for a development permit or other approval within a Zone A for a lake or wetland, the Zoning Administrator will use the 1% annual chance flood elevation for that basin that has previously been determined in accordance with approved FEMA methods, if available. If the 1% annual chance flood elevation has not been previously determined, the applicant shall be required to furnish all necessary information as deemed necessary by the Zoning Administrator for the determination for the 1% annual chance flood elevation in accordance with approved FEMA methods.~~
- ~~2. The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining the 1% annual chance flood elevation (100 year flood elevation). Procedures consistent with Minnesota Regulations, Parts 6120.5000–6120.6200 and 44 Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis.~~

~~Once the 1% annual chance flood elevation (100 year flood elevation) has been determined, the Zoning Administrator shall process the permit application consistent with the applicable provisions of Section 8-5A-6 and 8-5A-7 of this Ordinance depending on whether the use is in the Floodway District or the Flood Fringe District, respectively, as determined by the criteria in Sections 8-5A-6A and 8-5A-7A of this ordinance.~~

~~**8-5A-9: STANDARDS FOR UTILITIES, RAILROADS, ROADS AND BRIDGES AND ON-SITE SEWAGE TREATMENT SYSTEMS AND WATER SUPPLY SYSTEMS IN FW, FF AND GFP DISTRICTS**~~

~~The following standards shall apply to the location and construction of public utilities, public transportation facilities and on-site sewage treatment and water supply systems in Flood Hazard Zones:~~

~~**A. Public Utilities:** All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in a Flood Hazard Zone shall be floodproofed in accordance with the State Building Code or elevated to above the regulatory flood protection elevation.~~

~~**B. Public Transportation Facilities:**~~

- ~~1. **Compliance Required:** Railroad tracks, roads, and bridges to be located within the Flood Hazard Zone shall comply with the provisions of this Article.~~
- ~~2. **Elevation:** Railroad tracks, roads, and bridges shall be elevated above the regulatory flood protection elevation where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area.~~
- ~~3. **Minor Roads or Auxiliary Roads or Railroads:** Minor roads or auxiliary roads or railroads may be constructed at a lower elevation than the base flood elevation where~~

~~failure or interruption of transportation services would not endanger the public health or safety.~~

~~C. **On-site Sewage Treatment and Water Supply:** Where public utilities are not provided:~~

- ~~1. **Water Supply System:** On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems and meet Minnesota Department of Health~~

~~requirements in Minn. Rules Chapter 4725 for wells including the requirement that casings extend at least five feet (5') above the base flood elevation for on-site water supply systems; and~~

- ~~2. **Sewage Treatment System:** New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current State-wide standards for on-site sewage treatment systems shall be determined to be in compliance with this section.~~

~~ARTICLE 5B. SHORELAND ZONE LAND USE DISTRICTS (SP, RD, SP-LD)~~

~~8-5B-1: PURPOSE~~

~~8-5B-2: DISTRICTS ESTABLISHED (SP, RD, SP-LD)~~

~~8-5B-3: TIERS— RIPARIAN AND NON-RIPARIAN~~

~~8-5B-4: PERMITTED, CONDITIONAL AND ACCESSORY USES~~

~~8-5B-5: DIMENSIONAL STANDARDS FOR SP, RD AND SP-LD DISTRICTS~~

~~8-5B-6: CONTROLLED ACCESS LOTS FOR NON-RIPARIAN LOTS~~

~~8-5B-7: GENERAL STANDARDS FOR STRUCTURES AND USES IN SP, RD AND SP-LD DISTRICTS~~

~~8-5B-8: SIGNIFICANT HISTORIC SITES~~

~~8-5B-9: STEEP SLOPES~~

~~8-5B-10: SHORELAND ALTERATIONS~~

~~8-5B-11: VEGETATION ALTERATIONS~~

~~8-5B-12: TOPOGRAPHIC ALTERATION; GRADING AND FILLING~~

~~8-5B-13: STORM WATER MANAGEMENT~~

~~8-5B-14 STANDARDS FOR COMMERCIAL, INDUSTRIAL, PUBLIC AND SEMI-PUBLIC USES:~~

~~8-5B-15: AGRICULTURAL USE STANDARDS~~

~~8-5B-16: FOREST MANAGEMENT STANDARDS~~

~~8-5B-17: MINING OF PEAT~~

~~8-5B-18: WATER SUPPLY~~

~~8-5B-19: SEWAGE TREATMENT~~

~~8-5B-20: PRIVATE STORAGE BUILDINGS~~

~~8-5B-1: PURPOSE:~~

~~The establishment of land use districts in the shoreland zones shall implement the following goals and policies of the Clay County 2002 Comprehensive Plan and County Water Plan:~~

~~A. **Natural Resource Goal #1:** Identify, protect, and preserve the County's high quality natural, scenic, cultural and open space areas:~~

- ~~1. **Policy 13.** Continue to enforce shoreland regulations on the County's lakes, rivers and streams.~~
- ~~2. **Policy 22.** Adopt by reference the goals and policies of the County's Water Plan.~~

~~8-5B-2: DISTRICTS ESTABLISHED (SP, RD, SP-LD)~~

~~Within the shoreland zones, as described in Section 8-5-4 of this Chapter, the following zoning districts shall be established:~~

- ~~A. Within shoreland zones of public waters classified as Natural Environment Lakes in Section 8-5-4D.1., except those Natural Environment Lakes designated by Clay County as Special Protection Low Development Lakes and except for Lake Fifteen, the SP Special Protection District provisions shall apply:~~
- ~~B. Within shoreland zones of public waters classified as Recreational Development Lakes in Section 8-5-4D.2., Lake Fifteen, and public waters classified as General Development Lakes in Section 8-5-4D.3, the RD Residential District provisions shall apply.~~

~~C. Within shoreland zones of public waters classified as Transitional, Agricultural, Urban Rivers and Tributary Streams in Section 8-5-4E, the SP Shoreland Protection District Rivers and Streams provisions shall apply.~~

~~D. Within shoreland zones of public waters classified as Natural Environment and designated as protected wetlands, the SP-LD Special Protection Low Development District provisions shall apply.~~

~~**8-5B-3: TIERS—RIPARIAN AND NON-RIPARIAN**~~

~~SP Special Protection Districts, RD Residential Districts, and SP-LD Special Protection Low Development Districts shall be comprised of two tiers, a riparian tier and a non-riparian tier. Lots or parcels containing any shoreline shall be considered to be located in the riparian tier and subject to provisions applying to riparian tiers. Lots or parcels that do not contain any shoreline shall be considered to be located in the non-riparian tier and shall be subject to provisions applying to non-riparian tiers.~~

~~**8-5B-4: PERMITTED, CONDITIONAL AND ACCESSORY USES**~~

~~Permitted, conditional and accessory uses in the SP Special Protection District and the RD Residential District and SP-LD Special Protection Low Development District are those specified in Table 5-1. All other uses shall be prohibited.~~

~~**8-5B-5: DIMENSIONAL STANDARDS FOR SP, RD AND SP-LD DISTRICTS**~~

~~The placement, design and heights of structures within SP Special Protection, RD Residential, and SP-LD Special Protection Low Development Districts shall conform to the provisions of the following table (sf = square feet):~~

~~**Table 8-5-1 Dimensional standards for SP, RD and SP-LD Districts**~~

		SP-LD	SP	RD	SP (River and Stream)
Minimum Lot Area (square feet)					
	Riparian	10 acres	90,000 sf	40,000 sf	120,000 sf
	Non-Riparian	10 acres	160,000 sf	40,000 sf	160,000 sf

Minimum Lot Width					
	Riparian	400 feet	300 feet	150 feet	400 feet
	Non-Riparian	400 feet	300 feet	150 feet	400 feet
Maximum Impervious Surface Coverage		10% of lot area	25% of lot area	25% of lot area	25% of lot area

Minimum Setbacks from OHWL for all Structures, Except On-site Sewage Systems and Water-Oriented Accessory Structures	200 feet	200 feet	100 feet; except for NE lakes which shall be 150 feet	200 feet
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Minimum Setbacks from OHWL for On-site Sewage Systems		200 feet	200 feet	100 feet; except for NE lakes which shall be 150 feet	200 feet
Minimum Setbacks for All Structures, Including On-site Sewage Systems and Water-Oriented Accessory Structures					
Shore impact zone		Structures, except stairways and landings, may not be located within either the shore impact zone or bluff impact zone			
Bluff impact zone					
From edge of wetland		100 feet	N/A	N/A	N/A
From unplatted cemetery		50 feet	50 feet	50 feet	50 feet
From right-of-way line of federal, state or County highway		50 feet	50 feet	50 feet	50 feet
From right-of-way line of township road, public street, railroad, private road or other unclassified		20 feet	20 feet	20 feet	20 feet
Side yard setback		10 feet	10 feet	10 feet	10 feet
Highway setbacks					

~~8-5B-6: CONTROLLED ACCESS LOTS FOR NON-RIPARIAN LOTS~~

Riparian lots intended for use by owners of non-riparian lots are permissible if all of the following standards are met:

~~A. Suitability; Limitation on Use:~~

The proposed controlled access lot shall be suitable for the intended uses of controlled access lots such as boat launching, swimming, and fishing. Controlled access lots shall not be used as residential lots.

~~B. Minimum Lot Area, Width and Number of Lots Having Access:~~

~~b.a. A controlled access lot proposed for access by one non-riparian lot shall meet the minimum lot area and minimum lot width standards for a riparian lot in the SP or RD district where the proposed controlled access lot is located. The minimum lot area and minimum lot width of the controlled access lot shall both be increased by twenty percent (20%) for each additional non-riparian lot having access over the controlled access lot up to a maximum of ten (10) lots total having access rights over the controlled access lot. A nonconforming lot shall not be used for a controlled access lot.~~

~~C. Joint Ownership:~~

Controlled access lots shall be jointly owned by the owners of all lots having riparian access rights on the controlled access lot.

~~D. Design Requirements:~~

The controlled access lot shall meet the following design requirements:

~~i. **Common Facilities:** Common facilities and activities shall be centralized in the most suitable locations on the controlled access lot to minimize topographic and vegetation alterations.~~

~~1. **Screening:** All parking areas, storage buildings, and other facilities shall to be screened by vegetation or topography as much as practical from view from the public water, assuming~~

~~summer, leaf-on conditions.~~

- ~~2. **Impervious Surface:** Impervious surface on a controlled access lot shall be limited to twenty-five percent (25%) of the lot area. Impervious surfaces shall include gravel drives.~~

~~**E. Covenants Required:**~~

~~Covenants, or other equally effective legal instruments, shall be developed that specify the following:~~

- ~~1. **Owners:** Identification of lots and owners having rights to use the controlled access lot.~~
- ~~2. **Activities:** Activities that are allowed shall be specified and may only include watercraft launching, loading, storage, beaching, mooring, docking and other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights of adjacent property owners. Examples of activities that do not significantly conflict include swimming, sunbathing, or picnicking.~~
- ~~3. **Vehicle Limitation:** The covenants shall specify the total number of vehicles allowed to be parked on the controlled access lot.~~
- ~~4. **Watercraft Limitation:** The covenants shall specify the total number of watercraft allowed to be continuously moored, docked, or stored over water.~~
- ~~5. **Posting Required:** Information describing the covenants required in 1. through 4, above, shall be conspicuously posted on the controlled access lot.~~
- ~~6. **Common Facilities:** Common facilities and activities shall be centralized in the most suitable locations on the controlled access lot to minimize topographic and vegetation alterations.~~
- ~~7. **Screening:** All parking areas, storage buildings, and other facilities shall to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.~~

~~**8-5B-7: GENERAL STANDARDS FOR STRUCTURES AND USES IN SP, RD
AND SP-LD DISTRICTS**~~

~~**A. Measuring for Minimum Lot Area and Lot Width:**~~

~~Only land above the ordinary high water level of public waters can be used to meet lot area standards; and lot width standards must be met at both the ordinary high water level and at the building line.~~

~~**B. Application of Setback Requirements:**~~

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

~~**C. Bluff Impact Zones:**~~

~~Structures and accessory facilities, except stairways and landings, must not be placed~~

~~**D. Uses Without Water-Oriented Needs:**~~

~~Uses without water-oriented needs must be located on lots or parcels without public waters frontage,~~

~~or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.~~

~~E. High Water Elevations:~~

~~Structures must be placed in accordance with the floodplain provisions of Article 8-5A applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or floodproofed must be determined as follows:~~

- ~~1. **Lakes:** For lakes, by placing the lowest floor at a level at least three feet (3') above the highest known water level, or three feet (3') above the ordinary high water level, whichever is higher;~~
- ~~2. **Rivers; Streams:** For rivers and streams, by placing the lowest floor at least three feet (3') above the flood of record, if data is available. If data is not available, by placing the lowest floor at least three feet (3') above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three (3) approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with parts Minnesota Rules 6120.5000 to 6120.6200 governing the management of flood plain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities.~~

~~F. Stairways, Lifts, and Landings:~~

~~A. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:~~

- ~~1. **Maximum Width:** Stairways and lifts must not exceed four feet (4') in width on residential lots. Wider stairways may be used for commercial properties, public open space recreational properties;~~
- ~~2. **Landings:** Landings for stairways and lifts on residential lots must not exceed thirty-two (32) square feet in area. Landings larger than thirty two (32) square feet may be used for commercial properties, public open space recreational properties;~~
- ~~3. **Canopies or Roofs:** Canopies or roofs are not allowed on stairways, lifts, or landings;~~
- ~~4. **Construction:** Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;~~
- ~~5. **Location:** Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and~~
- ~~6. **Physically Handicapped:** Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of subsections 1 through 5 of this Section are complied with in addition to the requirements of Minnesota Regulations chapter 1340.~~

~~8-5B-8: SIGNIFICANT HISTORIC SITES:~~

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

8-5B-9: STEEP SLOPES:

- ~~1. The Zoning Administrator must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.~~

8-5B-10: SHORELAND ALTERATIONS:

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

8-5B-11: VEGETATION ALTERATIONS:

A. Exemption:

~~Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by subsection 8-5B-12F of this Article, and except for agricultural and forest management uses as regulated in Sections 8-5B-15 and 8-5B-16 of this Article are exempt from the vegetation alteration standards that follow.~~

B. Standards for Removal:

~~Removal or alteration of vegetation, is allowed subject to the following standards:~~

- ~~1. **Prohibited in Shore and Bluff Impact Zones.** Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed.~~
- ~~2. **Outside Shore and Bluff Impact Zones Erosion Control and Sedimentation Plan:** Intensive vegetation clearing for forest land conversion to another use outside of the shore and bluff impact zones is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.~~
- ~~3. **Limited Clearing for View or Access:** In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:
 - ~~a. **Screening:** The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;~~
 - ~~b. **Shading:** Along rivers, existing shading of water surfaces is preserved; and~~
 - ~~c. **Dead, Diseased Vegetation; Safety Hazard:** The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose~~~~

~~**8-5B-12: TOPOGRAPHIC ALTERATION; GRADING AND FILLING:**~~

~~**A. Grading, Filling and Excavations:**~~

~~2.1. Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.~~

~~**B. Public Roads and Parking:**~~

~~Public roads and parking areas are regulated by subsection F of this Section.~~

~~**C. Permit Required:**~~

~~Notwithstanding subsections A and B of this Section, a grading and filling permit will be required for:~~

- ~~1. The movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and~~
- ~~2. The movement of more than fifty (50) cubic yards of material outside of steep slopes and shore and bluff impact zones.~~

~~**D. Considerations; Conditions:** The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:~~

- ~~1. **Wetland:** Grading or filling in any wetland is not allowed under the Minnesota Wetland Conservation Act (WCA) (Minn. Stat. Chapter 103G) unless the impacts are determined to be exempt or the impacts are replaced according to WCA. All wetland or water related grading and filling shall be evaluated by filing “Minnesota Local/State/Federal Forms for Water/Wetland Protection” with the Clay County Soil and Water Conservation District (SWCD). The SWCD shall review the application for compliance with WCA requirements.~~
- ~~2. **Alterations:** Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;~~
- ~~3. **Mulches:** Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible;~~
- ~~4. **Soil Erosion:** Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;~~
- ~~5. **Stabilization of Altered Areas:** Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Natural Resources Conservation Service;~~
- ~~6. **Unstable Slope Prohibited:** Fill or excavated material must not be placed in a manner that creates an unstable slope;~~
- ~~7. **Steep Slopes, Professionals Required:** Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of thirty percent (30%) or greater;~~
- ~~8. **Bluff Impact Zones:** Fill or excavated material must not be placed in bluff impact zones;~~

~~9. **Below Ordinary High Water Level:** Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner under Minnesota Statutes Annotated section 105.42;~~

~~10. **Topography:** Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and~~

~~11. **Riprap; Filter Blanket:** Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet (3') horizontal to one foot (1') vertical, the landward extent of the riprap is within ten feet (10') of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three feet (3').~~

~~E. **Connections to Public Waters:**~~

~~Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, must be controlled by local shoreland controls. Permission for excavations may be given only after the Commissioner has approved the proposed connection to public waters.~~

~~F. **Roads, Driveways and Parking Areas; Placement and Design:**~~

~~1. **Design:** Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.~~

~~2. **Placement:** Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.~~

~~3. **Watercraft Access Ramps, Access Roads, Parking Areas:** Public and private watercraft access ramps, approach roads, and access related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provisions of Section 8-5B-12 must be met.~~

~~8-5B-13: STORM WATER MANAGEMENT:~~

~~A. **General Standards:**~~

~~1. **Use of Natural Drainage ways, Wetlands and Vegetated Soil Surfaces:** When possible, existing natural drainage ways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain storm water runoff before discharge to public waters.~~

~~2. **Minimum Disturbance:** Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.~~

~~3. **Constructed Facilities:** When development density, topographic features, and soil and~~

~~vegetation conditions are not sufficient to adequately handle storm water runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and manmade materials and facilities.~~

~~**B. Specific Standards:**~~

- ~~1.—**Impervious Surface Coverage:** Impervious surface coverage of lots must not exceed twenty five percent (25%) of the lot area.~~
- ~~2.—**Design and Installation by Qualified Professionals:** When constructed facilities are used for storm water management, documentation must be provided by qualified professionals that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.~~
- ~~3.—**Filtering or Settling of Suspended Solids; Surface Debris:** New constructed storm water outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.~~

~~8-5B-14 STANDARDS FOR COMMERCIAL, INDUSTRIAL, PUBLIC AND SEMI-PUBLIC USES:~~

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

- ~~A.—**Topographic and Vegetative Screening:** In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this Ordinance, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;~~
- ~~B.—**Short Term Watercraft Mooring:** Uses that require short term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and~~
 - ~~e.a.—**Signs; Lighting:** Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:~~
 - ~~1.—**In or Upon Public Waters:** No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the County Sheriff;~~
 - ~~2.—**Shore Impact Zone:**
 - ~~a.—**Allowed:** Signs conforming to Section 8-3-11 may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information.~~
 - ~~b.—**Text:** They must only convey the location and name of the establishment and the general types of goods or services available.~~
 - ~~c.—**Size:** The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten feet (10') above the ground, and must not exceed thirty three (32) square feet in size.~~
 - ~~d.—**Lighting:** If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters; and~~
 - ~~e.—**Outside Lighting:** Other outside lighting may be located within the shore impact~~~~

~~zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.~~

~~C. **Uses Without Water-Oriented Needs:** Uses without water-oriented needs must be located on lots~~
~~or~~

~~parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.~~

~~8-5B-15: AGRICULTURAL USE STANDARDS:~~

~~A. Permitted Uses:~~

~~General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan consistent with the field office technical guides of the local soil and water conservation districts or the Natural Resources Conservation Service, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and fifty feet (50') from the ordinary high water level.~~

~~B. Animal Feedlots:~~

~~Animal feedlots must meet the following standards:~~

- ~~1. **New Feedlots:** New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of three hundred feet (300') from the ordinary high water level of all public waters basins; and~~
- ~~2. **Modifications, Expansions:** Modifications or expansions to existing feedlots that are located within three hundred feet (300') of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones;~~
- ~~3. **Certificate of Compliance:** Feedlots must be registered, permitted and/or have a certificate of compliance in accordance with Minnesota Pollution Control Agency rules 7020.0100 to 7020.1900.~~

~~8-5B-16: FOREST MANAGEMENT STANDARDS:~~

~~The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Non-Point Source Pollution Assessment Forestry and the provisions of Water Quality in Forest Management, "Best Management Practices in Minnesota." A conditional use permit is required when converting forested land to another type of use.~~

~~8-5B-17: MINING OF PEAT:~~

~~Mining of peat, as defined in Minnesota Statutes Annotated sections 93.44 to 93.51, shall be a permitted use provided the provisions of Minnesota Statutes Annotated sections 93.44 to 93.51, are satisfied.~~

~~8-5B-18: WATER SUPPLY:~~

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

8-5B-19: SEWAGE TREATMENT:

A. Required:

- ~~1. Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:~~
 - ~~1. **Public System:** Publicly owned sewer systems must be used where available.~~
 - ~~2. **Private System:** All private sewage treatment systems must meet or exceed the Minnesota Pollution Control Agency's standards for individual sewage treatment systems contained in the document titled, "Individual Sewage Treatment Systems Standards", chapter 7080, a copy of which is hereby adopted by reference and declared to be a part of this Ordinance.~~
 - ~~3. **On-Site System:** On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in subsection 8-5B-5 of this Article.~~
 - ~~4. **Evaluation of Site for Individual System:** All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in subsections B1 through B4, below, of this Section. If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on-site field investigations.~~

B. Evaluation Criteria:

- ~~1. Depth to the highest known or calculated ground water table or bedrock;~~
- ~~2. Soil conditions, properties, and permeability;~~
- ~~3. Slope;~~
- ~~4. The existence of wetlands, local surface depressions, and rock outcrops;~~
- ~~5. Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with Section 8-2-4 of this Ordinance.~~

8-5B-20: PRIVATE STORAGE BUILDINGS

~~One private storage building may be allowed on a parcel which was legally created and which conforms to the lot standards and provisions of the zoning district in which it is located. Standards for private storage buildings are as follows:~~

- ~~1) The structure shall not be used as a residence~~
- ~~2) The structure shall not be serviced with sewer and/or water~~
- ~~3) The structure may be placed on either a temporary or permanent foundation~~
- ~~4) The structure's maximum square footage (foot print) is 5% of the total lot area or 1,500 square feet, whichever is less~~
- ~~5) Structure must meet all applicable setbacks for the zoning district in which it is located~~

- ~~6) The structure may not be used to house or support animals of any type~~
- ~~7) The structure cannot be used for any commercial and/or business uses including the storage of materials, vehicles or other items used for commercial or business purposes~~

- ~~8) — May be located in Shoreland districts only~~
- ~~9) — The private storage building must be of a design and workmanship consistent with the surrounding area~~
- ~~10) — A Conditional Use Permit is required.~~

**ARTICLE 5C. RESOURCE PROTECTION OVERLAY DISTRICTS
(RP-WHP, RP-BIO, RP-AGG)**

~~8-5C-1: PURPOSE~~

~~8-5C-2: DESCRIPTION OF RESOURCE PROTECTION OVERLAY DISTRICTS~~

~~8-5C-3: RELATIONSHIP OF RESOURCE PROTECTION OVERLAY DISTRICTS TO OTHER ZONING DISTRICTS~~

~~8-5C-4: PERMITTED, CONDITIONAL AND ACCESSORY USES~~

~~8-5C-5: SPECIFIC STANDARDS FOR RP-WHP RESOURCE PROTECTION OVERLAY DISTRICT—WELLHEAD PROTECTION~~

~~8-5C-6: SPECIFIC STANDARDS FOR RP-BIO RESOURCE PROTECTION OVERLAY DISTRICT—BIOLOGICALLY SIGNIFICANT AREAS~~

~~8-5C-7: SPECIFIC STANDARDS FOR RP-AGG RESOURCE PROTECTION OVERLAY DISTRICT—AGGREGATE RESOURCES~~

~~8-5C-1: PURPOSE:~~

The purpose of the Resource Protection ~~Overlay Districts~~ is to implement the following goals and policies of the ~~Clay County 2002 Comprehensive Plan, the Clay County Comprehensive Local Water Management Plan, and the Wellhead Protection Plan:~~

~~A. Comprehensive Plan Natural Resources Goal #1: Identify, protect, and preserve the County's high-quality natural, scenic, cultural and open space areas.~~

- ~~1. Policy 2. Develop strategies for the protection, preservation and/or acquisition of identified significant natural and historic areas, where appropriate, through a number of means...~~
- ~~2. Policy 14. Continue to work with the Soil and Water Conservation District to update and implement the County Water Plan.~~
- ~~3. Policy 23. Coordinate and cooperate with other local units of government in developing wellhead protection plans, including identifying appropriate land use and pollution mitigation measures in wellhead protection zones.~~

~~B. Water Plan Goals and Objectives:~~

- ~~1. Goal: Protect and improve the quality of surface water in the County~~
 - ~~a. Objective B. Enforce existing regulations and develop new regulations to protect surface water resources.~~
- ~~2. Goal: Protect and preserve groundwater quality in the County.~~
 - ~~a. Objective B. Action 1. Identify sensitive groundwater areas in the County and establish land use practices for those areas.~~
 - ~~b. Objective B. Action 5. Initiate a land use ordinance to protect recharge areas of the Buffalo Aquifer.~~

~~C. Wellhead Protection Plan Implementation:~~

- ~~1. Quality Goal: Preserve and protect the quality of groundwater resources to assure continued safe and useable water supply.~~

- ~~2. **Measure A-1-2:** Require that new commercial businesses within the Wellhead Protection Area/Drinking Water Supply Management Area hook-up to municipal sewage treatment and water supply.~~
- ~~3. **Measure A-2-1:** Clay County adoption of sensitive areas map RHA-3 from the Department of Natural Resources Hydrogeologic Assessment completed in 2000.~~
- ~~4. **Measure A-2-2:** Propose land use zoning regulations to prevent placement of new underground storage tanks or bulk storage of hazardous materials within designated sensitive areas.~~
- ~~5. **Measure A-2-3:** Propose setback and land use regulations on existing gravel pits within the DWSMA.~~
- ~~6. **Measure A-2-4:** Prohibit expansion of existing and new gravel and mining operations within sensitive areas of the Buffalo Aquifer.~~
- ~~7. **Measure A-2-5:** Prohibit temporary and permanent asphalt plants within sensitive areas of the Buffalo Aquifer.~~
- ~~8. **Measure A-3-3:** Require construction of containment systems around dispensing areas and around above ground tanks larger than three hundred (300) gallons at new development sites within the Wellhead Protection Area/ Drinking Water Supply Management Area.~~

~~8-5C-2: DESCRIPTION OF RESOURCE PROTECTION OVERLAY DISTRICTS:~~

~~Three Resource Protection Overlay Districts are established by this Article each addressing the resource protection needs of a specific type of resource. The three districts and the resource they address are:~~

~~A. **RP-WHP Resource Protection Overlay District—Wellhead Protection:** The Wellhead Protection Overlay District is intended to protect the City of Moorhead Wellhead Protection Area/Drinking Water Supply Management Area (DWSMA), including sensitive areas above the Buffalo Aquifer.~~

~~A. **RP-BIO Resource Protection Overlay District—Biologically Significant Areas:** The Biologically Significant Areas Overlay District is intended to protect areas with biologically significant habitat as determined by the Minnesota Department of Natural Resources County Biological Survey. Many of these areas are under public ownership.~~

~~B. **RP-AGG Resource Protection Overlay District—Aggregate Resources:** The Aggregate Resources Overlay District is intended to protect areas with existing significant aggregate resources as shown in the Clay County Aggregate Resources Inventory completed pursuant to Minnesota Statutes Chapter 84.94.~~

~~8-5C-3: RELATIONSHIP OF RESOURCE PROTECTION OVERLAY DISTRICTS TO OTHER ZONING DISTRICTS:~~

~~The three Resource Protection districts are overlay districts. These districts overlay other~~

~~underlying zoning districts such as the AG districts. The requirements of the overlay districts in this Article provide regulations that shall apply to structures and the use of land in addition to the regulations of the underlying zoning districts. Where requirements in this Article impose greater restrictions than the underlying zoning district, the provisions of this Article shall apply. Two overlay districts may occur in the same area, for example significant biological resources may be present in a wellhead protection area. Where two overlay districts occupy the same area, the requirements that impose greater restrictions shall apply.~~

~~8-5C-4: PERMITTED, CONDITIONAL AND ACCESSORY USES~~

~~Permitted, conditional and accessory uses in the Resource Protection Overlay Districts are those specified in Table 5-1. The uses listed for Resource Protection Overlay Districts in Table 5-1 preempt the uses listed for any base district underlying a Resource Protection Overlay District. All uses not listed shall be prohibited.~~

~~8-5C-5: SPECIFIC STANDARDS FOR RP-WHP RESOURCE PROTECTION OVERLAY DISTRICT—WELLHEAD PROTECTION:~~

~~The following specific standards shall apply in the RP-WHP Resource Protection Overlay District—Wellhead Protection and shall preempt any conflicting standards for any base district underlying the overlay district:~~

- ~~A.—**Density and Dimensional Standards:** The density and dimensional standards in the RP-WHP overlay district shall be those standards in Section 8-5D-3A for the AG District minor subdivisions. Cluster subdivisions and major subdivisions shall not be allowed.~~
- ~~B.—**Stormwater Management:** Stormwater management within the RP-WHP overlay district shall comply with Minnesota Pollution Control Agency Phase II National Pollutant Discharge Elimination System (NPDES) requirements.~~
- ~~C.—**Fertilizer Use:** The application and use of lawn and garden fertilizer containing phosphorus shall be prohibited within the RP-WHP overlay district.~~
- ~~D.—**Commercial Uses:** Allowed commercial uses within the RP-WHP overlay district shall be connected to public sewage treatment and water supply systems.~~
- ~~E.—**Aggregate Mining:** Expansion of existing aggregate mining operations and permitting of new aggregate mining operations shall be prohibited within the RP-WHP overlay district.~~
- ~~F.—**New Development Near Mines:** New structures and on-site sewage treatment systems shall be setback at least one hundred fifty feet (150') from the top edge of an aggregate mining pit. New development on parcels adjacent to mining pits shall install a dike between any structures and the edge of the mining pit of sufficient height to prevent all surface water runoff from entering the mining pit.~~
- ~~G.—**Above-Ground Storage Tanks:** A containment system of sufficient size to completely contain a one hundred percent (100%) spill shall be designed and constructed around new above-ground storage tanks designed to contain more than three hundred (300) gallons within the RP-WHP overlay district.~~
- ~~H.—**Underground Storage Tanks:** New underground storage tanks shall be prohibited within the RP-WHP overlay district.~~
- ~~I.—**Hazardous Materials:** Bulk storage of hazardous materials shall be prohibited within the RP-WHP overlay district.~~

~~8-5C-6: SPECIFIC STANDARDS FOR RP-BIO RESOURCE PROTECTION~~

~~OVERLAY DISTRICT—BIOLOGICALLY SIGNIFICANT AREAS:~~

~~The following specific standards shall apply in the RP-BIO Resource Protection Overlay District—Biologically Significant Areas and shall preempt any conflicting standards for any base district underlying the overlay district:~~

~~A. Maximum Allowed Density of Dwellings:~~

~~The maximum number of dwellings allowed per quarter-quarter section in the RP-BIO Resource Protection Overlay District—Biologically Significant Areas shall be one (1) provided that all of the dimensional standards and conditions in B. below, are met. Cluster subdivisions and major subdivisions shall not be allowed in the RP-BIO District.~~

~~B. Dimensional Standards for Residential Lots:~~

- ~~1. **Minimum Lot Size:** The minimum lot size shall be two (2) acres of which twenty thousand (20,000) square feet, exclusive of road frontage right-of-way, shall be above the base flood elevation (100 year).~~
- ~~2. **Minimum Road Frontage or Access Width:** The lot on which the additional allowed dwelling unit is located shall have a minimum of sixty-six feet (66') in direct road access owned in fee. Road access necessary to meet the requirements of this section shall not be met through an access easement.~~

~~3. Yard Requirements for All New Dwellings:~~

- ~~a. **Highway Setbacks:** As provided in Section 8-3-3 of this Chapter.~~
- ~~b. **Front Yard Width:** Two hundred feet (200') at building line.~~
- ~~e. **Rear Yard Setback:** Twenty-five feet (25'), except unattached accessory structures may be five feet (5') from the lot line.~~
- ~~d. **Side Yard Setback:** Fifteen feet (15') from the lot line, except unattached accessory structures may be ten feet (10') from the lot line.~~

~~C. Site Plan Information Requirements:~~ A site plan shall be required to be submitted with all applications for development or building permits in the RP-BIO District. The site plan shall indicate the location of biologically significant areas as determined by the Clay County Biological Survey, such information to be provided to the applicant by the Clay County Planning Department. The site plan shall also show all proposed structures, proposed topographic changes and proposed area of vegetation removal.

~~D. Site Design Criteria:~~ The applicant shall be responsible for insuring that structures, topographic changes and vegetation removal shall not adversely impact biologically significant areas. Structures, dirt-moving activities and vegetation removal shall not occur within one hundred feet (100') of any identified biologically significant areas.

~~E. Land Use Notification:~~ No permit for the construction of or addition to a dwelling unit, or permit for a septic system in the (AG, RP-CBS, RP-AGG) District shall be issued until the landowner reads and signs an (agricultural, biological, aggregate) land use notification and records it, at the owner's expense, against the property that is the subject of the permit of development. Once such a land use notification has been recorded against a property it does not need to be recorded again related to subsequent permits on the same property. Land use notification forms for the RP-BIO District shall inform the landowner that:

- ~~1. The land that is the subject of the permit or development is located within an area with significant biological resources where Clay County has determined that these are important resources.~~
- ~~1. The management of significant biological resources may include controlled burning of large areas. Such burning may produce smoke, dust, odor, light, and other off-site impacts.~~

~~2. If you live within an RP-BIO area, you should be prepared to accept inconveniences or~~

~~discomfort associated with management of biological resources as a normal and necessary aspect of living in an RP-BIO area.~~

~~**8-5C-7: SPECIFIC STANDARDS FOR RP-AGG RESOURCE PROTECTION OVERLAY DISTRICT—AGGREGATE RESOURCES:**~~

~~The following specific standards shall apply in the RP-AGG Resource Protection Overlay District—Aggregate Resources and shall preempt any conflicting standards for any base district underlying the overlay district:~~

~~A. **Maximum Allowed Density of Dwellings:** The maximum number of dwellings allowed per quarter quarter section in the RP-AGG Resource Protection Overlay District—Aggregate Resources shall be one (1) provided that the following dimensional standards is met:~~

~~1. **Minimum Lot Size:** The minimum lot size shall be two (2) acres of which twenty thousand (20,000) square feet, exclusive of road frontage right of way, shall be above the base flood elevation (100 year).~~

~~B. **Development Standards Near Mine Pits:** New structures and on-site sewage treatment systems shall be setback at least one hundred fifty feet (150') from the top edge of an aggregate mining pit. New development on parcels adjacent to mining pits shall install a dike between any structures and the edge of the mining pit of sufficient height to prevent all surface water runoff from entering the mining pit.~~

~~C. **Land Use Notification:** No permit for the construction of or addition to a dwelling unit, or permit for a septic system in the (AG, RP-CBS, RP-AGG) District shall be issued until the landowner reads and signs an (agricultural, biological, aggregate) land use notification and records it, at the owner's expense, against the property that is the subject of the permit of development. Once such a land use notification has been recorded against a property it does not need to be recorded again related to subsequent permits on the same property. Aggregate land use notification forms shall inform the landowner that:~~

~~1. The land that is the subject of the permit or development is located within an aggregate resource area where Clay County has determined that aggregate resources are important resources.~~

~~1. **Aggregate removal practices may be accompanied by noise, dust, odor, light, and other off-site impacts at any time of day and year.**~~

~~2. Aggregate removal uses are given preference over other residential uses in RP-AGG areas.~~

~~3. If you live within an RP-AGG area, you should be prepared to accept inconveniences or discomfort associated with aggregate removal as a normal and necessary aspect of living in an RP-AGG area.~~

~~D. **Compliance with CUP:** Aggregate operations shall comply with the requirements of the conditional use permit for the operation. New aggregate operations shall comply with the requirements in Section 8-6-11 of this Ordinance.~~

ARTICLE 5D. AGRICULTURAL GENERAL DISTRICT (AG)

~~8-5D-1: PURPOSE~~

~~8-5D-2: PERMITTED, CONDITIONAL AND ACCESSORY USES~~

~~8-5D-3: LAND USE NOTIFICATION~~

~~8-5D-4: DENSITY AND DIMENSIONAL STANDARDS IN AG DISTRICTS~~

~~8-5D-1: PURPOSE~~

The purpose of the AG Agricultural General District is to implement the following goals and policies of the Clay County 2002 Comprehensive Plan:

~~A. Land Use Goal #2: Support the long-term protection of agriculture in the County.~~

- ~~1. Policy 2. Establish clear and distinct zoning districts outside Planned Urban Growth Areas that provide for long-term agriculture and limit residential density in the agricultural areas of the County.~~
- ~~2. Policy 3. Allow and promote density transfers to permit cluster design techniques for non-farm, residential development as a means to concentrate development in less agriculturally productive areas and preserve large tracts of farmland, while still allowing farmland owners to benefit from development.~~
- ~~3. Policy 7. Identify prime agricultural areas and develop effective strategies to ensure their preservation and viability.~~
- ~~4. Policy 8. Encourage the enrollment of prime agricultural areas in the state's Agricultural Land Preservation Program and/or other federal, state or local conservation programs.~~

~~B. Land Use Goal #5: Plan land uses and implement standards to minimize land use conflicts.~~

- ~~1. Policy 1. Prepare and adopt a land use plan that designates land use areas to ensure desirable land use patterns and minimize conflicts.~~
- ~~2. Policy 8. Strengthen the County's land use ordinance related to feedlots in a manner that allows these uses in the agricultural areas, while protecting groundwater and surface water resources and mitigating potential adverse effects on surrounding properties.~~

~~8-5D-2: PERMITTED, CONDITIONAL AND ACCESSORY USES~~

Permitted, conditional and accessory uses in the AG Agricultural General District are those specified in Table 5-1. All other uses shall be prohibited.

~~8-5D-3: LAND USE NOTIFICATION~~

~~No permit for the construction of or addition to a dwelling unit, or permit for a septic system in the (AG, RP CBS, RP AGG) District shall be issued until the landowner reads and signs an (agricultural, biological, aggregate) land use notification and records it, at the owner's expense, against the property that is the subject of the permit of development. Once such a land use notification has been recorded against a property it does not need to be recorded again related to subsequent permits on the same property. Agricultural land use notification forms shall inform the landowner that:~~

~~A. The land that is the subject of the permit or development is located in an agricultural area where Clay County has determined that agricultural uses are primary uses.~~

~~1. Agricultural uses may be accompanied by noise, dust, odor, light, smoke, and other off-site impacts at any time of day and year.~~

~~B. Agricultural uses may include new or expanded feedlots that conform to all state or federal standards, operation of machinery, storage and disposal of manure, and application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides.~~

~~C. Agricultural uses are given preference over other uses in agricultural areas.~~

~~D. If you live near an agricultural area, you should be prepared to accept inconveniences or discomfort associated with agricultural practices as a normal and necessary aspect of living in agricultural areas.~~

~~8-5D-4: DENSITY AND DIMENSIONAL STANDARDS IN AG DISTRICTS~~

~~Landowners have four options for developing new residential dwellings in the AG Agricultural District: single-lot divisions of land; within a cluster subdivision; major subdivisions on wooded or marginal soils; or conditional use permit subdivisions. The density maximums and other requirements listed below shall be met for each of these development options:~~

~~A. Minor subdivisions/Single-lot divisions of land:~~

~~1. **Maximum density:** Except as provided for in subsections B and C below, the maximum number of new dwellings allowed per quarter-quarter section in the AG Agricultural General District shall be one (1) provided that:~~

- ~~a. If there are no existing dwellings in the quarter-quarter section one (1) new dwelling is allowed; and~~
- ~~b. If there is one (1) existing dwelling in the quarter-quarter section one (1) new dwelling is allowed; and~~
- ~~c. If there are two (2) or more existing dwellings in the quarter-quarter then no new dwellings are allowed.~~
- ~~d. All of the dimensional standards and conditions in 2., and 3., below, shall be met for new dwellings.~~

~~2. Dimensional Standards for Residential Lots:~~

- ~~a. **Minimum Lot Size:** The minimum lot size shall be one and one half (1½) acre of which twenty thousand (20,000) square feet, exclusive of road frontage right-of-way, shall be above the base flood elevation (100 year).~~
- ~~b. **Minimum Road Frontage or Access Width:** The lot on which the additional allowed dwelling unit is located shall have a minimum of sixty-six feet (66') in direct road access owned in fee. Road access necessary to meet the requirements of this section shall not be met through an access easement.~~

~~3. Yard Requirements for All New Dwellings:~~

- ~~a. **Highway Setbacks:** As provided in Section 8-3-3 of this Ordinance.~~
- ~~b. **Front Yard Width:** Two hundred feet (200') at building line.~~

~~e. **Rear Yard Setback:** Twenty five feet (25'), except unattached accessory structures may be~~

five feet (5') from the lot line.

d. ~~Side Yard Setback:~~ Fifteen feet (15') from the lot line, except unattached accessory structures may be ten feet (10') from the lot line.

~~4. Site Location Limitation: It is preferred that site locations be limited to parcels or lots which are wooded with healthy and mature trees and not currently used for agricultural purposes, or are unsuitable for economical agricultural uses because of poor soils, rough topography or other natural features, however any site may be allowed.~~

~~B. Cluster Subdivisions: If a landowner chooses to develop a cluster subdivision in an AG Agricultural District, all of the following provisions shall be met.~~

~~1. Maximum Density: A cluster subdivision shall not exceed a maximum density of eight (8) dwellings per quarter section provided that:~~

a. ~~Any dwelling within the quarter section existing upon the date of the cluster subdivision application is submitted shall be deducted from the maximum density reducing the maximum by one for each existing dwelling.~~

~~2. Dimensional Standards for Residential Lots Within a Cluster Subdivision:~~

~~a. Minimum Lot Size:~~

~~1. The minimum lot size for lots served by on-site sewage treatment systems shall be one and one-half (1.5) acres of which twenty thousand (20,000) square feet, exclusive of road frontage right-of-way, shall be above the base flood elevation (100-year).~~

~~2. Lots served by centralized sewage treatment system and well may be smaller in size than the minimum in (1) above.~~

~~b. Maximum Lot Size: The maximum lot size shall not greater than two (2) acres.~~

~~3. Yard Requirements for All New Dwellings:~~

a. ~~Highway Setbacks: As provided in Section 8-3-3 of this Chapter.~~

b. ~~Front Yard Width: One hundred feet (100') at building line.~~

c. ~~Rear Yard Setback: Twenty five feet (25'), except unattached accessory structures may be five feet (5') from the lot line.~~

d. ~~Side Yard Setback: Fifteen feet (15') from the lot line, except unattached accessory structures may be ten feet (10') from the lot line.~~

~~4. Review Process: Cluster subdivisions shall be processed according to the cluster subdivision provisions of Chapter 7 of this Ordinance.~~

~~5. Design: Cluster subdivisions shall be designed to cluster lots rather than align them in a linear pattern. Cluster subdivisions shall minimize the number of access points on existing public roadways. Cluster subdivisions with three or more lots shall be designed with an internal drive.~~

~~C. Major Subdivisions on Wooded or Marginal Soils: If a landowner chooses to develop a major subdivision on wooded or marginal soils as defined in subsection 4. below in an AG Agricultural District, all of the following provisions shall be met.~~

~~1. **Maximum Number of Lots:** The maximum number of residential lots allowed in a major subdivision in the AG Agricultural District shall not exceed sixteen (16).~~

- ~~2. **Review Process:** Major subdivisions shall be processed as and shall meet the major subdivision provisions of Chapter 7 of this Ordinance.~~
 - ~~3. **Site Location Limitation:** Site locations for major subdivisions shall be limited to parcels or lots which are wooded with healthy and mature trees and not currently used for agricultural purposes, or on parcels with a weighted average Crop Equivalent Rating (CER) of sixty-five (65) or less as established by Revised 2002 Productivity Factors and Crop Equivalent Ratings for Soils of Minnesota as published by the Minnesota Extension Service of the University of Minnesota.~~
 - ~~4. **Tree Removal Plan:** A tree removal plan shall be required as part of the subdivision application. The tree removal plan shall indicate all mature trees over six inches (6") in diameter at a height of four feet (4') that are proposed to be removed on a map showing the location, type and size of such trees. Maximum possible retention of mature trees shall be required. The plan shall describe methods that will be used to protect mature trees from damage during construction of roads and structures, such as root perimeter fencing and prevention of soil compaction.~~
 - ~~5. **Design:** Major subdivisions shall not be located on minimum maintenance roads and the number of access points on existing public roadways shall be minimized.~~
- ~~D. **Conditional Use Permit Subdivisions:** If a landowner proposes a major subdivision in an AG District that is not a cluster subdivision meeting the provisions of Section 8-5D-3B, and is not proposed to be located on wooded or marginal soils as defined in Section 8-5D-3C.4, all of the following provisions shall be met.~~
- ~~1. **Maximum Number of Lots:** The maximum number of residential lots allowed in a conditional use permit subdivision in the AG Agricultural District shall not exceed sixteen (16).~~
 - ~~2. **Review Process:** Conditional use subdivisions shall be processed as both a conditional use and a major subdivision and shall meet the major subdivision provisions of Chapter 7 of this Ordinance. The conditional use permit shall not be granted until approval of the final subdivision plat is granted.~~
 - ~~3. **Design:** Major subdivisions shall not be located on minimum maintenance roads and the number of number of access points on existing public roadways shall be minimized.~~

ARTICLE 5E. AGRICULTURAL SERVICE CENTER DISTRICT (ASC)

~~8-5E-1: PURPOSE~~

~~8-5E-2: PERMITTED, CONDITIONAL AND ACCESSORY USES~~

~~8-5E-3: DIMENSIONAL STANDARDS IN ASC DISTRICTS~~

~~8-5E-1: PURPOSE:~~

~~The purpose of the ASC Agricultural Service Center District is to implement the following goals and policies of the Clay County 2002 Comprehensive Plan:~~

- ~~A. **Comprehensive Plan Land Use Goal #4:** Plan for the orderly, efficient growth of commercial and industrial development in the County through the application of appropriate zoning districts and regulation.~~
- ~~B. **Comprehensive Plan Economic Development Goal #1:** Cooperatively utilize existing and new resources for economic growth in the County.~~
 - ~~1. **Policy 4.** Encourage value-added agricultural industries and businesses to locate in the County.~~
 - ~~2. **Policy 5.** Encourage commercial and industrial development that is ancillary to agricultural uses and/or supports the County's agricultural economy.~~

~~8-5E-2: PERMITTED, CONDITIONAL AND ACCESSORY USES~~

~~Permitted, conditional and accessory uses in the ASC Agricultural Service Center District are those specified in Table 5-1. All other uses shall be prohibited.~~

~~8-5E-3: DIMENSIONAL STANDARDS IN ASC DISTRICTS~~

~~The following dimensional standards shall apply to structures and uses in ASC Agricultural Service Center Districts:~~

- ~~A. **Minimum Lot Size:** One acre of which twenty thousand (20,000) square feet, exclusive of road frontage right-of-way, shall be above the base flood elevation (100 year).~~
- ~~B. **Minimum Lot Width Regulations:**~~
 - ~~1. **Residential:** Two hundred feet (200') at front yard setback line.~~
 - ~~2. **Commercial:** None.~~
 - ~~3. **Industrial:** None.~~
- ~~C. **Residential Yard Requirements:**~~
 - ~~1. **Highway Setbacks:** As provided in Section 8-3-3 of this Ordinance.~~
 - ~~2. **Side Yard Setback:** Fifteen feet (15') with the exception of unattached accessory structures may be ten feet (10') from the lot line.~~

~~3. **Rear Yard Depth:** Twenty-five feet (25') with the exception of unattached accessory uses shall be five feet (5').~~

~~D. **Private Garages and Storage Buildings Size Limitation:** Private garages and storage buildings~~

~~shall not exceed five percent (5%) of the total lot size excluding rights-of-way and setbacks.~~

~~E. **Separation and Spacing Requirement:** All uses and structures shall be located at least two hundred feet (200') from any driveway affecting access to a dwelling and at least three hundred feet (300') from any dwelling unit.~~

~~ARTICLE 5F, URBAN EXPANSION DISTRICT (UED)~~

~~8-5F-1: PURPOSE~~

~~8-5F-1.5: COMPOSITION OF THE UED URBAN EXPANSION DISTRICT~~

~~8-5F-2: PERMITTED, CONDITIONAL AND ACCESSORY USES~~

~~8-5F-3: DIMENSIONAL STANDARDS IN UED DISTRICTS~~

~~8-5F-4: ADDITIONAL REQUIREMENTS IN UED DISTRICTS~~

~~8-5F-1: PURPOSE:~~

~~The purpose of the UED Urban Expansion District is to implement the following goals and policies of the Clay County 2002 Comprehensive Plan:~~

- ~~A. **Land Use Goal #1:** Establish a comprehensive growth management strategy for Clay County that promotes orderly and efficient growth of residential, commercial and industrial development while preserving the County's rural character.~~
- ~~1. **Policy 1.** Work with cities and townships within Clay County to identify Planned Urban Growth Areas that have the potential to be served with an appropriate range of public services in a cost effective manner within which efficient and orderly growth can be facilitated over the next 20 years.~~
 - ~~2. **Policy 5.** Discourage development from occurring at unsewered urban densities outside of cities until urban services can be provided in an orderly and efficient manner.~~
- ~~B. **Land Use Goal #3:** Plan for orderly and efficient growth of residential development in the County.~~
- ~~1. **Policy 1.** Encourage residential growth to occur in an orderly and compact manner in and around cities within the Planned Urban Growth Areas so that new developments can be effectively served by public utilities and the character and quality of the County's agricultural areas can be maintained and enhanced.~~
 - ~~2. **Policy 2.** Require urban overlay plats to be filed along with large lot subdivisions within the Planned Urban Growth Areas.~~

~~8-5F-1.5: COMPOSITION OF THE UED URBAN EXPANSION DISTRICT~~

~~The UED Urban Expansion District is comprised of two (2) tiers, Tier 1 and Tier 2. UED Tier 1 encompasses the primary growth areas as determined by the Cities of Moorhead and Dilworth. UED Tier 2 encompasses the remainder of the areas located within the UED boundary.~~

~~8-5F-2: PERMITTED, CONDITIONAL AND ACCESSORY USES~~

~~Permitted, conditional and accessory uses in Tier 1 and Tier 2 of the UED Urban Expansion District are those specified in Table 5-1. All other uses shall be prohibited.~~

~~**8-5F-3: DIMENSIONAL STANDARDS IN UED DISTRICTS**~~

~~The following dimensional standards shall apply to structures and uses in Tier 1 and Tier 2 of the UED Urban Expansion Districts:~~

- ~~A. **Maximum Density:** The maximum density in an UED Urban Expansion District shall be one (1) dwelling per one acre.~~
- ~~B. **Minimum Lot Size:** The minimum lot size is one (1) acre of which twenty thousand (20,000) square feet, exclusive of road frontage right-of-way, shall be above the base flood elevation (100 year).~~
- ~~C. **Urban Overlay Plat:** All development in Tier 1 and Tier 2 of the UED Urban Expansion District on parcels meeting the density and minimum lot size requirements in A., and B., above, shall be platted in conventional urban sized lots utilizing an urban overlay plat. Urban overlay plats shall conform to the following standards:~~
- ~~1. **Location of Allowed Structures and Septic:** The allowed principal and all accessory structures shall be located on one of the platted lots. If necessary due to physical site limitations or soil conditions, on-site sewage treatment systems may be located on a platted lot adjacent to the lot where structures are located.~~
 - ~~2. **Overlay Lots Not Buildable:** Overlay platted lots shall not be considered buildable lots and zoning certificates shall be withheld until such time as public sewer and water are made available.~~
 - ~~3. **Urban Overlay Lot Dimensional Standards:** The urban overlay lots shall conform to the following dimensional standards, including setbacks, depending on the location of the lot within the UED:
 - ~~a. **Within Tier 1:** If the area where an urban overlay plat is proposed lies within any city's adopted growth area plan, the urban overlay plat shall conform to the growth area plan and all applicable policies and ordinances of the city.~~
 - ~~b. **Within Tier 2:** If the area where an urban overlay plat is proposed does not lie within an area covered by a growth area plan, the urban overlay plat shall conform to the standards of the City of Moorhead's RLD-1, Residential Low Density-1 District or the City of Dilworth's residential zoning district nearest in distance to the proposed development. Proposed urban overlay plats that lie in an area that has the potential to be annexed into either the City of Moorhead or the City of Dilworth shall conform to the standards that would result in the highest density.~~~~

~~8-5F 4: ADDITIONAL REQUIREMENTS IN UED DISTRICTS~~

- ~~A. **Community Septic Systems Allowed:** Community septic systems shall be allowed to serve development in both Tier 1 and Tier 2 of the UED.~~
- ~~B. **Development Agreements Required:** A development agreement shall be required as part of the approval of an urban overlay plat. The development agreement shall include the following minimum terms:~~
- ~~1. Conditions of subdivision approval~~
 - ~~2. Description of growth area plans, if any~~
 - ~~3. Anticipated date of provision of urban services~~
 - ~~4. Responsibility of landowner for payment for future services~~

ARTICLE 5G. HIGHWAY COMMERCIAL DISTRICT (HC)

~~8-5G-1: PURPOSE~~

~~8-5G-2: PERMITTED, CONDITIONAL AND ACCESSORY USES~~

~~8-5G-3: DIMENSIONAL STANDARDS IN HC DISTRICTS~~

~~8-5G-1: PURPOSE:~~

~~The purpose of the HC Highway Commercial District is to implement the following goals and policies of the Clay County 2002 Comprehensive Plan:~~

~~A. **Comprehensive Plan Land Use Goal #1:** Establish a comprehensive growth management strategy for Clay County that promotes orderly and efficient growth of residential, commercial and industrial development while preserving the County's rural character.~~

~~B. **Comprehensive Plan Land Use Goal #4:** Plan for the orderly, efficient growth of commercial and industrial development in the County through the application of appropriate zoning districts and regulation.~~

~~1. **Policy 2.** Encourage new commercial and industrial developments that do not require public sewer and water to locate within the Planned Urban Growth Areas in locations with adequate road service.~~

~~C. **Land Use Goal #5.** Plan land uses and implement standards to minimize land use conflicts.~~

~~1. **Policy 6.** Encourage the location of commercial and industrial development in areas that avoid adverse impacts on residential areas.~~

~~2. **Policy 7.** Locate and design industrial and commercial development to avoid truck traffic through residential or other potentially adversely affected areas.~~

~~8-3G-2: PERMITTED, CONDITIONAL AND ACCESSORY USES~~

~~Permitted, conditional and accessory uses in the HC Highway Commercial District are those specified in Table 5-1. All other uses shall be prohibited.~~

~~**8-3G-3: DIMENSIONAL STANDARDS IN HC DISTRICTS**~~

~~A. **Minimum Lot Size:** The required minimum lot area for permitted and conditional uses of this District shall be the area necessary to meet the stipulated space requirements set forth for the particular use in this Ordinance.~~

~~**B. Yard Requirements:**~~

~~1. **Minimum Lot Width:** Every lot shall have a width of not less than one hundred feet (100')~~

~~abutting a public right of way.~~

~~2. **Front Yard Regulations:** There shall be a front yard setback of not less than fifty feet (50'). Where a lot is located at the intersection of two (2) or more roads or highways, there shall be front yard setback on each road or highway side of the lot.~~

~~3. **Rear Yard Depth:** There shall be a rear yard having a depth of not less than forty feet (40').~~

~~4. **Side Yard Width:** There shall be a side yard having a width of not less than twenty-four feet (24') from each side of the building to the side yard lot line. No building shall be located within thirty feet (30') of any side lot line abutting a lot located in any AG or UED District.~~

~~C. **Lot Coverage Regulations:** Not more than thirty percent (30%) of the lot area shall be occupied by buildings.~~

~~D. **Access to Public Right of Way:** No lot in the HC Highway Commercial District may have a building structure upon it unless it has access to a public right of way; provided, that direct access from the front yard of the lot to a principal arterial shall not be permitted.~~

ARTICLE 5H. LIMITED HIGHWAY COMMERCIAL (LHC)

~~8-5H-1: PURPOSE~~

~~8-5H-2: PERMITTED, CONDITIONAL AND ACCESSORY USES~~

~~8-5H-3: DIMENSIONAL STANDARDS IN LHC DISTRICTS~~

~~8-5H-4: ADDITIONAL STANDARDS IN LHC DISTRICTS~~

~~8-5H-1: PURPOSE:~~

~~The limited highway commercial in sensitive areas district is intended to provide a zoning district that will permit the conduct of certain highway-oriented businesses which do not pose a threat to the environment by storing, transferring, or distributing hazardous materials including, but not limited to, chemicals, fertilizers, and petroleum products. The limited highway commercial in sensitive areas district would apply to those areas of the county where it is necessary and desirable because of the nature of the soils and water resources to protect sensitive areas including, but not limited to, aquifers, wetlands, surface waters and prairies and to preserve and promote the use of land for limited commercial purposes in order to preserve and protect such land from encroachment by development that may cause contamination by petroleum products and/or other hazardous materials.~~

~~8-5H-2: PERMITTED, CONDITIONAL AND ACCESSORY USES~~

~~Permitted, conditional and accessory uses in the LHC Limited Highway Commercial District are those specified in Table 5-1. All other uses shall be prohibited.~~

~~8-5H-3: DIMENSIONAL STANDARDS IN LHC DISTRICTS~~

~~A. **Minimum Lot Size:** The required minimum lot area for permitted and conditional uses of this District shall be the area necessary to meet the stipulated space requirements set forth for the particular use in this Ordinance.~~

~~B. Yard Requirements:~~

- ~~1. **Minimum Lot Width:** Every lot shall have a width of not less than one hundred feet (100') abutting a public right of way.~~
- ~~2. **Front Yard Regulations:** There shall be a front yard setback of not less than fifty feet (50'). Where a lot is located at the intersection of two (2) or more roads or highways, there shall be front yard setback on each road or highway side of the lot.~~
- ~~3. **Rear Yard Depth:** There shall be a rear yard having a depth of not less than forty feet (40').~~
- ~~4. **Side Yard Width:** There shall be a side yard having a width of not less than twenty-four feet (24') from each side of the building to the side yard lot line. No building shall~~

~~be located within thirty feet (30') of any side lot line abutting a lot located in any AG, or UED District.~~

~~C. **Lot Coverage Regulations:** Not more than thirty percent (30%) of the lot area shall be occupied by buildings.~~

~~D. **Access to Public Right of Way:** No lot in the LHC Limited Highway Commercial District may have a building structure upon it unless it has access to a public right of way; provided, that direct access~~

~~from the front yard of the lot to a principal arterial shall not be permitted.~~

~~8-5H-4: ADDITIONAL STANDARDS IN LHC DISTRICTS~~

- ~~A. Stormwater Management: Stormwater management within the RP-WHP overlay district shall comply with Minnesota Pollution Control Agency Phase II National Pollutant Discharge Elimination System (NPDES) requirements.~~
- ~~B. Fertilizer Use: The application and use of lawn and garden fertilizer containing phosphorus shall be prohibited within the RP-WHP overlay district.~~
- ~~C. Commercial Uses: Allowed commercial uses within the RP-WHP overlay district shall be connected to an onsite holding tank sewage treatment system to be designed and constructed to meet certification standards or public sewage treatment standards.~~
- ~~D. Above-Ground Storage Tanks: A containment system of sufficient size to completely contain a one hundred percent (100%) spill shall be designed and constructed around new above-ground storage tanks designed to contain more than three hundred (300) gallons within the RP-WHP overlay district.~~
- ~~E. Underground Storage Tanks: New underground storage tanks, except those associated with onsite sewage treatment, shall be prohibited within the RP-WHP overlay district.~~
- ~~F. Hazardous Materials: Bulk storage of hazardous materials, except those materials used specifically as heating fuel for a permitted use, shall be prohibited within the RP-WHP overlay district.~~

ARTICLE 5I. LANDING FIELD OVERLAY DISTRICT (LF)

~~8-5I-1: INTENT~~

~~8-5I-2: STRUCTURE AND USE REGULATIONS~~

~~8-5I-3: AIRPORT HAZARD ZONING MAP AND HEIGHT LIMITATIONS~~

~~8-5I-1: INTENT:~~

~~The LF Landing Field Overlay District is intended to prevent the establishment of air space obstructions in landing field approaches through height restrictions and other development controls. The requirements of the LF Landing Field Overlay District in this Article provide regulations that shall apply to structures and the use of land in addition to the regulations of the underlying zoning districts. Where requirements in this Article impose greater restrictions than the underlying zoning district, the provisions of this Article shall apply.~~

~~8-5I-2: STRUCTURE AND USE REGULATIONS:~~

~~The following structure and use regulations apply within the LF Landing Field Overlay District:~~

- ~~A. **Additional Permitted Uses:** In addition to uses permitted in the underlying zoning districts, public landing fields, airports and all necessary accessory uses in accordance with section 14 MCAR 1.3007, pt. A and B (1-14) of the Minnesota Code of Agency Rules, Department of Transportation, Aeronautics are permitted.~~
- ~~B. **Use Restrictions:** Notwithstanding any other provisions of this Ordinance, no use may be made of land within any of the established airport hazard zones in such manner as to:
 - ~~1. Create electrical interference with radio communication between airport lights and others;~~
 - ~~2.1. Result in glare in the eyes of flyers using the airport;~~
 - ~~1. Impair visibility in the vicinity of the airfield; or~~
 - ~~2. Otherwise endanger the landing, take-off, or maneuvering of aircraft.~~~~
- ~~C. **Location of Public Assembly Uses:** The construction and use of facilities for places of public assembly, such as theaters, schools, churches, and hospitals, are prohibited to a distance of eleven thousand feet (11,000') from the ends of the runway pavements as designated on airport hazard zoning maps.~~

~~8-5I-3: AIRPORT HAZARD ZONING MAP AND HEIGHT LIMITATIONS:~~

~~In the LF Landing Field Overlay District, the following building height limits shall apply:~~

- ~~A. **Airport Hazard Zoning Maps:** When it is found that airport hazards endanger the lives and property of users of airports and occupants of land in their vicinity; and also, if of the obstructive type, in effect reduce the size of the areas available for landing, take-off, and~~

~~maneuvering of aircraft, thus tending to destroy or impair the utility of the airports and the public investment therein, the Board of County Commissioners, on the recommendation of the Planning Commission acting as the County Airport Zoning Commission, may adopt zoning maps to regulate the use of land and the height of structures and trees within airport hazard areas. Such airport hazard zoning maps as shall be adopted by resolution shall become a part of this Ordinance.~~

**CHAPTER 6:
STANDARDS FOR SPECIFIC LAND USES**

~~8-6-1: PURPOSE~~

~~8-6-2: APPLICABILITY~~

~~AGRICULTURAL AND RELATED USES~~

~~8-6-3: STANDARDS FOR ANIMAL FEEDLOTS~~

~~RESIDENTIAL AND RELATED USES~~

~~8-6-4: STANDARDS FOR TWO-FAMILY DWELLINGS~~

~~8-6-5: STANDARDS FOR DAY CARE IN A PRIMARY RESIDENCE, ADULT OR CHILD~~

~~8-6-6: STANDARDS FOR SUPERVISED RESIDENTIAL PROGRAMS~~

~~8-6-7: STANDARDS FOR MANUFACTURED HOMES IN A FLOOD HAZARD ZONE~~

~~RECREATIONAL USES, PUBLIC AND PRIVATE~~

~~8-6-8: STANDARDS FOR CAMPGROUNDS~~

~~8-6-9: STANDARDS FOR SHOOTING RANGE~~

~~COMMERCIAL AND INDUSTRIAL USES~~

~~8-6-10: STANDARDS FOR ALL COMMERCIAL AND INDUSTRIAL USES~~

~~8-6-11: STANDARDS FOR ADULT ENTERTAINMENT USES~~

~~8-6-12: STANDARDS FOR AGRICULTURAL SERVICE ESTABLISHMENTS~~

~~8-6-13: STANDARDS FOR AIRPORTS, PRIVATE~~

~~8-6-14: STANDARDS FOR ASPHALT BATCH PLANTS AND ASSOCIATED USES~~

~~8-6-15: STANDARDS FOR BUILDING MATERIAL SALES YARDS~~

~~8-6-16: STANDARDS FOR EXTRACTIVE USES~~

~~8-6-17: STANDARDS FOR KENNELS~~

~~8-6-18: STANDARDS FOR REDI-MIX CEMENT PLANT AND ASSOCIATED USES~~

~~8-6-19: STANDARDS FOR SALVAGE YARDS~~

~~8-6-20: RETREAT CENTERS~~

~~**PUBLIC SERVICE AND UTILITY USES**~~

~~**8-6-21: STANDARDS FOR TOWERS**~~

~~**STRUCTURES AND USES ACCESSORY TO PRINCIPAL USES**~~

~~**8-6-22: STANDARDS FOR ABOVE GROUND STORAGE OF PETROLEUM PRODUCTS**~~

~~**8-6-23: STANDARDS FOR OUTDOOR STORAGE OF AUTOMOBILES**~~

~~**8-6-24: STANDARDS FOR ACCESSORY ENERGY SYSTEMS—WIND GENERATORS**~~

~~**8-6-25: STANDARDS FOR FARM STANDS; SEASONAL AGRICULTURAL PRODUCT SALES**~~

~~**8-6-26: STANDARDS FOR HORSES IN PLATTED SUBDIVISIONS**~~

~~**8-6-27: STANDARDS FOR SWIMMING POOLS**~~

~~**8-6-28: STANDARDS FOR ACCESSORY RECREATIONAL VEHICLES**~~

~~**8-6-29: STANDARDS FOR STORAGE YARDS FOR EQUIPMENT, MACHINERY, OR MATERIALS ACCESSORY TO COMMERCIAL USES**~~

~~**TEMPORARY USES**~~

~~**8-6-30: STANDARDS FOR TEMPORARY USES**~~

~~**ADDITIONAL USES**~~

~~**8-6-31: STANDARDS FOR PRECAST CONCRETE PLANTS**~~

~~**8-6-32: STANDARDS FOR INTENTIONAL LIVING COMMUNITIES**~~

~~**8-6-33: STANDARDS FOR SERVICE BUSINESS IN THE URBAN EXPANSION TIER 1 ZONING DISTRICT**~~

~~**8-6-34: STANDARDS FOR AUTOMOBILE, TRUCK, TRAILER, AND GARDEN AND FARM EQUIPMENT SALES**~~

~~**8-6-35: STANDARDS FOR THE CULTIVATION, MANUFACTURE, WHOLESALE AND RETAIL OF CANNABIS**~~

~~**8-6-36: STANDARDS FOR STORAGE UNITS**~~

~~8-6-1: PURPOSE:~~

~~The standards in this chapter are established to supplement the general regulations in this Ordinance to address the unique characteristics and impacts of certain land uses.~~

~~8-6-2: APPLICABILITY:~~

~~The standards in this chapter apply to the uses listed below within the zoning districts in which they are allowed, whether the uses are permitted or conditional. The standards in this chapter for conditional uses shall apply in addition to the general criteria for conditional uses in Section 8-5-6 C of this Ordinance and all other applicable regulations. When granting a conditional use permit, the Planning Commission shall include the standards listed for uses in this Article as specific conditions of the permit.~~

~~AGRICULTURAL AND RELATED USES~~

~~8-6-3: STANDARDS FOR ANIMAL FEEDLOTS:~~

~~Animal feedlots in any district shall meet the following standards:~~

- ~~A. **Compliance with State and Federal Regulations:** All feedlots shall comply with state and federal feedlot or confined animal feeding operation regulations.~~
- ~~B. **Registration:** Feedlot owners shall provide proof that they are registered in accordance with Minnesota Pollution Control Agency rules 7020.0100 to 7020.1900.~~
- ~~C. **Notification of County Planning Department:** Owners of newly established or expanding feedlots shall provide a copy of the registration required in B., above, to the Clay County Planning Department within five (5) days of registration.~~
- ~~D. **Manure Storage:** Animal waste produced by an animal feedlot or stable facility shall not be stored within three hundred feet (300') of edge of a drainage ditch, wetland or public water.~~
- ~~E. **Manure Spreading:** Application of manure shall be setback the following distances from dwellings, churches, campgrounds and any incorporated municipality:
 - ~~a. **One hundred fifty feet (150')** if incorporated within **forty-eight (48)** hours.~~
 - ~~b. **Three hundred feet (300')** if not incorporated~~~~
- ~~F. **Standards for Feedlots within Shoreland Districts:**
 - ~~1. **New Feedlots:** New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of three hundred feet (300') from the ordinary high water level of all public waters basins; and~~
 - ~~2. **Modifications, Expansions:** Modifications or expansions to existing feedlots that are located within three hundred feet (300') of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.~~~~

~~G. **Permit for Feedlots with Under 50 Animal Units:** Feedlots with less than fifty (50) animal units shall obtain a permit from the Zoning Administrator verifying that requirements of this Ordinance are met. The permit application shall be accompanied by a site plan indicating structures and feeding areas, and by proof that the proposed feedlot meets state requirements.~~

~~1. **Setbacks:** Animal feedlots of less than fifty (50) animal units and their associated manure storage~~

~~areas shall maintain the following setbacks:~~

Table 8-6-1 Required Structure Setbacks from Animal Feedlots

Use of structure on adjacent property	Setback required from animal feedlot with total confinement	Setback required from all other animal feedlots
Residence	1,000 feet	1,320 feet (1/4 mile)
All other structures	1,320 feet (1/4 mile)	2,000 feet

~~2. Additional Setbacks for New Feedlots:~~

- ~~a. Two (2) miles from any incorporated community or one-half (1/2) mile from any platted subdivision.~~
- ~~b. One hundred feet (100') from property lines, rights of way and ditches (to include a 2 rod grass buffer strip adjacent to ditch).~~

~~3. Responsibility: Incorporating structure setbacks in Table 8-6-1 shall be the sole responsibility of the landowner proposing a new use whether it is the feedlot landowner or the landowner adjacent to an existing feedlot. New development must maintain the same setbacks from an existing feedlot as a new feedlot would be required to maintain from an existing development of the same type.~~

~~4. Measurement: The setbacks shall be measured horizontally and in a straight line, from the closest point of a structure, use, lagoon or district to the closest point of another structure, use, lagoon or district.~~

~~H. Conditional Use Permit for Feedlots Over 49 Animal Units: Feedlots with fifty (50) or more animal units shall require a conditional use permit and shall comply with the provisions in subsections~~

~~A. through F., of this Section. Conditional feedlots shall not be permitted to have lesser setback than the requirements for smaller feedlots in subsection G.~~

~~RESIDENTIAL AND RELATED USES~~

~~8-6-4: STANDARDS FOR TWO-FAMILY DWELLINGS:~~

- ~~A. Location Limited: Two family dwellings shall be allowed only in approved cluster subdivisions or major subdivisions.~~
- ~~B. Density Calculation: Two family dwellings shall be counted as two dwelling units for density calculations.~~
- ~~C. Design: Two family dwellings shall have two dwelling units located within the same structure side by side or on separate floors.~~
- ~~D. Septics and Wells: Two family dwellings shall have shared septic systems and drinking water wells.~~

~~8-6-5 : STANDARDS FOR DAY CARE IN A PRIMARY RESIDENCE, ADULT OR CHILD~~

~~A. **In a Residence:** The day care shall be located within a primary residence.~~

~~B. **Home Occupation:** An allowed day care in a primary residence shall be considered a home~~

~~occupation and shall meet the standards for home occupations in Section 8-3-7 A. or B. except the size limits in dwellings shall not apply. Day care may be allowed as a conditional home occupation.~~

~~2.1. **Standards and Licensing:** A day care allowed under this section shall meet the requirements of Minnesota Rules Chapter 9502 and the operator shall obtain the required license specified in Minnesota Rules Chapter 9502.~~

~~8-6-6: — **STANDARDS FOR SUPERVISED RESIDENTIAL PROGRAMS:**~~

~~A. **Licensing:** The facility shall meet all state and federal license requirements.~~

~~B. **In a Dwelling.** The facility must be located within an existing single family detached dwelling or, if a new facility, in a dwelling meeting the density provisions of this Ordinance.~~

~~8-6-7: — **STANDARDS FOR MANUFACTURED HOMES IN A FLOOD HAZARD ZONE:**~~

~~A. **Placement:** The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in a Flood Hazard Zone will be treated as a new structure and may be placed only if located in the Flood Fringe District and elevated in compliance with Section 8-5A-7 of this Chapter.~~

~~B. **Anchoring:** 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. **Nonexempt Recreational Vehicles:** Recreational vehicles, located in a Floodway, Flood Fringe or General Floodplain District, that do not meet the criteria specified in 8-26-2 (A) thru (D) must be located in the Flood Fringe District, and shall be subject to the provisions in Section 8-5A-7 relating to elevating and anchoring manufactured homes.~~

~~RECREATIONAL USES, PUBLIC AND PRIVATE~~

~~8-6-8: — **STANDARDS FOR CAMPGROUNDS:**~~

~~2.1. **Licensing:** The facility shall meet all state and federal license requirements.~~

~~A. **Mobile homes prohibited.** No mobile homes shall be allowed in campgrounds.~~

~~3.1. **Year-round residential use prohibited.** residential use of camping vehicles, except as permitted for a campground owner or caretaker, shall be prohibited from November 1 to April 1.~~

~~8-6-9: **STANDARDS FOR SHOOTING RANGE**~~

~~A. **Performance Standards:** Shooting ranges shall meet the noise and performance~~

~~standards in Minnesota Statutes 87A.~~

~~**B. Nonconforming Shooting Ranges:** Shooting ranges that do not meet the performance standards in Minnesota Statutes 87A shall be considered nonconforming shooting ranges. Nonconforming shooting ranges shall be allowed to continue and conduct shooting activities within the range's lawful property boundary as of May 28, 2005 provided that the shooting range remains in compliance with~~

~~the noise and shooting range performance standards in Minnesota Statutes 87A.~~

~~C. **Authorized Activities:** Shooting ranges that meet the performance stand standards in Minnesota Statutes 87A shall be allowed to engage in the following authorized activities within the property boundaries of the range:~~

~~a. **Discharge of Firearms:** Operate the range and conduct activities involving the discharge of firearms.~~

~~b.a. **Membership:** Expand or increase its membership or opportunities for public participation related to the primary activity as a shooting range.~~

~~c.a. **Meet Standards:** Make those repairs or improvements desirable to meet or exceed requirements of shooting range performance standards.~~

~~d.a. **Activities:** Increase events and activities related to the primary activity as a shooting range.~~

~~1. **Time of Operations:** Conduct shooting activities and discharge firearms daily between 7:00~~

~~e.a. a.m. and 10:00 p.m.~~

~~f.a. **Purchase Additional Land:** Acquire additional lands to be used for buffer zones or noise mitigation efforts or to otherwise comply with this Chapter.~~

~~D. **Mitigation Area:** A mitigation area is established for a distance of seven hundred and fifty feet (750') from the perimeter property line of an outdoor shooting range. Within the mitigation area, the following provisions apply:~~

~~1. **Development Prohibited:** No change in use, new development, or construction of a structure shall be approved for any portion of property within the mitigation area.~~

~~2. **Exemption for Existing Development:** Uses, development and structures in existence or for which approval has been granted by October 1, 2005 are exempt from the mitigation area requirements.~~

~~3. **Exemption if Mitigation Provided:** A change in use, new development, or construction of a structure may occur within the mitigation area if the person seeking the approval agrees to provide any mitigation necessary to keep the shooting range in compliance with the performance standards. The mitigation agreement shall be signed by the person seeking approval and the shooting range. If no mitigation is required to keep the shooting range in compliance with the performance standards, an agreement shall be signed by the person seeking approval and the shooting range stating that mitigation is not required. Agreements required under this section shall be in written form and subject to approval by the Clay County Board. Failure to obtain an agreement required under this section shall exempt the shooting range from being found out of compliance with the performance standards in relation to the property or person where the agreement was not obtained if the failure to provide mitigation is the sole reason for the shooting range being out of compliance with the performance standards.~~

~~COMMERCIAL AND INDUSTRIAL USES~~

~~8-6-10 : STANDARDS FOR ALL COMMERCIAL AND INDUSTRIAL USES:~~

~~A.—**Access Management / Access Plan:** Proposed commercial and industrial uses where any portion of the boundary of the proposed parcel is adjacent to Highways 10, 336, 9, 32, 34 or Interstate 94 shall submit an access management plan with any conditional use, rezoning, platting or subdivision request. The access management plan shall conform to the access management submittal~~

~~requirements, provisions and criteria as set forth in 8.3.6 of the County Development Code,~~

~~2.1. **Environmental Mitigation:** Proposed commercial and industrial uses shall avoid environmentally sensitive areas and ensure mitigation measures are taken whenever there is a potential adverse impact.~~

~~8-6-11 : — STANDARDS FOR ADULT ENTERTAINMENT USES:~~

~~A. **Separation Requirements: Adult Entertainment Uses** shall be located the following minimum distances from the listed uses that are present at the point in time at which the adult entertainment use is permitted:~~

- ~~1. Five hundred (500) feet from residential, day care, public parks or playgrounds, religious institutions or educational institutions as measured in a straight line from the entrance to the structure where the adult entertainment use occurs to the nearest property boundary of the listed use.~~
- ~~2. Five hundred (500) feet from another adult entertainment use as measured in a straight line between the closest property boundary points.~~

~~B. **Maximum Building Size:** The maximum size of a structure where an adult entertainment use occurs shall be no larger than ten thousand (10,000) square feet.~~

~~i. **Signs and Window Displays:** Sexually explicit matter shall not be displayed on signs, window displays, or the exterior of any structure.~~

~~C. **Hours of Operation:** The hours of operation shall be set in the conditional use permit and shall not have an adverse impact on adjacent property owners.~~

~~D. **No Alcohol:** Alcoholic beverages shall not be consumed or sold anywhere within the structure housing an allowed adult entertainment use.~~

~~ii. **Exterior Colors:** The colors of the exterior of structures where adult entertainment uses occur shall be muted and blend with surrounding structures, and shall not be neon, bright or multi-colored.~~

~~8-6-12 : — STANDARDS FOR AGRICULTURAL SERVICE ESTABLISHMENTS:~~

~~A. **Setbacks:** All establishments shall be located to allow at least three hundred feet (300') between its driveway and any driveway affecting access to a dwelling or farm field, other than that of the owner. All structures and activities (outdoor storage, corrals, etc.) associated with the Agricultural Service Establishment shall be located at least five hundred feet (500') from any dwelling.~~

~~B. **Related to Agriculture:** All establishments shall be necessary to the conduct of agriculture within the district.~~

~~1. **Compatible with Agriculture:** The use shall not be one to which the noise, odor, dust or chemical residues of commercial agriculture or horticulture might result in creation or establishment of a nuisance or trespass.~~

~~8-6-13 : STANDARDS FOR AIRPORTS, PRIVATE:~~

~~The facilities and approach zones of allowed private airports shall meet the following standards:~~

~~A. **Dirt and Debris:** Such measures are taken to reduce adverse effects from blowing dirt and debris.~~

~~B. **Adjacent Property:** Such safeguards are taken to minimize any adverse effect on adjacent property.~~

~~8-6-14 : **STANDARDS FOR ASPHALT BATCH PLANTS AND ASSOCIATED USES**~~

~~A. Standards for asphalt batch plants and associated uses shall be the same as the standards in Section 8-6-18 Standards for redi-mix cement plant, and associated uses.~~

~~8-6-15 : **STANDARDS FOR BUILDING MATERIAL SALES YARDS:**~~

~~A. **Fencing:** Building material sales yards, if enclosed on all sides by a six foot (6') sight-obscuring fence~~

~~8-6-16 : **STANDARDS FOR EXTRACTIVE USES:**~~

~~The following standards shall be met for any new extractive use or for any extractive use that has been out of operation for a period of twelve (12) months or longer:~~

~~A. **Administrative Permit:** The Planning Director may administratively approve a permit for an extractive use if all of the following conditions are met:~~

- ~~1. **Intent:** The intent of the administrative permit is to allow small, limited extractive use operations. The administrative permit shall not be used to allow exploration in anticipation of further extraction in subsequent years, nor shall it be used to extract minerals incrementally when if considered in total the operations would require a conditional use permit.~~
- ~~2. **RP-BIO District:** The extractive use shall not be located in a Resource Protection—Biologically Significant Area District.~~
- ~~3. **Size:** The proposed surface area for the extractive use shall not exceed ten (10) acres in total for all areas to be opened.~~
- ~~4. **Duration:** The duration of the extractive use shall not exceed one (1) year. If an administratively permitted extractive use exceeds one year, the landowner shall be barred from obtaining an extractive use permit of any type for a period of five (5) years.~~
- ~~5. **Extraction Only:** The proposed extractive use shall not include on-site crushers or asphalt plants or other on-site processing of extracted materials.~~
- ~~6. **Agreement of Surrounding Landowners:** The applicant for an administrative extractive use permit shall provide signed, notarized agreements from all owners of land within one-half (1/2) mile of the proposed exterior boundary of the extractive use area stating their agreement in allowing the proposed use. These agreements shall be submitted with the application and shall include the following information:
 - ~~a. Name, phone number and address of the owner of land where the use is proposed;~~
 - ~~b. Name, phone number and address of the proposed operator of the extractive use if different than the landowner;~~~~

- ~~e. The proposed area of the extractive use;~~
- ~~d. The proposed daily times of operation and months in which the operation will be active;
and~~
- ~~e. Proposed hauling routes and estimated number of daily truck trips.~~

- ~~7. **Required Conditions of the Permit:** An administrative extractive use permit shall require the following conditions:~~
- ~~a. Provide a plan, with timeline, for reclaiming the site after materials are extracted. At the time of closure, a dike shall be installed along the edge of the mining pit of sufficient height to prevent all surface water runoff from entering the mining pit.~~
 - ~~b. Provide adequate planting, fencing, or berming in areas where extractive uses are adjacent to public roads or residential uses. Sight-obscuring screening may be required between mined areas and adjacent residential property within three hundred feet (300') of the excavation activities.~~
 - ~~c. During operation, keep any excavation in such condition as not to be dangerous from caving or sliding banks.~~
 - ~~d. Properly drain, fill or level any excavation, after created, so as to make the same safe and healthful.~~
 - ~~e. Restrict runoff from the site to lake, rivers, streams or adjacent properties.~~
 - ~~f. Maintain and operate all equipment in a manner that minimizes noise and vibration to the greatest extent possible. Noise levels shall never exceed the acceptable locational thresholds established by the Minnesota Pollution Control Agency (MPCA).~~
 - ~~g. Provide a plan for dust control during operations.~~
 - ~~h. Provide an access plan with approval of the access sites from the appropriate authority. Access shall be limited to one entrance and exit to the site.~~
 - ~~iii.i. Provide a plan for truck hauling on roads of adequate capacity. The owner/operator shall maintain all roadways within the excavation site and the haul road from the site to the nearest paved Highway. Spillage of material on any roadway shall be removed by the owner/operator as quickly as possible.~~
 - ~~i. Provide adequate signage for public safety, such as "Trucks Hauling" signs.~~
 - ~~j. Reseed areas where topsoil is removed within thirty (30) days of removal of topsoil.~~
 - ~~k. **Setbacks:** Structures, storage of excavated materials, and the excavation edge shall be setback the following distances:
 - ~~(1) One hundred feet (100') from the boundary of adjoining property lines, unless written consent from the adjoining property owner is secured and a variance is granted from the Board of Adjustment.~~
 - ~~(2) Two hundred feet (200') from the right of way of existing roads and highways.~~
 - ~~(3) Three hundred feet (300') from the boundary of adjoining property lines on sites where dust, smoke and noise producing activities are being conducted.~~
 - ~~(4) Five hundred feet (500') from the boundary of adjoining property upon which residences, schools, churches, public or commercial establishments are located.~~
 - ~~(5) Two hundred feet (200') from the shoreline of any protected water.~~
 - ~~(6) The operation shall be completely located outside of the one-hundred~~~~

~~(100)-year floodplain.~~

~~8.—**Bonding required.** As a condition of granting the permit, the County shall require the owner or operator to post a bond, in such form and sum as the County shall determine, with sufficient surety running to the County, conditioned to pay the County the cost and expense of repairing, from time to time, any highways, streets, township roads, or other public ways where such repair work is made necessary by the special burden resulting from hauling and travel, in removing materials from any pit, excavation or impounded waters, the amount of such cost and expense to be determined by the County Engineer; and conditioned further to comply with all the requirements of this Ordinance and the particular permit, and to pay any expense the County or a township may incur by reason of doing anything required to be done by any applicant to whom a permit is issued, including the cost of required reclamation.~~

~~B.—**Conditional Use Permit:** The owner of the land where an extractive use is proposed that does not meet the requirements of subsection A., immediately above, shall obtain a conditional use permit meeting the following standards:~~

~~1.—**Application requirements.** A map of the proposed pit or excavation shall be prepared by a professional engineer or land surveyor and filed with the application showing the confines or limits thereof, together with a plan indicating the topography and overall condition of the site after extraction is completed.~~

~~2.—**EAW in RP-BIO District:** An application for an extractive use in a Resource Protection—Biologically Significant Areas District shall include an Environmental Assessment Worksheet conforming to the requirements of the Minnesota Environmental Policy Act of 1973 and 6 MCAR 3.021.~~

~~b.a.—**Required Conditions of the Permit:** A conditional Use Permit for an extractive use shall require the following conditions:~~

~~i.—Provide a plan, with timeline, for reclaiming the site after materials are extracted. At the time of closure, a dike shall be installed along the edge of the mining pit of sufficient height to prevent all surface water runoff from entering the mining pit.~~

~~a.—Provide adequate planting, fencing, or berming in areas where extractive uses are adjacent to public roads or residential uses. Sight-obscuring screening may be required between mined areas and adjacent residential property within three hundred feet (300') of the excavation activities.~~

~~ii.i.—During operation, keep any excavation in such condition as not to be dangerous from caving or sliding banks.~~

~~b.—Properly drain, fill or level any excavation, after created, so as to make the same safe and healthful.~~

~~c.—Restrict runoff from the site to lake, rivers, streams or adjacent properties.~~

~~iii.i.—Maintain and operate all equipment in a manner that minimizes noise and vibration to the greatest extent possible. Noise levels shall never exceed the acceptable locational thresholds established by the Minnesota Pollution Control Agency (MPCA).~~

~~d.—Provide a plan for dust control during operations.~~

~~iv.i.—Provide an access plan with approval of the access sites from the~~

~~appropriate authority. Access shall be limited to one entrance and exit to the site.~~

- ~~e. Provide a plan for truck hauling on roads of adequate capacity. The owner/operator shall maintain all roadways within the excavation site and the haul road from the site to the nearest~~

~~v.i. paved highway. Spillage of material on any roadway shall be removed by the owner/operator as quickly as possible.~~

~~vi.i. Provide adequate signage for public safety, such as “Trucks Hauling” signs.~~

~~vii.i. Reseed areas where topsoil is removed within thirty (30) days of removal of topsoil.~~

~~f. **Setbacks:** Structures, storage of excavated materials, and the excavation edge shall be setback the following distances:~~

~~(1) One hundred feet (100') from the boundary of adjoining property lines, unless written consent from the adjoining property owner is secured and a variance is granted from the Board of Adjustment.~~

~~(2) Two hundred feet (200') from the right-of-way of existing roads and highways.~~

~~(3) One hundred feet (100') from the boundary of adjoining property upon which a residence, school, church, public or commercial establishment is located and a minimum of five hundred feet (500') from any structure used as a residence, school, church, public or commercial establishment.~~

~~(4) Two hundred feet (200') from the shoreline of any protected water.~~

~~(5) The operation shall be completely located outside of the one-hundred (100) year floodplain.~~

~~3. **Bonding required.** As a condition of granting the permit, the County shall require the owner or operator to post a bond, in such form and sum as the County shall determine, with sufficient surety running to the County, conditioned to pay the County the cost and expense of repairing, from time to time, any highways, streets, township roads, or other public ways where such repair work is made necessary by the special burden resulting from hauling and travel, in removing materials from any pit, excavation or impounded waters, the amount of such cost and expense to be determined by the County Engineer; and conditioned further to comply with all the requirements of this Ordinance and the particular permit, and to pay any expense the County or a township may incur by reason of doing anything required to be done by any applicant to whom a permit is issued, including the cost of required reclamation.~~

~~8-6-17: STANDARDS FOR KENNELS:~~

~~A. Minimum lot area for a kennel is five (5) acres.~~

~~B. Minimum frontage required for a kennel is two hundred fifty feet (250') of continuous frontage on a public road right of way.~~

~~C. No structure or waste management area associated with a kennel shall be located in a Special Flood Hazard Area (SFHA).~~

~~D. Any kennel proposed to be located in the Shoreland of a river or stream shall be located in a building that existed prior to the adoption of this amendment. Said building and any/all out-door exercise/run areas must be setback from the Ordinary High Water level a minimum of 150 feet. No new structures shall be erected in the~~

~~shoreland of a river or stream for use as a kennel. Any structure associated with a kennel or any outdoor exercise/run areas must be setback at least 300 feet from the Ordinary High Water level of a lake or basin.~~

~~E. All kennel operations require an Interim Use Permit and shall submit a facility operations plan along with the Interim Use Permit application. The facility operations plan shall con-~~

tain the following information:

~~e.a. Name of kennel operator and landowner, address, phone number, signature and date;~~

~~d.a. Type of kennel operation (i.e. breeding, boarding, rescue, sled dog, etc.);~~

~~a. Number of dogs over six months of age to be permanently housed on property;~~

~~b. Number of dogs over six months of age to be temporarily housed on property;~~

~~e. Site plan, to include:~~

~~1. Property location and acreage;~~

~~2. Location of all residences within 600 feet of the proposed kennel area~~

~~3. Floor plan of kennel structure(s);~~

~~i. Location of kennel on the property, including any alternate or temporary sites;~~

~~ii. Setback distances from kennel area to property lines, neighboring homes, wells and any protected public waters and/or wetlands;~~

~~iii. Any existing or proposed vegetative buffer strips;~~

~~4. Location of waste management area (i.e. composting site, spreading area or storage bin);~~

~~5. Location of any wells and septic systems; and~~

~~6. Location of dwellings on property.~~

~~d. Waste management plan;~~

~~e. Noise management or mitigation plan.~~

~~iv. All kennel operations, including waste management areas, shall be set back a minimum of 100 feet from all wells in accordance with the state well code Minnesota Rules Chapter 4725, herein adopted by reference.~~

~~F. All kennel operation areas shall be set back a minimum of 100 feet from all adjoining property lines, except that kennels may be set back 50 feet from any property lines that abut state or federal properties.~~

~~e.a. A vegetative buffer strip, 100 feet in width, shall be established and/or maintained between any part of the kennel area and any protected waters, wetlands or officially designated drainage ways that lead to protected waters. The width of the buffer strip may be increased by the Planning Commission after considering the slope of the property, its proximity to protected waters, and any lake/river classification. Please reference the Clay County Soil and Water Conservation District and NRCS for buffer strip best management practices and technical standards.~~

~~G. The Planning Commission, at its discretion, may impose additional setbacks on new kennel operational areas on a case-by-case basis upon the review of each interim use permit request. In creating the site plan, the greatest distance from neighboring residences shall be considered by the applicant, encouraging a minimum setback~~

~~distance of 600 feet from the closest resi-dence.~~

~~f.a. The Noise standards shall be enforced in conformance with Minnesota
Pollution Control Agency Rules Chapter 7030, herein adopted by reference.~~

~~8-6-18 : — STANDARDS FOR REDI-MIX CEMENT PLANT AND ASSOCIATED USES:~~

- ~~A. **Setbacks:** Redi-mix cement plants, asphalt batch plants and associated processing facilities and structures shall be setback the following distances:~~
- ~~1. Three hundred feet (300') from the boundary of adjoining property lines.~~
 - ~~2. Five hundred feet (500') from the right-of-way line of the nearest road or highway.~~
 - ~~3. One thousand feet (1,000') from the boundary of adjoining property upon which residences, schools, churches, public or commercial establishments are located.~~
- ~~B. **Location:** Redi-mix cement plants, asphalt batch plants and associated processing facilities and structures should be located, to the greatest extent possible, downwind from any inhabited residential structure located within one-quarter (1/4) mile of the proposed site.~~
- ~~C. **Bonding required.** As a condition of granting the permit, the County shall require the owner or operator to post a bond, in such form and sum as the County shall determine, with sufficient surety running to the County, conditioned to pay the County the cost and expense of repairing, from time to time, any highways, streets, or other~~

~~8-6-19 : — STANDARDS FOR SALVAGE YARDS:~~

- ~~A. **Separation Distance:** The exterior boundaries of a parcel on which a salvage yard is located shall maintain the following separation distances:~~
- ~~1. A salvage yard shall not be located within two thousand feet (2000') of the boundaries of a parcel where another salvage yard is located.~~
 - ~~2. A salvage yard shall not be located within one thousand feet (1,000') of the exterior wall of any residence, school or church.~~
- ~~B. **Screening:** The salvage yard storage area shall be completely screened with an opaque fence of acceptable design a minimum of eight feet (8') feet high, and additional landscape materials required where the salvage yard adjoins a residential district.~~
- ~~C. **Stacking of Materials:** Materials stored outside in a salvage yard shall not be stacked above the height of the fence.~~

~~8-6-20 : — RETREAT CENTERS:~~

- ~~A. **Conditional Use:** Retreat centers shall be processed as a conditional use permit meeting the requirements of this section in addition to the general requirements for a conditional use permit. A site plan shall be submitted with the conditional use permit application showing the location of all existing structures and describing the proposed use.~~
- ~~B. **Review of Permit:** Retreat center permits shall be reviewed and inspected by the Planning Department at least once every five years for compliance with conditions.~~
- ~~C. **Minimum Lot Size:** The minimum lot size required for a lot on which a retreat center is permitted shall be ten (10) acres.~~
- ~~D. **Where Located:** Retreat centers shall not be located in platted subdivisions. Retreat centers may be located within a primary dwelling or in separate residential, nonresidential or farm~~

buildings.

~~E.—**Sign:** One non-illuminated sign only of a maximum size of thirty-two (32) square feet is allowed to advertise the retreat center use on site. Such sign shall meet the setbacks for structures for the zoning district within which the retreat center is located.~~

~~g.a.—**Traffic and Roads:** Traffic generated by the use shall be considered by the Planning Commission and traffic generated by the retreat center shall not exceed that which is reasonable for such a use in the area in which it is located and for the road adjacent to the use. If necessary, application of dust control may be required as a condition of the permit.~~

~~F.—**Adverse Effect:** The use shall not adversely affect the character of the uses permitted in the zoning district in which it is located.~~

~~G.—**Performance:** No equipment or processes used at a retreat center shall create noise, vibration, glare, fumes, odors or electrical interference that could create a nuisance off the premises.~~

~~h.a.—**Buffering:** Buffering may be required by the Planning Commission to minimize adverse effects to adjacent properties and roadways.~~

~~i.a.—**Utilities:** The retreat center shall not create usage exceeding the capacity of the available on-site sewage treatment system and drinking water capacity.~~

~~H.—**Parking:** Additional parking spaces may be required by the Planning Commission for the use of clients, employees, deliveries, etc.~~

~~I.—**Permit(s):** The facility must receive the appropriate building permit(s) for any new building(s) or addition(s) to any existing building(s) and must receive appropriate septic permit(s) for all proposed restroom facilities.~~

~~J.—**Licenses(s):** The facility must receive all Federal, State and local licenses required for operation including Food, Beverage and Lodging licenses as necessary.~~

~~K.—**Setbacks:** Any structures associated with a Retreat Center must be located at least 500 feet from a residential structure located on adjacent property.~~

~~M.—**Short Term:** Shall mean a period not to exceed fourteen (14) consecutive days.~~

~~PUBLIC SERVICE AND UTILITY USES~~

~~8-6-21: STANDARDS FOR TOWERS:~~

~~A.—**Purpose:** The purposes of the provisions regulating telecommunication towers in this section are to:~~

~~e.a.—Maximize the use of existing and approved towers and buildings in order to reduce the number of new towers necessary to provide telecommunications services to the community;~~

~~e.a.—Ensure telecommunication towers are designed, sited, and constructed in a manner consistent with the protection of the public health, safety, and general welfare; and~~

~~e.a. Require tower sites to be secured in order to discourage trespassing and vandalism.~~

~~B. Exemptions:~~

- ~~1. The following tower facilities and activities shall be allowed in all zoning districts of Clay County without obtaining either a building permit or a conditional use permit:~~
 - ~~1. Antennas incidental to residential use including but not limited to television, citizens band, business band and similar type of antennas;~~

- ~~2.—Routine maintenance of existing tower facilities; and~~
- ~~3.—The addition of antennas to a tower facility that meets the standards of this Section and does not increase the height of the tower facility; additional support structures shall require a building permit.~~
- ~~2.—The following tower facilities shall be allowed in all zoning districts in Clay County without a conditional use permit, but do require a building permit:~~
 - ~~1.—The addition of an antenna or antennas on existing structures including, but not limited to, buildings, flag poles, church steeples, cupolas, ball field lights, or power line support device where no modifications are required to the existing structure and where the antenna does not increase the height of the structure by more than twenty feet (20').~~
 - ~~2.—Towers and antennas used primarily for agricultural purposes provided that all such towers:
 - ~~1) are freestanding (no guy wires);~~
 - ~~2) meet all appropriate FAA/FCC requirements, and;~~
 - ~~3) do not exceed a maximum height of 110 feet above ground level (including tower and antennae).~~~~
 - ~~3.—All other tower facilities require a conditional use permit and building permit pursuant to the terms of this ordinance.~~
- ~~C.—**Application:** Application for a conditional use permit shall be submitted pursuant to the requirements of Section 8-4-6 of this Ordinance and shall be accompanied by the following:~~
 - ~~1.—A site plan for the proposed tower facility site which shall include the following:
 - ~~1.—Graphic scale of the plan, not less than one inch (1") to twenty feet (20');~~
 - ~~2.—North directional arrow;~~
 - ~~3.—Location and size of the proposed tower facility, support structures, accessory buildings, access driveways, public roads, parking fences, signs and landscaped areas;~~
 - ~~4.—Building setback lines;~~
 - ~~5.—Existing topography, with contour intervals of not more than ten feet, related to the United States Geological Survey datum;
 - ~~i.—The location of water courses, ravines, bridges, lakes, wetlands, wooded areas, rock outcroppings, bluffs, steep slopes, and other geological features within the site;~~
 - ~~ii.i.—Proposed surface drainage diagram for the site;~~
 - ~~iii.i.—Proposed screening; and~~
 - ~~iv.i.—Proposed removal of natural vegetation.~~~~~~
 - ~~2.—A vicinity map showing current land uses and existing residences and businesses within one-half mile of the proposed tower.~~
 - ~~3.—A sworn statement signed by applicant that the communications equipment for the proposed tower cannot be accommodated on an existing tower or building within a~~

~~two-mile radius of the proposed tower due to one or more of the following reasons:~~

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

~~1. The planned equipment would cause interference materially impacting the usability of other~~

- ~~existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer, and the interference cannot be prevented at a reasonable cost.~~
- ~~2. No existing or approved towers or commercial/industrial buildings within a two-mile radius meet the radio frequency (RF) engineer requirements.~~
 - ~~3. Existing or approved towers and commercial/industrial buildings within a two-mile radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional radio frequency (RF) engineer.~~
 - ~~4. In spite of best efforts, the applicant is unable to negotiate reasonable business terms regarding the lease or purchase of space on an existing tower.~~
 - ~~5. The applicant must demonstrate that a good faith effort to co-locate on existing towers and structures within a two-mile radius was made, but an agreement could not be reached.~~

~~f.a. A commitment in writing from the applicant committing the applicant and its successors to allow the shared use of the tower facility if an additional user agrees in writing to meet reasonable industry terms and conditions for shared use.~~

~~g.a. If erection of the tower or construction of any tower facility will disturb any part of a bluff or a steep slope, the applicant shall provide an erosion control plan prepared by a landscape architect or professional engineer.~~

~~h.a. Proof of filing of an application with the Federal Aviation Administration or an engineer statement showing that no filing with the Federal Aviation Administration is necessary.~~

~~i.a. A copy of the National Environmental Protection Act study required by the Federal Communication Commission. No antenna shall be installed on any tower facility until a Federal Communication license is issued for that antenna.~~

~~j.a. A copy of the Certificate of Insurance for liability and worker's compensation insurance that requires notification to Clay County Planning and Zoning Office prior to cancellation. This insurance shall be kept in effect until the tower facility is removed.~~

- ~~4. An acceptable financial guarantee equal to one and one-half times the estimated cost of removing the tower facility and restoring the site to its original condition. The estimated cost shall be determined by the Clay County Zoning Administrator.~~
- ~~5. Filing fees as determined from time to time by the Clay County Board of Commissioners.~~

D. Standards:

- ~~1. All telecommunication towers erected within Clay County shall be freestanding towers. No guyed telecommunication towers will be allowed in any zoning districts.~~
- ~~2. No conditional use permit shall be issued for a tower facility within a subdivision intended for residential use.~~
- ~~3. No tower facility shall be erected within 1,000 feet of the ordinary high water mark of any public water unless there is a finding that there is no other practical alternative~~

~~location outside of that distance.~~

~~k.a. Any tower shall conform with the following minimum setback requirements:~~

~~i. All towers shall be situated so as to be located entirely within a single tract of land.~~

~~1. All towers shall be sited so as to be located a distance from any building equal to the height of the tower.~~

~~2. All towers shall be located a distance from any public roadway at least equal to the height of the tower.~~

~~ii.i. The minimum distance to the nearest residential property line shall be equal to the height of the tower. The minimum distance to the nearest dwelling shall be the height of the tower plus 100 feet.~~

~~4. The owner's name, telephone number and site ID number shall be posted on the gate of the perimeter fence. No other advertising or identification sign of any kind is permitted on the tower facility, except warning and equipment information required by the manufacturer or by federal, state or local authorities.~~

~~i.a. Removal or alteration of vegetation is allowed as necessary for the construction and erection of the tower facility including accessory buildings and supports, but shall be held to a minimum. If erection of the tower or construction of tower facility will disturb any bluffs or steep slopes, the erosion control plan submitted with the application shall be complied with.~~

~~m.a. All towers erected or located within the County and all wiring therefore shall comply with the following requirements:~~

~~i. Towers and their antennas shall comply with all applicable provisions of the Ordinance.~~

~~ii.i. Towers and their antennas shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards of the Uniform Building Code and all other applicable reviewing agencies.~~

~~iii.i. Towers and their antennas shall be designed to conform to accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.~~

~~n.a. Metal towers shall be constructed of, or treated with, corrosive resistant material, shall be colored alternating red and white, and shall be marked in accordance with permit conditions.~~

~~5. In order to reduce the number of tower facilities needed within the county in the future, any proposed tower shall be designed, structurally, electrically, and in all respects to accommodate both the applicant's antennas and comparable antennas for additional users. For towers greater than 200 feet in height, the structure shall be designed to accommodate at least four additional providers. For towers less than or equal to 200 feet in height, the structure shall be designed to accommodate at least two additional providers. This requirement may be modified if the applicant demonstrates that such a design is not feasible for economic, technical or physical reasons. To allow for future rearrangement of antennas upon the tower, the tower shall be designed to accept antennas mounted at no less than 20 foot intervals.~~

~~e.a. **Co-location Priority:** Government agencies shall have a right of first refusal for co-location on approved tower facilities. The tower owner shall file a written right of first refusal in favor of government agencies with the County Planning Department at the time of final approval of the tower facility. The right of first refusal shall, at a minimum, include the following provisions:~~

~~i. A requirement for notification of the County Planning Department prior to any leasing of tower space.~~

~~ii.i. That if the right to co-locate is exercised by a government agency, the lease rate shall be not greater than the market rate for comparable leases in the area.~~

- ~~6. All towers shall be reasonably protected against unauthorized climbing. The bottom of the tower (measured from ground level to 12 feet above ground level) shall be designed in a manner to preclude unauthorized climbing and shall be enclosed by a six-foot high chain link fence with~~

~~anti-climb barbed wire protection and a locked gate.~~

~~p.a. All towers and their antennas shall, to the greatest extent possible, utilize building materials, colors, textures, screening and landscaping that effectively blend the tower facilities with the surrounding natural setting and built environment to the greatest extent possible. A landscaping plan for screening shall be submitted as part of the permit application process.~~

~~7. Trees and large shrubs, native to the area, shall be planted so that the facility is screened from adjacent residential properties. These trees and large shrubs shall be maintained for the life of the tower facility.~~

~~8. Towers and their antennas shall not be illuminated by artificial means, except for camouflage purposes (designed as a lighted tower for a parking lot or a ball field) or the illumination is specifically required by the Federal Aviation Administration or other authority. No night time strobes shall be allowed unless specifically required by the Federal Aviation Administration or other authority.~~

~~9. No part of any antenna or tower, nor any lines, cable, equipment, wires, or braces shall at any time extend across or over any part of the right of way, public street, highway, or sidewalk, without approval of the County through the conditional use permit process.~~

~~10. All communication towers and their antennas shall be adequately insured for injury and property damage caused by collapse of the tower. A certificate of insurance shall be filed with the Planning Office prior to commencing operation of the facility.~~

~~4.1. Antennas mounted on roofs, walls, and existing towers: In addition to the submittal requirements required elsewhere in this Ordinance, an application for a building permit for antennas to be mounted on an existing structure shall be accompanied by the following information:~~

~~a. A Site Plan showing the location of the proposed antennas on the structure and documenting that the request meets the requirements of this Ordinance;~~

~~11. A building plan showing the construction of the antennas, the proposed method of attaching them to the existing structure, and documenting that the request meets the requirements of this ordinance;~~

~~b.a. Proof of the structure's or tower's ability to support the antennas; and~~

~~c.a. An intermodulation study to ensure there will be no interference with existing tenants or public safety telecommunication providers.~~

~~E. Completion of Construction: Construction of an approved tower facility shall be completed within one (1) years from the date of the issuance of the conditional use permit. Landscaping and screening must be installed within the first growing season immediately following construction.~~

~~F. Continued Use, Abandonment and Removal:~~

~~1. Existing tower facilities may continue in use and routine maintenance may be performed on them, but they may not be altered, converted, modified, transformed, varied, added to or changed in any way without complying with the terms of this ordinance.~~

~~2. The owner of an existing tower facility or any tower facility erected or constructed after~~

~~the passage of this Ordinance shall file an annual statement of operation on or before January 10 of each year following construction of the tower. This statement of operation shall certify that the tower is operational and shall include a summary of the current antenna configuration on the tower. If the statement is not filed by January 10 of any year, the County shall notify the owner in writing of failure to file. Failure to file a statement within sixty (60) days of receiving a notice~~

~~of failure to file shall be prima facie evidence that the tower facility is no longer in use and may be considered abandoned.~~

~~3.—Tower facilities that are not in use for 365 consecutive days (1 year) shall be deemed abandoned and shall be removed by the owner within 180 days from the date of the abandonment. Removal includes removal of the complete tower facility, including accessory buildings and related above ground infrastructures and restoration of the site to preexisting vegetative cover. An extension to this time frame may be granted by the Planning Commission upon receipt of a written request from the owner/operator of the facility.~~

~~4.—In case of multiple operators sharing the use of a single tower, the tower shall not be deemed abandoned until all users cease operations for a period of 365 consecutive days (1 year).~~

~~5.—If the tower facility is not removed in accordance with this subdivision, then the County, after 60 days' notice to the owner or operator of the tower facility, may take legal action. The County's remedies may include obtaining a court order allowing the County to remove the tower facility at the cost of the owner or last operators.~~

~~**G.—Maintenance:** All tower facilities shall be maintained in a safe and clean condition. The tower facility owner shall be responsible for maintaining a graffiti, debris, and litter free site. The landscape plan shall be maintained for the life of the tower facility. If the facility is not maintained, the County may bring legal action. The County's remedies may include, after 60 days' notice to the owner or operators, an order allowing the County to complete the maintenance at the cost of the owners or operators of the tower facility.~~

~~STRUCTURES AND USES ACCESSORY TO PRINCIPAL USES~~

~~8-6-22 :— STANDARDS FOR ABOVE-GROUND STORAGE OF PETROLEUM PRODUCTS~~

~~**A. Size Limited:** Above-ground storage of petroleum products shall be limited to one thousand (1,000) gallons in the AG Agricultural District.~~

~~8-6-23 :— STANDARDS FOR OUTDOOR STORAGE OF AUTOMOBILES~~

~~**A.—Definition of Outdoor Storage:** Outdoor storage of automobiles means the presence any vehicles outside of a structure where such vehicles do not meet the following criteria:~~

~~1.—**Licensed and Insured:** The vehicle is currently licensed and insured.~~

~~2.—**Roadworthy:** The vehicle is roadworthy and in working order.~~

~~**B.—Standards:** Outdoor storage of automobiles that do not meet the criteria in A., above, shall conform to the following:~~

~~1.—**Number Limited:** The number of automobiles that are allowed to be stored under this section is
(2) two.~~

~~2.—**Setbacks from Property Line and Screening:** All automobiles allowed to be stored~~

~~under this section shall be setback twenty-five feet (25') from all property lines and shall be screened from adjacent residential properties by a six-foot (6') tall solid fence.~~

~~3. **No Parts Stored:** The storage of automobiles shall only include the storage of in-tact vehicles, and shall not include the storage of automobile parts.~~

~~8-6-24 : STANDARDS FOR ACCESSORY ENERGY SYSTEMS—WIND GENERATORS
REPEALED BY ORDINANCE 2009-2~~

~~8-6-25 : STANDARDS FOR FARM STANDS; SEASONAL AGRICULTURAL
PRODUCT SALES~~

~~A. **On-farm Produce:** Accessory farm stands shall sell only agricultural products produced on the farm where the stand is located.~~

~~B. **Size Limited:** Accessory farm stands shall be limited to one structure not exceeding six hundred (600) square feet.~~

~~3-1. **Parking:** Off-street parking shall be provided outside of any road right-of-way.~~

~~8-6-26 : STANDARDS FOR HORSES IN PLATTED SUBDIVISIONS~~

~~A. **Horses in Platted Subdivisions:** The keeping of horses in platted subdivisions shall conform to the following:~~

~~1. **Minimum Lot Size:** Horses may be kept on lots in platted subdivisions of three (3) acres in size or greater and shall be prohibited on lots of lesser size.~~

~~2. **Number of Horses Per Lot:** Horses are limited to one (1) adult animal for the first three (3) acres of the lot and one (1) additional adult animal for each additional two (2) acres. The number of juvenile animals less than six (6) months of age is not limited provided they are offspring to an allowed adult mare.~~

~~3. **Minimum Grazing Area:** A minimum grazing area of one (1) acre, accessible within fencing, is required for the first allowed horse, and an additional one-half (1/2) acre of grazing area, accessible within fencing is required for each additional allowed horse.~~

~~4. **Fences:** Fences confining any horses allowed under this section shall be located at least ten feet (10') from adjoining property lines.~~

~~8-6-27 : STANDARDS FOR SWIMMING POOLS~~

~~A. **Fencing:** All swimming pools shall be required to be fenced to restrict access to swimming areas. Fencing shall completely surround the swimming pool and shall be a minimum of four feet (4') in height. Additional fencing shall not be required for aboveground pools, provided access to all swimming areas is restricted by deck railings~~

~~8-6-28 : STANDARDS FOR ACCESSORY RECREATIONAL VEHICLES.~~

~~Accessory recreational vehicles shall meet all of the requirements of this section. If the licensing and highway ready requirements of A. and B. below are not met, such recreational vehicles must be located in the Flood Fringe District and must meet the elevation, anchoring, and road access~~

~~requirements of Section 8-5A-7 above.~~

~~**A. Current License:** Recreational vehicles shall have current licenses required for highway use.~~

~~**B. Highway Ready:** Recreational vehicles must be highway ready meaning on wheels or the~~

~~internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks and the recreational vehicle has no permanent structural type additions attached to it.~~

~~C. **Number Limited:** The maximum number of recreational vehicles combined, shall not exceed two (2).~~

~~D. **Location Limited:** Recreational vehicles shall be located on one of the following sites:~~

~~a. **Individual lots of record.**~~

~~b. **Existing commercial recreational vehicle parks or campgrounds.**~~

~~E. **Structural Additions Limited:** Recreational vehicles shall meet the elevation, anchoring, and road access requirements of Section 8-5A-7 when development occurs on the parcel exceeding five hundred dollars (\$500) for a structural addition to the recreational vehicle or an accessory structure such as a garage or storage building. There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood free location should flooding occur.~~

~~F. **Floodplain Requirements for New Commercial Recreational Vehicle Parks and Campgrounds and Expansion of Any Similar Uses Exceeding Five (5) Units or Dwelling Sites:**~~

~~1. Any new or replacement recreational vehicle will be allowed in the Flood Fringe District provided said recreational vehicle and its contents are placed on fill above the regulatory flood protection elevation and proper elevated road access to the site exists in accordance with Section 8-5A-7A of this Ordinance. If the recreational vehicle does not meet the licensing and road ready requirements of A and B immediately above, then the recreational vehicle must meet the anchoring requirements for manufactured homes in Section 8-5A-7E7.~~

~~2. All new or replacement recreational vehicles not meeting the criteria of 1. immediately above may, as an alternative, be allowed as a conditional use in all Flood Hazard Zones if in accordance with the following provisions and the provisions of Section 8-7-4 of this Ordinance. The applicant must submit an emergency plan for the safe evacuation of all recreation vehicles and people during the 100-year flood. Said plan shall be prepared by a registered engineer or other qualified individual, shall demonstrate that adequate time and personnel exist to carry out the evacuation, and shall demonstrate that the licensing and road ready provisions of A. and B. above will be met. All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Section 8-5A-9 of this Ordinance.~~

~~8-6-29 : **STANDARDS FOR STORAGE YARDS FOR EQUIPMENT, MACHINERY, OR MATERIALS ACCESSORY TO COMMERCIAL USES**~~

~~A. **Accessory Only:** Outside storage of equipment, machinery or materials shall not be a~~

~~principal use and shall be accessory only to allowed commercial uses.~~

~~**B. Maximum Area:** Outside storage of equipment, machinery or materials shall occupy no more than ten percent (10%) of the lot area or ten thousand (10,000) square feet, whichever is greater.~~

~~**C. Not in Setback:** Outside storage of equipment, machinery or materials within any structure setback area shall be prohibited.~~

~~D. **Screening:** Outside storage of equipment, machinery or materials shall be screened so as not to be visible from any residence on adjacent properties.~~

~~TEMPORARY USES~~

~~8-6-30 : STANDARDS FOR TEMPORARY USES~~

- ~~A. **Temporary Uses** shall be of a truly temporary nature, and~~
- ~~1. Shall not involve the erection of substantial buildings or structures; and~~
 - ~~2. Shall not exist for a period of more than three (3) months.~~

~~ADDITIONAL USES~~

~~8-6-31 : STANDARDS FOR PRECAST CONCRETE PLANTS~~

- ~~A. **Conditional Use:** Precast Plant shall be proposed as a conditional use permit meeting the requirements of this section in addition to the general requirements for a conditional use permit. A site plan shall be submitted with the conditional use permit application showing the location of all existing structures and describing the proposed use.~~
- ~~B. **Review of Permit:** Precast Plant permits shall be reviewed and inspected by the Planning Department at least every five years for compliance with conditions.~~
- ~~C. **Setbacks:** Any structures associated with a Precast Plant must be located at least 1000 feet from a residential structure located on adjacent property.~~

~~8-6-32 : STANDARDS FOR INTENTIONAL LIVING COMMUNITIES~~

- ~~A. **Interim Use:** Intentional Communities shall be processed as an interim use permit, meeting the requirements of this section in addition to the general requirements for a interim use permit. A site plan shall be submitted with the interim use permit application showing the location of all existing structures and uses on the parcel.~~
- ~~B. **General Restrictions:** This use supports multi-family residential development and non-commercial uses incidental to operations of the development so long as all activity is self-managed by an incorporated development organization consisting of a majority of the intended number of residents of the development. At a minimum, an Intentional Community must consist of at least one (1) residential structure or two (2) residential dwelling units and a common structure.~~
- ~~C. **Minimum Lot Size:** The minimum lot size required for an Intentional Community shall be 40 acres.~~

~~**D. Density Maximum:** There shall be no more than 7 dwelling units per acre.~~

~~**E. Requirements for Residential Structures:** All residential structures must not include more than 40 dwelling units per structure.~~

~~**F. Requirements for a Common Structure:** All Intentional Living Communities must include a centrally located common structure such as a meeting house, community hall, etc. that is detached from all residential structures.~~

~~**G. Minimum Open Space Requirements:** Any parcel featuring an intentional community use shall have at minimum 50% of land dedicated as open space. This requirement is inclusive of all additional uses occurring in combination with the Intentional Community Use.~~

~~**H. Non-Residential Uses:** All non-residential uses on parcels that occur in combination with an Intentional Living Community are subject to the requirements of the Clay County Development Code.~~

~~**I. Management Plan:** The development organization responsible for the Intentional Living Community shall submit a management plan along with the required site plan for the interim use permit application that includes the following:~~

- ~~1. A description of all non-commercial uses incidental to the operation of the community~~
- ~~2. A description of any commercial uses to occur in combination with the Intentional Community~~
- ~~3. Guidelines for the maintenance and operations of any transportation infrastructure that might be utilized by the general public, and any private utilities including drinking water, stormwater and wastewater management.~~

~~i. **4. A statement acknowledging an understanding that changes to the management plan or Site Plan may trigger an environmental review under Minnesota Rules 4410.**~~

~~8.6.33 : STANDARDS FOR SERVICE BUSINESS IN THE URBAN EXPANSION TIER 1 ZONING DISTRICT~~

~~**A. Interim Use:** Service Business shall be proposed as an interim use permit meeting the requirements of this section in addition to the general requirements for an interim use permit. A site plan shall be submitted with the interim use permit application showing the location of all existing structures and describing the proposed use. Only one interim use is permitted per parcel.~~

~~**B. Limited to Existing Structures:** Service businesses must be operated out of existing structures on the property unless expansions or additional buildings receive approval from the City of Dilworth or the City of Moorhead.~~

~~**3.1. Employees:** The number of allowable employees will be set by the Planning Commission, with considerations for traffic, parking, utilities, and surrounding properties. No business shall have more than 15 full-time equivalents.~~

~~**C. Signs:** One non-illuminated sign only of a maximum size of thirty two (32) square feet is allowed to advertise the service business on site. Such sign shall meet the setback requirements for structures in the Urban Expansion Tier 1 Zoning District or be attached to the building.~~

~~**D. Traffic and Roads:** Traffic generated by the use shall be considered by the Planning Commission and traffic generated by the service business shall not exceed that which is reasonable for the area in which it is located and the road adjacent to the service business.~~

~~**E. Performance Standard:** No equipment or processes use in the service business shall create noise, vibration, glare, fumes, odors or electrical interference detectable off the premises.~~

~~**a. Buffering:** Buffering may be required by the Planning Commission to minimize adverse effects on adjacent properties and roadways.~~

~~**b.a. Utilities:** The use shall not create usage exceeding the capacity of available on-site sewage treatment and drinking water. The use shall not prematurely stimulate investment in public utilities in a municipality's future growth area.~~

~~**F. Parking:** Additional parking spaces may be required by the Planning Commission for the use of clients, deliveries, etc.~~

~~**G. Inspections:** Service Business interim use permits shall be reviewed and inspected every five years for compliance with conditions.~~

~~8-6-34 : STANDARDS FOR AUTOMOBILE, TRUCK, TRAILER, AND GARDEN AND FARM EQUIPMENT SALES~~

~~**A. Setbacks:** Vehicles and trailers on display must be a minimum of five feet from the edge of the road right of way and must not obstruct the views of the traveling public.~~

~~**4.1. Licensing:** If five or more vehicles are to be sold in a one-year period, a state dealer license is required.~~

~~**B. Storage:** Vehicles and parts not on display for sale must not be store outdoors.~~

~~**C. Buffers:** Vehicles on display must be screened from adjacent residential properties.~~

~~**a. Service and Repair:** All vehicle service and repair work must occur indoors.~~

~~**b.a. Nuisance Abatement:** The use must not establish a nuisance in the form of noise, vibration, glare, fumes, odor, lighting, or electrical interference detectable off premise.~~

~~8-6-35 : STANDARDS FOR THE CULTIVATION, MANUFACTURE, WHOLESALE AND RETAIL OF CANNABIS.~~

~~**A. General Standards applying to cannabis businesses.**~~

~~**c.a.** The number of cannabis retail establishments in Clay County is limited to 1 per 12,500 population. A retail establishment must be registered with Clay County prior to operation.~~

~~**d.a. Licensing.** State licensing, if applicable, is required prior to establishment of~~

~~the use.~~

~~e.a. Nuisance. The use must not establish a nuisance in the form of noise, vibration, glare, fumes, odor, lighting, or electrical interference detectable off premise.~~

~~f.a. Home Occupation. Cannabis businesses are prohibited as a home occupation.~~

~~1. Performance Standards. Setbacks. Cannabis businesses are subject to the following setbacks:~~

~~a. 1,000 feet from a school~~

~~b. 500 feet from a church, daycare, library or a residence on an adjacent property.~~

~~g.a. 500 feet from a residential treatment facility.~~

~~c. 500 feet from a park, playground or athletic field.~~

C. Cultivation.

~~1. Cultivation is subject to the following performance standards:~~

~~i. 2. Cultivation and Operations Plan. A business licensed or authorized to cultivate cannabis must prepare, maintain, and execute an operating plan and a cultivation plan, which must include but is not limited to:~~

~~a. Site Plan. Detailing size and layout of facility, including size and layout of the cultivation facility.~~

~~i. b. Security. Provisions for fencing, lighting, personnel and video monitoring.~~

~~e. Plans for wastewater, waste disposal; utilities including water and electricity, water usage and recycling.~~

~~2.1. d. Solid Waste. A plan to destroy all cannabis plant material and cannabis byproduct to render it unusable. Waste material must be stored in a secure location.~~

~~3.1. e. A pest management protocol that incorporates integrated pest management principles to control or prevent the introduction of pests to the cultivation site.~~

D. Manufacture and Wholesale.

~~1. Manufacture and Wholesale are subject to the following performance standards:~~

~~2. Facility and Operations Plan. A business licensed or authorized to manufacture and wholesale cannabis and cannabis related products must prepare, maintain, and execute a~~

facility and operations plan, which must include but is not limited to:

~~a. **Site Plan.** Detailing size and layout of facility, including size and layout of the manufacturing facility.~~

~~4.1.b. **Security.** Provisions for fencing, lighting, personnel and video monitoring.~~

~~5.1.c. Plans for wastewater, waste disposal, utilities including water and electricity, water usage and recycling.~~

~~d. **Wastewater.** In accordance with MN Statute 342.28 Subd. 3.~~

~~e. **Ventilation and Filtration.** In accordance with MN Statute 342.24 Subd. 4.~~

~~6.1.f. **Solid Waste.** A plan to destroy all cannabis plant material and cannabis byproduct to render it unusable. Waste material must be stored in a secure location.~~

E. Retail.

~~1. The retail sale of cannabis and related cannabis products is subject to the following performance standards:~~

~~7.1.a. **Hours of Operation.** 8:00 AM to 9:00 PM Monday through Saturday and 10:00 AM to 9:00 PM Sunday.~~

~~b. **Site Plan.** Detailing size and layout of facility, including size and layout of the retail facility.~~

~~8.1.c. **Ventilation and Filtration.** In accordance with MN Statute 342.24 Subd. 4.~~

~~d. **Building Conditions.** In accordance with MN Statute 342.27 Subd. 8.~~

~~9.1.e. **Security.** In accordance with MN Statute 342.27 Subd. 9.~~

~~10.1. ~~_____~~ **f. Lighting.** In accordance with MN Statute 342.27 Subd. 10.~~

~~11.1. ~~_____~~ **g. Deliveries.** In accordance with MN Statute 342.27 Subd. 11.~~

~~h. **Wastewater.** Cannabis mezzobusinesses must comply with MN Statute 342.28 Subd. 3.~~

~~12.1. ~~_____~~ **i. Solid Waste.** A plan to destroy all cannabis plant material and cannabis byproduct to render it unusable. Waste material must be stored in a secure location.~~

~~8.6.36 : STANDARDS FOR STORAGE UNITS~~

~~5.1. Performance Standards.~~

~~1. Storage Units must have direct access to a fully maintained road.~~

~~2. Site Plan. Applications for Storage Units must include a detailed site plan.~~

~~3. The storage structure and surrounding grounds shall be maintained in a clean, orderly and safe manner.~~

~~• 1. Hazardous materials must not be stored.~~

~~4. Outdoor Storage must meet the standards of Section 8-6-29: Standards for Storage Yards for Equipment, Machinery or Materials Accessory to Commercial Uses.~~

~~B. Additional Performance Standards for Storage Units in the Agricultural General Zoning District:~~

~~1. Storage Units must be designed and constructed to resemble agricultural or farm buildings similar in the vicinity.~~

~~C. Additional Performance Standards for Storage Units in the Resource Protection Wellhead Protection Overlay Zoning District.~~

~~1. Outdoor Storage must meet the standards of Section 8-6-29: Standards for Storage Yards for Equipment, Machinery or Materials Accessory to Commercial Uses and items containing fuel tanks must be stored on an impervious surface. The Planning Commission may place additional conditions on the number of items stored outdoors.~~

~~2. Storage Units must have a concrete floor.~~

~~3. Sewage treatment systems and wells associated with the use are not permitted.~~

~~4. The Storage Units Use must not be of a size that requires a permanent stormwater retention pond.~~

~~5. Not more than thirty percent (30%) of the lot area shall be occupied by buildings associated with the use.~~

**CHAPTER 7
SUBDIVISION**

INTRODUCTORY PROVISIONS

8-7-1: PURPOSE

8-7-2: WHEN REQUIRED

8-7-3: SUBDIVISION APPROVAL PRIOR TO ISSUANCE OF BUILDING PERMITS

8-7-4: COMPLIANCE WITH ZONING PROVISIONS

8-7-5: SUBDIVISION REVIEW WITHIN EXTRATERRITORIAL JURISDICTION OF CITIES

8-7-6: TOWNSHIP REVIEW AND APPROVAL OF NEW ROADS

8-7-7: ENVIRONMENTAL REVIEW

8-7-8: TRANSFER AND DIVISION OF LAND DESCRIBED BY METES AND BOUNDS

8-7-9: SITE SUITABILITY REQUIRED

8-7-10: ADDITIONAL STUDIES

LAND DIVISION AND DEVELOPMENT REVIEW PROCESS

8-7-11: PRE-APPLICATION MEETING

8-7-12: STAFF REVIEW OF LAND DIVISION AND DEVELOPMENT PERMIT APPLICATIONS

8-7-13: LAND DIVISION BY MINOR SUBDIVISION

8-7-14: LAND DIVISION BY REGISTRATION OF A PLAT OF SUBDIVISION/MAJOR SUBDIVISION

8-7-15: CLUSTER SUBDIVISION REQUIREMENTS

8-7-16: LAND DIVISION BY COMMON INTEREST COMMUNITY PLAT

8-7-17: UNITED STATES PUBLIC LAND SURVEY MONUMENT RECORD:

8-7-1: PURPOSE:

The purpose of this Chapter is to establish application requirements, review processes and review standards for subdivision and development permits in Clay County.

8-7-2: WHEN REQUIRED:

All proposed divisions of land in Clay County by minor subdivision, by a platted subdivision, or by a common interest community plat shall fully comply with the provisions of this Ordinance.

8-7-3: SUBDIVISION APPROVAL PRIOR TO ISSUANCE OF BUILDING PERMITS:

~~No permit for the construction of a building or sewage treatment system shall be issued until all final approvals required by this Chapter have been granted, including, but not limited to, final approvals for required improvements. No improvements shall be installed until preliminary plat approval has been granted.~~

~~8-7-4: COMPLIANCE WITH ZONING PROVISIONS:~~

~~The requirements of this Chapter provide for processes to divide land in Clay County. The zoning requirements of this Ordinance establish zoning districts, allowed uses, density and design requirements for land use and structures in the County. All divisions of land submitted for approval under this Chapter, whether by minor subdivision, platted subdivision, or common interest community plat, shall conform to the zoning requirements of this Ordinance for the zoning district where the parcel(s) of land are located. No development permit authorized under this Chapter shall be issued unless all zoning requirements of this Ordinance are met.~~

~~8-7-5: SUBDIVISION REVIEW WITHIN EXTRATERRITORIAL JURISDICTION OF CITIES:~~

~~Applications for development within Clay County where the development parcel lies within the extraterritorial jurisdiction area of a municipality that has exercised extraterritorial jurisdiction shall be subject to the subdivision review of such municipality which may vary from county subdivision provisions. However, the zoning regulations of Clay County as contained in this Ordinance shall remain in effect within any municipal extraterritorial jurisdiction. Any approvals required by Clay County shall only be issued after proof is submitted to Clay County that required municipal approval has been officially granted. Township authority for review and approval of new roads, as provided for in Section 8-7-6, shall exist within extraterritorial jurisdiction areas.~~

~~8-7-6: TOWNSHIP REVIEW AND APPROVAL OF NEW ROADS~~

~~The lot on which the unit is located must have frontage along a public right of way. If the creation of new right of way is required to service proposed parcels or lots, the developer must obtain a written agreement from the township board of supervisors stating the township will accept full and permanent responsibility for the maintenance of and snow removal on any new right of way created as a result of the development proposal. This agreement must be approved by a majority of the township's officers at a duly held meeting of the township board. The agreement shall be in recordable form and shall be recorded with the plat. A copy of the executed township agreement must be presented, by the developer, to the County planning office prior to County consideration of the development proposal.~~

~~8-7-7: ENVIRONMENTAL REVIEW~~

~~An environmental review may be required for projects that could result in significant environmental impacts. The Minnesota Environmental Policy Act of 1973 and 6-MCAR 3.021 allow for the preparation of Environmental Assessment Worksheets (EAW) and Environmental Impact Statements (EIS) for mandatory development thresholds or discretionary environmental reviews ordered by Clay County. The following provisions apply to environmental review when required:~~

~~A. Complete Before Consideration of Preliminary Plat: If an environmental review is~~

~~required, no preliminary plat may be approved, nor may any land disturbance activity be allowed, until such EAW or EIS, whether mandated by the State or ordered by Clay County, has been prepared, referred for review and acted upon.~~

~~**B. Payment for Cost of Review:** The County shall prepare, at the developer's expense, and with the developer's input and assistance, any mandatory or discretionary EAW or EIS.~~

~~8-7-8 : TRANSFER AND DIVISION OF LAND DESCRIBED BY METES AND BOUNDS:~~

~~A. Survey Required for Transfer of Land Described by Metes and Bounds: When the ownership of a parcel or tract of land is transferred by a metes and bounds description, the County Auditor shall require such parcel or tract to be surveyed and its description to be accompanied by a surveyor's certificate showing the dimensions and location of such parcel in relation to the nearest Section Corner. The legal description on the survey must match the legal description on the transferring document.~~

~~B. Government Lot Descriptions May be Used for Transfer of Land for Agricultural Use: A transfer of ownership of a parcel or tract of land described by United States Government Land Survey Description may be transferred without the requirement of a survey or surveyor's certificate; however, no parcel described as an area less than ten (10) acres or an area including a reference to a measurement by feet may be transferred under this provision. In addition, the transferred parcel shall be used for agricultural purposes only. Transfers for development purposes shall comply with the subdivision provisions of this chapter.~~

~~C. Division of Land Using Government Lot Descriptions: The division of a parcel or tract of land described by United States Government Land Survey description shall be allowed only if in compliance with the minor or major subdivision provisions of section 8-7-13 or 8-7-14 of this Chapter.~~

~~A. Survey Requirements Under This Section: Surveys required under this section must be made by a registered land surveyor (RLS) under the laws of the State of Minnesota. All such surveys shall be certified by the surveyor and shall bear his registration number. Required Surveys shall be filed with the Planning and Zoning Department and the Office of the County Recorder.~~

~~D. Recording of Deeds: The county recorder shall not record nor file for record any deed for the transfer of ownership of any tract made in violation of this section.~~

~~8-7-9 : SITE SUITABILITY REQUIRED:~~

~~A. Site Suitability: No development permit shall be issued unless the proposed development site meets all the following general development suitability requirements:~~

~~1. Flood Plain: The site shall contain sufficient usable land under the flood plain regulations.~~

~~2. Drainage: The site shall possess adequate drainage.~~

~~3. Topography: The site shall not have topographical limitations such as rock formations, eroded areas and similar defects.~~

~~4. Sewage Disposal: The site shall possess sufficient land for sewage treatment facilities.~~

~~5. Drinking Water: The site shall have access to a drinking water supply adequate for the proposed use. A volume of five (5) gallons per minute for residential uses shall be adequate.~~

~~6. Building Site: All lots within the floodplain districts shall be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation.~~

~~7. Road Access: All subdivisions shall have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection~~

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

~~**B.—Proof of Suitability:** The proof of site suitability shall rest with the applicant, who, before a development is approved, shall furnish percolation tests, soil borings, water samples or similar proof that all land for development is adequate for use as building sites. In the General Flood Plain District and for lakes and wetlands within Zone A, applicants shall provide the information required in Section 8-5A-8(A)(3) thru (5) of this Chapter to determine the 100-year flood elevation, the Floodway and Flood Fringe District boundaries and the regulatory flood protection elevation for the subdivision site.~~

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

~~**8-7-10 : ADDITIONAL STUDIES:**~~

~~In considering a land division or development proposal, the Planning Commission or County Board may request a report by the Zoning Administrator or other County staff or a consultant; additional information from the applicant; input from any affected public service facility provider or special service district; and input from contiguous, affected or potentially affected jurisdictions. If so required, the applicant shall bear the full cost of meeting this requirement.~~

LAND DIVISION AND DEVELOPMENT REVIEW PROCESS

~~8-7-11: PRE-APPLICATION MEETING:~~

~~A. **Pre-application Meeting:** Prior to the submission of an application for a minor subdivision, a preliminary plat for a major subdivision, cluster subdivision plat or a common interest community plat the applicant and landowner, if different than the applicant, shall meet with Planning Department staff in order to be made fully aware of all applicable ordinances, regulations and plans that apply to the area proposed for subdivision.~~

~~A. **Sketch Plan:** In order to facilitate discussion at the pre-application meeting, the applicant shall submit a general sketch plan of the proposed land division. The sketch plan shall include the following information:~~

- ~~1. A line drawing to accurate scale with the scale indicated on the plan;~~
- ~~2. Topography of the site;~~
- ~~3. Proposed lot lines;~~
- ~~4. General location of all proposed buildings and their proposed use;~~
- ~~5. General location of roads and access; and~~
- ~~6. Other information as may be requested by Planning Department staff.~~

~~8-7-12: STAFF REVIEW OF LAND DIVISION AND DEVELOPMENT PERMIT APPLICATIONS:~~

~~A. **Application Forms:** Applications for land division and development permits shall meet the requirements of this Chapter and shall be submitted on forms developed by the Planning Department.~~

~~B. **Staff Review of Applications for Completeness and Date of Submission:** Applications shall be reviewed within ten (10) working days for completeness by the Zoning Administrator upon receipt and prior to forwarding an application to the Planning Commission or County Board. An incomplete application shall be returned to the applicant with specific information on deficiencies in the application and remedies for such deficiencies. Any date referring to the date of submission of a completed application shall mean the date upon which a complete application was submitted, it shall not mean the date upon which an incomplete application was submitted.~~

~~C. **Compliance and Site Suitability Review:** Upon receipt of a completed application, the Planning Department shall review the application for conformance with regulations and site characteristics for development suitability meeting the provisions of section 8-7-9, above.~~

~~D. **Field Trip:** As part of the general application review procedure, the Planning Department shall schedule a field trip in order to evaluate the site characteristics and limitations, if any, of the proposed site of the development. The field trip shall not be part of the completeness review in subsection B. of this section.~~

~~8-7-13 : LAND DIVISION BY MINOR SUBDIVISION:~~

~~A. **When Required:** A minor subdivision shall be required for proposed land divisions that will result~~

~~in a total of two lots and where the resulting developable lot shall be used for residential purposes only. Minor subdivision shall not be required if both resulting lots are five (5) acres in size or greater and both lots shall be used for agricultural purposes only.~~

- ~~**B.—Application for Development Permit and Sketch Plan:** The applicant for a minor subdivision shall submit to the Planning Department a sketch plan of the development meeting the information requirements of section 8-7-11 B., above, together with an application for a development permit as required in section 8-7-11 A., above.~~
- ~~**C.—Administrative Approval of Application:** After the submission of a completed application and sketch plan the Planning Department shall review the application and sketch plan and conduct a field trip. After the field trip, the Zoning Administrator shall within ten (10) days, approve with conditions, or disapprove the application and sketch in writing and advise the applicant of any stipulations or conditions that are required in the layout or character of development. The applicant shall certify in writing that he/she agrees to all requirements of these regulations together with any additional requirements or conditions as stipulated in the Zoning Administrator's approval.~~
- ~~**D.—Appeal of Application Review:** Within thirty (30) days of receipt of the Zoning Administrator's action, the applicant may appeal any disapproval or any additional requirements or conditions stipulated in the Zoning Administrator's approval. The application and sketch plan shall then be forwarded to the Planning Commission for consideration at the next regularly scheduled meeting. For the purpose of reviewing the application and sketch plan, the Planning Commission may hold one or more public hearings. Following review, the Planning Commission shall approve, approve with conditions, or disapprove the application and sketch plan.~~
- ~~**E.—Registration of Surveyor's Certificate:** Approval of the application and sketch plan shall constitute authorization to prepare a surveyor's certificate and file it with the Zoning Administrator.~~

8-7-14 : LAND DIVISION BY REGISTRATION OF A PLAT OF SUBDIVISION/MAJOR SUBDIVISION:

- ~~**A.—When Required:** Except for land divided under the provisions of section 8-7-12, above, of this Chapter, land division by registration of a plat of subdivision shall be required for proposed land divisions that will result in either of the following:~~
- ~~1.—**Nonresidential:** One or more nonresidential lot; or~~
 - ~~2.—**Three or More Lots:** Two (2) or more developable residential lots and the remainder of the parcel, totaling three (3) or more lots.~~
- ~~**B.—Preliminary Plat Requirements and Review Procedure:** An applicant for a land division by registration of a plat of subdivision shall meet the following requirements:~~
- ~~1.—**Application and Preliminary Plat:** After the pre-application meeting as required in section 8-4A-1, an applicant shall submit copies of the following:~~
 - ~~a.—**Application:** An application on forms provided by the Planning Department;~~
 - ~~b.—**Preliminary Plat:** An electronic version and One (1) large size (22' x 34') paper~~

~~copy of a preliminary plat meeting the data requirements of section 8-7-14 D,
below; and~~

~~e. **Improvement plans:** Improvement plans meeting the requirements of section 8-7-14 E, below.~~

- ~~2.—**Time of Submission:** A subdivision application may be reviewed at a regularly scheduled Planning Commission meeting only if submitted to the Planning Department at least thirty (30) days before the meeting.~~
- ~~3.—**Review of Application and Preliminary Plat:**~~
- ~~a.—**Review by Planning Commission:** The Planning Commission shall review the plat and application material for conformance with regulations, development suitability, and policy conformance with the Land Use Plan. For the purpose of reviewing the preliminary plat the Planning Commission shall hold one or more public hearings.~~
- ~~b.—**Decision by Planning Commission:** Within forty (40) days of the close of the public hearing, the Planning Commission shall approve the preliminary plat with findings that contain conditions for approval or shall state reasons for denial of the plat. An approved preliminary plat shall continue through process described in this Chapter. A denial of a plat by the Planning Commission shall be reviewed by the County Board for final action on the plat.~~
- ~~c.—**Acceptance of Conditions and Revisions to Application and Preliminary Plat:** The Planning Commission action and findings shall be specified in writing the record of such action shall be forwarded to the applicant and one copy retained by the Planning Commission. The mailing to the applicant shall include an “Acceptance of Conditions” form provided by the Zoning Administrator. The Acceptance of Conditions form shall state that the applicant has read, understands and agrees to the conditions recommended by the Planning Commission and shall be signed by the applicant and returned to the Zoning Administrator within ten (10) working days of receipt.~~
- ~~(1)—**Development Agreement:** A development agreement may be used in place of the “Acceptance of Conditions” form if agreed upon by the applicant and the Zoning Administrator. The development agreement shall be approved by the County Board as part of the final plat approval process. If used, the development agreement shall include the following minimum terms:~~
- ~~i.—Conditions of plat approval~~
- ~~ii.—Description of standards and conditions for improvements~~
- ~~iii.—Schedule for installing improvements~~
- ~~iv.—Ownership of improvements~~
- ~~v.—Guarantees of performance and maintenance~~
- ~~vi.—Remedies for default~~
- ~~d.—**Conditional Approval Authorizes Preparation of Final Plat:** Conditional approval of the preliminary plat and return of the “Acceptance of Conditions” form shall authorize the applicant to prepare a final plat in conformance with the conditions approval of the preliminary plat.~~
- ~~e.—**Waiver of Planning Commission Review of Final Plat:** In order to expedite final plat review, the Planning Commission may waive its authority to review the final plat. In those instances where the final plat is determined to be substantially different from the preliminary~~

~~plat authorized by the County Board, the Planning Commission's waiver shall be void and the Planning Department shall forward the final plat to the Planning Commission and County Board for final review.~~

~~**C. Final Plat Requirements and Review Procedure:** An applicant for a land division by registration of a plat of subdivision shall meet the following requirements:~~

- ~~1. **Time Limitation for Submittal of Final Plat:** Within six (6) months of the date of the preliminary plat approval, the applicant shall submit a final plat. If requested in writing by the applicant, the plat may constitute only that portion of the approved preliminary plat which the applicant proposes to record. Failure to meet with the time limitation in this provision shall void the preliminary plat.~~
- ~~2. **Number of Copies:** The applicant shall file with the Planning Department an electronic copy and sufficient number of paper copies, as determined by the Planning Department, for distribution to the appropriate County departments and state agencies.~~
- ~~3. **Form of Final Plat Submittal:** The final plat shall meet the following requirements:
 - ~~a. The data requirements of section 8-7-14 D, below;~~
 - ~~b. The requirements contained in the conditional approval of the preliminary plat; and~~
 - ~~c. Shall be drafted in accordance with Minnesota Statutes Annotated Chapter 505.~~~~
- ~~4. **Time of Submission:** A final plat may be reviewed at a regularly scheduled planning commission meeting only if submitted to the Planning Department at least twenty (20) days before the meeting.~~
- ~~5. **Review by County Recorder:** All plats shall be submitted to the County Recorder for review at least ten (10) days prior to the scheduled planning commission meeting.~~
- ~~6. **Review by Commissioner of Natural Resources:** All plats consistent with shoreland management provisions of this Title shall be reviewed by the Commissioner of Natural Resources before final County approval can be made. A copy of the proposed plat shall be reviewed by the Commission at least ten (10) days before the hearing on the final plat is scheduled. A lack of response by the Commissioner of Natural Resources shall not delay County action.~~
- ~~7. **Forwarding to County Board:** Upon approval by the Planning Commission, or upon waiver of Planning Commission review as provided for in section 8-7-14 B 3e, above, the Planning Department shall forward the plat to the County Board for issuance of the final development order and signatures.~~
- ~~8. **Notice to Commissioner of Natural Resources:** Copies of all plats within shoreland areas approved by the County shall be submitted to the Commissioner of Natural Resources within ten (10) days of their final approval.~~
- ~~9. **Filing:** The development order approving the final plat shall become final upon receipt of a certified copy of the plat and the filing of the plat and any additional agreements or issuances with the County Recorder.~~
- ~~10. **Electronic Version of Final Approved Plat:** Upon receiving final approval, the applicant shall submit a copy of the approved version of the plat in electronic format compatible with the software in use by the County at the time of submittal. The~~

~~electronic plat shall be reference as~~

~~Clay County coordinates and provide a seamless edge match to the existing County database.~~

~~**D.—Data Requirements for Subdivision Applications for Preliminary and Final Plats:** An applicant for a land division by registration of a plat of subdivision shall meet the following requirements.~~

~~**1.—General Information and Data:** Applications for subdivisions shall contain general information describing the existing conditions of the site and the proposed development. This information shall include, but is not limited to, data on existing or proposed covenants, land characteristics, utilities, and street improvements.~~

~~**2.—Survey Data:** All survey data shall be drafted in accordance with Minnesota Statutes Annotated chapter 505.~~

~~**3.—Preliminary Plat:** Preliminary plats shall contain the information listed below.~~

~~**a.—Scale:** One inch equals one hundred feet (1"=100') (Minimum).~~

~~**b.—Identification and Description:**~~

~~(1) **Name of Subdivision:** Proposed name of subdivision, provided the name shall not duplicate or be similar in spelling or pronunciation to the name of any plat previously recorded in the County.~~

~~(2) **Location:** Location by section, township, range or by other legal description.~~

~~(3) **Names and Addresses:** Names and addresses of the owner, subdivider, surveyor, and designer of the plan.~~

~~(4) Graphic scale.~~

~~(5) North point.~~

~~(6) Date of preparation.~~

~~**e.—Existing Conditions:** Existing conditions in the tract proposed for development and in the surrounding area to a distance of three hundred feet (300'), including the following:~~

~~(1) Boundary line of proposed subdivision, clearly indicated.~~

~~(2) Total approximate acreage.~~

~~(3) Platted streets, railroad right of way, and utility easements.~~

~~(4) Boundary lines and ownership of adjoining unsplit land.~~

~~(5) Sewers, water mains, culverts or other underground facilities.~~

~~(6) Permanent buildings and structures.~~

~~(7) Topography, showing lakes, watercourses, wetlands and contours at vertical intervals of not more than two feet (2'), unless the grade is greater than fifteen percent (15%). All elevation data shall be mean sea level or some other assumed, workable datum.~~

~~(8) Other information, such as soils tests, if requested by the Planning Commission or County Board to aid in their review.~~

~~(9) Designation of areas which, before improvements, are subject to inundation or~~

~~stream overflow. For purpose of information only, the outline of the flood plain, present shorelines, ordinary high water level and water elevation.~~

~~**d. Subdivision Design Features:** The following subdivision design features shall be shown.~~

- ~~(1) **Streets and Utility Easements:** Layout and width of proposed streets and utility easement showing street names, lot dimensions, and public areas. Street names and numbering shall conform to the established county street numbering system. The street layout shall include all contiguous land owned by the subdivider.~~
 - ~~(2) **Use:** Proposed use of all parcels, and if zoning change is contemplated, proposed rezoning.~~
 - ~~(3) **Street Grades and Drainage Plan:** Preliminary street grades and drainage plan shall be shown on a copy of the contour map.~~
 - ~~(4) **Stormwater and Erosion Control:** A stormwater and erosion control plan meeting Minnesota Pollution Control Agency standards shall be submitted.~~
 - ~~(5) **Tree Removal Plan:** A tree removal plan, conforming to the provisions of Section 8 5D 4 C.4., shall be included for a major subdivision on wooded or marginal soils in the AG District.~~
4. ~~**Final Plat:** Final plats shall contain the information listed below.~~
- ~~a. **Water, Sewage Disposal, Drainage and Flood Control:** Plans for the provisions of safe and potable water, sewage disposal, drainage and flood control.~~
 - ~~1. **Soil Borings:** Soil borings, if required by the Planning Commission or County Board.~~
 - ~~b. **Ground Water Control:** Evidence that ground water control is at least ten feet (10') below the level of any finished grades, or a plan is provided for solving ground water problems.~~
 - ~~c. **Survey Data:** Data required as set forth in Minnesota Statutes Annotated chapter 505, and also the following requirements:~~
 - ~~(1) **Boundary Lines and Lot Lines:** All interior and exterior boundary lines shall be correctly designated on the plat and shall show bearings on all straight lines, or angles at all angle points, and central angle, radii and arc links for all curves.~~
 - ~~(2) **Buildable Area:** The size of the buildable area shall be indicated for each lot. Buildable area shall not include shoreland setbacks, regulated wetlands, or road right of way. Buildable area may include building setbacks other than shoreland setbacks.~~
 - ~~(3) **Monuments:** Durable iron monuments shall be set at each angle and curve point on the interior and exterior boundary lines and at all block corners and at all intermediate points on the block or lot lines indicating a change of direction in lines. The plat shall indicate that the monuments have been set.~~
 - ~~d. **Identification System:** An identification system for all lots and blocks.~~
 - ~~e. **Lot Size:** The size (in square feet) and dimension of all lots.~~
 - ~~f. **Lots Located in Flood Plain Districts:** All lots located in the flood plain districts shall contain a building site at or above the regulatory flood protection elevation. All subdivisions shall have road access both to the subdivision and to the individual building sites no lower than two feet (2') below the regulatory flood protection elevation. For all subdivisions in the flood plain, 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.~~

~~g. **Certification By Surveyor:** Certification by a registered land surveyor to the effect that the~~

- ~~plan represents a survey made by him and that monuments and markers shown thereon exist as located and that all dimensional and geodetic details are correct.~~
- ~~h.—**Surveying Requirements:** Point of beginning or point of commencement must be at a recorded government corner.~~
 - ~~i.—**Owner Certification:** Certification by the owner shown in the title opinion shall be that of the owner of record of the platted lands on the date of recording of the plat with the County Recorder.~~
 - ~~j.—**Owner, Mortgage Holder Notarized Certification:** Notarized certification by owner shown in the title opinion shall be that of the owner and any mortgage holder of records on the date of the adoption of the plat and the dedication of streets and other public areas.~~
 - ~~k.—**Tax Certification:** Certification showing that all taxes currently due on the property to be subdivided have been paid in full.~~
 - ~~l.—**Township Board Certification:** Certification by the township board showing plat approval.~~
 - ~~m.—**Certification of Plat Approval:** Certifications by the County Board, County Planning Commission chairman, County Engineer, County Zoning Administrator showing plat approval.~~
 - ~~a.—**Certification of County Recorder:** Certification of County Recorder authenticating recording of the plat.~~
 - ~~n.—**Covenants:** All covenants affecting the platted parcels shall be in final form for recording.~~
- ~~E.—**Design Standards for Subdivisions:** Proposed subdivisions shall meet all the design standards listed below.~~
- ~~1.—**Statement of General Design Standards:** Generally, design standards shall assure that the layout of the subdivision harmonizes with existing plans affecting the development and its surroundings and shall be in conformity with the development objectives of the County. In addition, design shall be harmonious with, reflect and connect to adjacent subdivisions.~~
 - ~~2.—**Streets:**~~
 - ~~a.—**General Street Design:** The design 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 waters and to proposed uses of the area to be served. Where new streets extend existing adjoining streets, their projections shall be at the same or greater width, but in no case less than the minimum required width. Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions shall make provision for the proper projection of streets. When a new subdivision adjoins un-subdivided land susceptible to being subdivided, then the new streets shall be carried to the boundaries of such subdivided land. In addition, the following specific street design criteria in subsection 3, below, shall be met.~~
 - ~~b.—**Access Standards:** Access design and permitting shall comply with sub-section 8.3.6 of this Code and as applicable, any requirements or guidelines as set forth by~~

~~the Minnesota Department of Transportation.~~

~~e. **Width and Grade:** The following standards of street design shall be observed by the subdivider:~~

	Minimum Width		
	(Lot Line to	Maximum	
	Minimum Lot Line)	Grade	Grade
Collector streets	80 feet	6%	0.5%
Minor streets	70 feet	6%	0.5%
Marginal access	50 feet	6%	0.5%

- ~~d. **Tangents:** Tangents of at least one hundred feet (100') in length shall be introduced between reverse curves on collector streets and fifty feet (50') on lesser streets.~~
- ~~e. **Alignment:** Local streets shall be aligned so that their use by through traffic will be discouraged.~~
- ~~f. **Street Jogs:** Street jogs with center line offsets of less than one hundred twenty five feet (125') shall be avoided.~~
- ~~g. **Intersections:** Insofar as practical, streets shall intersect at right angles and no intersection shall be at an angle of less than sixty degrees (60°). It must be evidenced that safe and efficient traffic flow is encouraged.~~
- ~~h. **Street Corners:** Street corners that are not at intersections shall be curved and shall not turn at right angles.~~
- ~~h. **Cul-De-Sacs:** Unless approved by the Planning Commission, the maximum length of permanent cul-de-sac streets shall be one thousand three hundred and twenty feet (1320') measured along the center line from the intersection of origin to end of right of way. Each cul-de-sac shall be provided at the closed end with a turnaround having a minimum outside right-of-way diameter of seventy-five feet (75') and a minimum road surface diameter of sixty feet (60'). Cul-de-sacs in the UED shall meet city standards.~~
- ~~i. **Township Roads Maintained by County:** Any township road in a new subdivision that is intended to be maintained by Clay County shall meet construction and design specifications established by the County Engineer.~~
- ~~j. **Half Streets:** Half streets shall be prohibited except where the Planning Commission finds it to be practical to require the dedication of the other half when adjoining property is subdivided.~~
- ~~k. **Street Names:** Street names and numbering shall conform to the established county street numbering system.~~
- ~~l. **Surfacing:** Street surfacing done by the applicant shall be approved by the County Engineer.~~
- ~~m. **Private Streets:** Private streets shall not be approved.~~
- ~~n. **Local Service Drives:** Where a proposed plat is adjacent to a major thoroughfare or railroad right of way, the Planning Commission may require the applicant to provide local service drives along the right of way of such facilities or they may require that lots should back on the thoroughfare, in which case vehicular and pedestrian access~~

~~between the lots and thoroughfare shall be prohibited.~~

- ~~o. **Street Arrangements:** The street arrangements shall reflect the design and connect to adjacent subdivisions and shall not be such as to cause hardship to owners of adjoining unplatted property in platting their own land and providing convenient access to it.~~

~~p. **Property Lines at Intersections:** Property lines at street intersections shall be rounded at a radius of not less than ten feet (10') and curb lines on a radius of not less than twenty feet (20').~~

~~3. **Easements:**~~

~~2.1. **Utility Easements:** Utility easements at least ten feet (10') wide shall be provided for utilities where necessary. They shall be centered on rear and other lot lines or within alley rights of way. They shall have continuity of alignment from block to block. ~~At deflection points, easements for pole line anchors shall be provided where necessary.~~~~

~~a. **Storm Water Easement:** Where a subdivision is traversed by a watercourse or drainage way, there shall be provided a storm water easement or drainage right of way substantially within the lines of such watercourse, together with such further width or construction or both, as will be adequate for storm water runoff. The easement shall include not only the stream channel, but also adjoining areas that have been subject to flooding in years of heavy runoff.~~

~~4. **Blocks:**~~

~~a. **Length:** Block lengths shall not exceed one thousand two hundred feet (1,200') and, if possible, shall not be less than three hundred feet (300') in length. In blocks longer than eight hundred feet (800'), a pedestrian crossway with a minimum right of way of ten feet (10') shall be required near the center of the block. The use of additional accessways to schools, parks, and other designations may also be required.~~

~~b. **Design:** A block shall be so designed as to provide two (2) tiers of residential lots of appropriate depth, unless it adjoins a railroad, limited access highway or county road, and unless the rear lot line abuts a different land use, body of water, or topographic conditions necessitate a single tier of lots.~~

~~5. **Lots:**~~

~~a. **Side Lot Lines:** Where possible, side lot lines shall be at right angles to straight street lines or radial to curved street lines. Lots with frontage of two (2) parallel streets shall be permitted only under unusual circumstances.~~

~~b. **Design, Orientation:** The lot design and orientation shall be appropriate for the location of the subdivision and for the type of development or use proposed.~~

~~c. **Minimum Setbacks:** Minimum lot line setbacks shall be those specified for the zoning district within which the subdivision is located.~~

~~d. **Vehicular Access:** There shall be no direct vehicular access from residential lots to an arterial street and residential lots shall be separated from major arterial streets and railroad rights of way by a twenty five foot (25') buffer strip, which may be in the form of added depth or width of lots backing on or siding on the thoroughfare or railroad right of way.~~

~~e. **Lot Remnants:** Lot remnants which are below the minimum lot size must be added to adjacent or surrounding lots rather than be allowed to remain as an unusable outlot or parcel unless the owner can show plans for the future use of such remnants.~~

~~6. **Natural Features:** In the subdivision of land, due regard shall be shown for all natural features which, if preserved, will add attractiveness and stability to the proposed~~

development.

~~F. **Required Improvements:** Before the County Board approves a final plat, the subdivider shall give~~

~~satisfactory assurance of the provision of the requirements listed below. Required assurance shall be satisfactory to the County Board and may include financial assurances.~~

- ~~1.—**Monuments:** Steel monuments shall be placed at all back corners, angle points, points of curves in streets and at intermediate points as referred by the Planning Commission. All U.S., State, County or other official benchmarks, monuments, or triangulation stations in or adjacent to the property shall be preserved in precise position. The material, size and length of all monuments shall be approved by the County Engineer.~~
- ~~2.—**Streets:** All the streets shall be improved in accordance with the engineering specifications established by the County Engineer.~~
- ~~3.—**Water Supply:** Safe and potable water shall be provided by a central distribution system serving the subdivision or by individual wells. In all cases, water shall be supplied in accordance with County specifications. In flood plain areas water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.~~
- ~~4.—**Sanitary Sewer:** Sanitary sewage disposal shall be by a central system serving the subdivision or by individual systems. In all cases, sewage disposal systems shall be provided in accordance with Title 6, Chapter 1 of this Code. The flood prone area's new and replacement sanitary sewers shall be designed to minimize or eliminate infiltration of the flood waters into the system into flood waters and on-site water disposal systems shall be located to avoid impairment or contamination during flooding.~~
- ~~5.—**Drainage Facilities:** Drainage facilities and easements shall be installed as will adequately provide for the drainage of surface waters.~~
 - ~~2.1. **Street Name Signs:** Street name signs will be provided and installed by the County.~~
- ~~6.—**Stop or Yield Signs:** Stop signs and yield signs shall be placed at streets intersecting highways, arterial streets and collector streets, where the intersection is not of the directional interchange type and as approved by the County Engineer.~~
- ~~7.—**Specifications:** All of the required improvements shall conform to engineering standards and specifications as required by the County.~~

~~8-7-15 : CLUSTER SUBDIVISION REQUIREMENTS~~

~~Cluster subdivisions are allowed in the AG Agricultural Zoning District. Cluster subdivisions shall conform to the following requirements:~~

- ~~A.—**Conformance with Zoning District Regulations Density, Location and Design:** A proposed cluster subdivision shall conform to the all of the provisions in Article 8-5D-4B. of this Ordinance, which includes density, location and design provisions.~~
- ~~B.—**Pre Application Requirements and Staff Review of Application:** An applicant for a cluster subdivision shall meet the pre-application meeting requirements of section 8-7-10 of this Article, and shall meet the staff review provision of section 8-7-11 of this Article.~~
- ~~C.—**Plat Review:** An application for a cluster subdivision shall be reviewed in the manner of a preliminary and final plat for land division by registration of a plat of subdivision in section 8-7-13, above.~~
- ~~D.—**Required Improvements:** Required improvements for a cluster subdivision shall be those~~

| ~~listed in~~

~~section 8-7-13, above.~~

~~8-7-16 : LAND DIVISION BY COMMON INTEREST COMMUNITY PLAT~~

~~A. **When Required:** Any proposed land division that involves the creation of a common interest community shall conform to the requirements of this section 8-7-14.~~

~~B. **Application and Plat Requirements:** An applicant for a land division by common interest community plat shall meet the following requirements.~~

~~1. **Pre Application Requirements and Staff Review of Application:** An applicant for a land division by common interest community plat shall meet the pre-application meeting requirements of section 8-7-10 of this Article, and shall meet the staff review provision of section 8-7-11 of this Article.~~

~~2. **Preliminary Plat:** After the pre-application meeting and staff review of the application, an applicant shall submit three (3) copies of the following:~~

~~a. An application on forms provided by the Planning Department;~~

~~b. A preliminary plat meeting the data requirements of Minnesota Statutes Chapter 515B.2-110; and~~

~~c. Improvement plans meeting the requirements of section 8-7-14 E, above.~~

~~C. **Review of Common Interest Community Plat:** An application for land division by common interest community plat shall be reviewed in the manner of a preliminary and final plat for land division by registration of a plat of subdivision in section 8-7-14, above.~~

~~D. **Required Improvements:** Required improvements for an approved common interest community plat shall be those listed in section 8-7-14, above.~~

~~8-7-17 : UNITED STATES PUBLIC LAND SURVEY MONUMENT RECORD:~~

~~A. **Preparation Required:** A United States public land survey monument record must be prepared as part of any land survey which includes or requires the perpetuation or restoration of a United States public land survey corner and one of the following conditions exists:~~

~~1. There is no United States public land survey monument record for the corner on file in the office of the county recorder for the county in which the corner is located; or~~

~~2. The land surveyor who performs the survey accepts a position for the United States public land survey corner which differs from that shown on a United States public land survey monument record filed in the office of the county recorder for the county in which the corner is located; or~~

~~3. The witness ties referred to in an existing United States public land survey monument record have been destroyed.~~

~~B. **Certificate of Location of Government Corner:** A United States public land survey monument record must be prepared on a certificate of location of government corner, as specified in Minnesota statutes section 160.15, subdivision 5, as amended and laid out~~

~~herein.~~

~~C. **Position and Other Elements:** A United States public land survey monument record must show the position of the corner and must include all the following elements:~~

- ~~1.—The identity of the corner, as referenced to the United States public land survey system;~~
- ~~2.—A description of any record evidence, monument evidence, occupational evidence, testimonial evidence, or any other material evidence considered by the surveyor, and whether the monument was found or placed;~~
- ~~3.—If possible, reference ties to at least three (3) witness monuments made of concrete, natural stone, iron, or other equally durable material, including trees;~~
- ~~4.—A plan view drawing depicting the relevant monuments and reference ties which is in sufficient detail to enable accurate restoration of the corner position if the corner monument has been disturbed;~~
- ~~5.—A description of any significant discrepancy between the position of the corner as restored and the position of that corner as previously restored;~~
- ~~6.—Whether the corner was restored through acceptance of an obliterated evidence position or a found perpetuated position;~~
- ~~7.—Whether the corner was restored through lost corner proportionate methods;~~
- ~~8.—The directions and distances to other public land survey corners which were used as evidence or used for proportioning in determining the corner positions;~~
- ~~9.—Clay County Coordinates—A Northing and an Easting in the Clay County Coordinate System NAD 83 (1996 Adj.) shall be included on each certificate; and~~
- ~~10.—The signature of the land surveyor under whose direction and control the corner position was determined and a statement certifying that the United States public land survey monument record is correct and complete to the best of the surveyor's knowledge and belief.~~

~~**D.—Manner Of Placement:** The permanent marking of the corners and establishment of reference or witness monuments shall be in the following manner: At the exact location of the corner there shall be placed a stone, concrete, or metal marker not less than four inches (4") in diameter at the top and not less than eighteen inches (18") deep. In the case of a paved highway there shall also be placed over the marker and in the surface of the pavement a metallic plug not less than one inch (1") in diameter and two inches (2") in depth.~~

~~**E.—Time Of Placement:** Reference or witness monuments evidencing the location of the corner shall be established before the obliteration of the corner in at least two (2) places most practicable and shall consist of stone, concrete, or cast iron.~~

~~**F.—Filing Of Certificate:** The engineer or surveyor placing and establishing the markers or monuments shall file a certificate to that effect in the office of the county recorder in the county or counties wherein the markers or monuments were placed along with the survey. Each certificate shall contain only the record of markers and monuments at one corner. The county recorder will not charge a fee for filing the certificate, but may still charge a fee for the filing of the survey.~~

~~**G.—**Contents** Of Certificate:** The certificates shall be on sheets of durable material, which sheets shall be eight and one-half by eleven inches (8 1/2 x 11") in size with a margin at the left for binding. The certificates shall contain the following:~~

- ~~1.—Identification of section, or quarter section corner.~~

~~2.—Description of monument removed.~~

~~3.—Description of replacement monument.~~

~~4.—Reference ties or witness monuments.~~

~~5.—Statements relating to physical and parcel evidence relating to history and authenticity of the corner monument.~~

~~6.—Date of re-monumentation.~~

~~7.—Certification by a registered surveyor or registered engineer.~~

~~**H.—Minnesota Statutes Provisions:** Subsections A through C of this section are intended to incorporate the requirements of Minnesota statutes section 381.12, subdivision 3, and shall be deemed amended as that statute may be amended from time to time.~~

~~1.—Subsections D through G of this section are intended to incorporate the requirements of Minnesota statutes section 160.15, subdivisions two (2) through five (5), and shall be deemed amended as that statute may be amended from time to time.~~

~~**I.—Failure To Comply:** Failure to comply with the provisions of this section shall result in the Clay County auditor rejecting any affected documents for recording or filing in the office of the Clay County recorder, which documents may include, but not be limited to, deeds, mortgages, surveys, plats, etc.~~

~~**J.—Document Number:** When a corner certificate is on file relative to an applicable corner, the document number of that certificate must be provided along with the survey, plat, or other document. In each and every circumstance, a document number or corner certificate must be filed along with the plat or survey.~~

**CHAPTER 8
DEFINITION**

8-8-1: RULES OF CONSTRUCTION:

1. The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:
 - a. All defined terms contained within this Ordinance are capitalized throughout.
 - b. The singular number includes the plural and the plural the singular.
 - c. The present tense includes the past and future tenses and ~~the future the present~~ vice versa.
 - d. The word “shall” is mandatory and the word “may” is permissive.
 - e. The ~~maseulineuse of the neuter~~ gender includes, (they/them) is used throughout in place of the feminine and ~~neuter~~ masculine genders.
 - f. Whenever a word or term defined hereinafter appears in the text of this Ordinance, its meaning shall be constructed as set forth in such definition. If no set definition is given in the Ordinance, the word may be interpreted according to the dictionary definition.

8-8-2: DEFINITIONS:

2. References to Other Laws and Codes. All references to other laws, codes, rules, or statutes rules shall be construed as including any successor law, code, rule, or statute, or amendment thereto.
3. Definitions in Other Sections. Several sections of this Ordinance contain definitions apart from this Chapter. Definitions listed in other sections are only applicable to those sections.

8-12-2. Definitions

As used in this Ordinance, the following words and terms shall have the meanings ascribed to them in this Section:

ACCESS: Access. A means of providing vehicular entrance or exit to a property or ~~pareel~~ lot from an abutting property, public road or right-of-way. Access types include permanent, temporary or field openings and can be full or limited.

ACCESS PERMIT: Access, full. Roads with unrestricted access, meaning access is permitted at any point.

~~Access, limited.~~ Roads with restricted access, typically limited to designated interchanges and ramps.

~~Access Permit. Required for~~ any field opening, driveway, public or private street/~~roadway or road~~ that provides reasonable access for the movement of vehicles between the County road system and an abutting property.

~~ACCESS PLAN:~~Access Plan. A plan reviewed by the County Planning Commission and approved by the Board of Commissioners upon recommendation of the County ~~highway~~ Engineer establishing a coordinated plan for access connections to the county roadway system as part of an application for subdivision, Conditional Use Permit or a Development Permit.

~~ACCESS, PRIVATE:~~Access, private. An access connection that is privately owned and maintained and which provides the ~~principal~~primary means of access to an abutting property.

~~ACCESS, PUBLIC:~~Access, public. An access connection under the jurisdiction of a public authority that provides the principal means of access to an abutting property.

~~ACCESSORY STRUCTURE OR FACILITY:~~Accessory dwelling unit. A separate, complete housekeeping unit with a kitchen, sleeping area, and full bathroom facilities which is located on the same lot as a principal single-family dwelling. An attached accessory dwelling unit is located within the principal single-family dwelling while a detached accessory dwelling unit is located in a separate accessory structure from the principal single-family dwelling.

Accessory structure or facility. Any building or improvement ~~which~~that is incidental and subordinate to a principal use on the same lot or parcel, which, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks.

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

~~ADULT ENTERTAINMENT:~~**Administrative Permit.** Any permit for a use that is granted by the Zoning Administrator. See also Development Permit.

Administrative subdivision. Any lot combination, lot line adjustment or lot split that is granted by the Zoning Administrator.

Adult entertainment. Any adult bookstore, strip club, adult hotel or motel, adult motion picture arcade, adult motion picture theater, cabaret, sexual encounter center, or any other business or establishment that offers its patrons services or entertainment characterized by an emphasis on matter depicting, describing, or related to specific sexual activities or specified anatomical areas, but not included those uses or activities, the regulation of which is preempted by state law. Any establishment in which adult videos comprise more than ~~fifty~~**50** percent ~~(50%)~~ of the video products in stock shall be considered an adult entertainment use.

~~AGENCY: The Minnesota Pollution Control Agency as established in Minnesota Statutes Annotated chapter 116.~~

~~AGRICULTURAL SERVICE ESTABLISHMENT:~~**Agricultural service establishment.** Any service establishment primarily engaged in performing animal husbandry or horticultural services, including businesses performing agricultural milling and processing, harvesting or agricultural land preparation, farm equipment sales and service, veterinary services, boarding or training of horses and agricultural produce stands.

~~AGRICULTURAL USE:~~**Agricultural tourism.** Commercial activity carried out on a farm or ranch that allows organizations or members of the general public, for recreational, entertainment, charitable, or educational purposes, to view, enjoy, or participate in rural activities, including, but not limited to: farming; viticulture; winemaking; ranching; and historical, cultural, farm stay, gleaning, harvest-your-own, or natural activities and attractions.

Agricultural use. The use of land for agricultural purposes, including farming, dairying, pasturage agriculture, ~~apiculture~~, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary accessory uses for storing the products. The term shall include incidental retail sales by the producer of products raised on the farm.

~~AIRPORT:~~**Airport.** Any area of land or water used, or intended to be used, for the landing and taking off of aircraft, and any appurtenant areas used or intended to be used for airport buildings or other airport facilities or ~~right~~**rights-of-way**, including all necessary taxi ways, aircraft storage and tie-down areas, hangars, and other necessary buildings and open spaces.

~~AIRPORT HAZARD:~~**Airport hazard.** Any structure ~~or~~₂ tree₂ or use of land which obstructs the ~~airspace~~**air space** required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at ~~an~~**the** airport ~~or~~; and any use of land which is otherwise hazardous to ~~such landing or taking off of aircraft~~ persons or property because of its proximity to the airport.

~~AIRPORT HAZARD AREA:~~ **Airport hazard area.** Any area of land upon which an airport hazard might be established.

~~AMENDMENT: A change in the wording of this Ordinance or change in the zone boundaries upon airport hazard Areas are identified by the Landing Field Overlay District and the Zoning Map established by the Hawley Municipal Airport Zoning Ordinance and the Moorhead Municipal Airport Zoning Ordinance.~~

~~ANNEXATION:~~ **Annexation.** The incorporation of a land area into an existing municipality with a resulting change in the boundaries of that municipality.

~~ANIMAL FEEDLOT: A lot or building or combination of lots or buildings used for a period of at least forty-five (45) consecutive days during any calendar year for the confined feeding, breeding, raising, or holding of animals and specifically designed as 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. Also included are all adjacent manure storage facilities and areas used for storage and/or disposal of dead animals. For the purposes of this Ordinance, open lots used for the feeding and rearing of poultry shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots.~~

~~ANIMAL MANURE: Poultry, livestock, or other animal excreta or a mixture of excreta with feed, bedding, or other materials.~~

~~ANIMAL UNIT: The unit of measure used to determine the appropriate density at which livestock and poultry can be raised subject to the restrictions imposed by this Ordinance. For purposes of this Ordinance, the multiplication factors as set forth in Minnesota Rules Chapter 7020.0300, as currently set and as amended from time to time, shall apply.~~

~~APPROACH AREA: That part of an airport hazard area as designated on the height zone map, along each side of the extended center line of a runway and lying below the normal glide path of aircraft approaching the runway to land.~~

~~AUTOMOBILE SERVICE STATION: Any building, structure or land used primarily for the dispersal, sale, or offering for sale of automotive fuels, oils, automobiles and replacement or installation of minor parts and accessories, but not including major repair work, such as motor replacement or rebuilding, body and fender repair, or painting.~~

~~AUTOMOBILE, TRUCK, TRAILER, AND GARDEN AND FARM EQUIPMENT SALES: An open area on other than a street, used for the display, sale or rental of new or used motor vehicles, truck, garden and farm equipment, or trailers in operable condition and an enclosed area where limited repair and service work is done, but not to include storage of automobiles not in operating condition, outdoor storage of vehicle parts, or other work involving noise, glare, fumes, smoke, or other nuisance characteristics.~~

~~AUTO WRECKING AND JUNKYARD: An open area where waste, used or secondhand materials or automobiles are bought, sold, exchanged, stored, baled, packed, disassembled or handled. A "junkyard" includes an auto wrecking yard, but does not include uses established entirely within an enclosed building.~~

~~**BAR:** Animal feedlot and related terms. See 8-8-2(A).~~

~~**Applicant.** An individual, partnership, corporation, government agency, or other entity that submits an application to the County for a permit, license, zoning amendment, variance, or other official approval or authorization.~~

~~**Asphalt batch plant.** A manufacturing facility for the production of asphalt.~~

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

~~**Auto wrecking and junkyard.** See salvage yard.~~

~~**Auxiliary lane.** The portion of the roadway adjoining the traveled way for parking, speed change, turning, storage for turning, weaving, truck climbing, or for other purposes supplementary to through traffic movement.~~

~~**Bar.** An area primarily devoted to the serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages.~~

~~BASEMENT: (residential and non-residential)~~**Basement.** Any area of a structure, including crawl spaces, having the upper surface of its floor or base subgrade (below ground level) on all four (4) sides, regardless of the depth of excavation below ground level.

~~BASE FLOOD ELEVATION (BFE): The elevation of surface water resulting from a flood that has a one~~

~~(1) percent probability of equaling or exceeding that level in any given year as determined by the Federal Emergency Management Agency. The BFE is shown on the Flood Insurance Rate Map (FIRM) as zone AE. Base Flood, regional flood, and 100-year flood are synonymous.~~

~~BED AND BREAKFAST: A private residence~~**Bed and breakfast.** A dwelling that offers sleeping accommodations for rent to lodgers in four (4) or fewer rooms, in the innkeeper's (owner or operator) principal ~~residence~~dwelling, and serves breakfasts to its lodgers. For the purpose of this definition, a lodger means a person who rents a room in a bed -and- breakfast establishment for fewer than ~~fourteen (14)~~ consecutive days.

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

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

~~BLUFF, TOE: 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 the bluff shall be determined to be the lower end of the lowest ten (10) foot segment that exceeds eighteen (18) percent slope.~~

~~BLUFF, TOP: The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler slope above. If no break in the slope is apparent, the top of the bluff shall be determined to be the upper end of the highest ten (10) foot segment that exceeds eighteen (18) percent slope.~~

~~BLUFF IMPACT ZONE: Land located within a bluff.~~

~~BOARD OF ADJUSTMENT: **Billboard.** A large outdoor advertising device visible to and primarily intended to advertise and inform or to attract or which does attract the attention of operators and occupants of motor vehicles and shall include any structure erected primarily for use in connection with the display of any such device and all lighting or other attachments used in connection therewith.~~

~~**Block.** A tract of land consisting of one or more lots, as identified on the plat, and bounded by plat boundaries, public ways, outlots, parks, or bodies of water.~~

~~**Board of Adjustment.** The Clay County Board of Adjustment as described in the administrative section of this Ordinance 8-11-4 (Board of Adjustment) and authorized under Minnesota Statutes, Section 394.27.~~

~~BOARD OF COMMISSIONERS: **Board of Commissioners.** See County Board.~~

~~BUILDABLE AREA: **Buildable area.** The ~~upland~~ area of a lot remaining after the minimum ~~yard~~ setback requirements of this Ordinance have been complied with.~~

~~BUILDING: **Building.** A structure, either temporary or permanent, having a roof or other covering, and designed for the shelter or enclosure of any person, animal, or property of any kind, ~~including tents, awnings or vehicles situated on private property and used for purposes of a building.~~~~

~~BUILDING HEIGHT: **Building height.** The vertical distance between the highest adjoining ground level at the building, or ~~ten~~10 feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.~~

~~BUILDING LINE: A line parallel to a lot line or the ordinary high water level at the required **Building setback** beyond which a structure may not extend.~~

~~BUILDING SETBACK LINE:~~line. A line parallel with the street right-of-way line, private road, ~~property lot~~ line, ordinary high-water ~~mark level~~, or access easement, at the required setback beyond which a building may not extend. This definition also applies to structures.

~~CAMPGROUND:~~Campground. An area to be used for transient occupancy by camping in tents, camp trailers, travel trailers, motor homes, or similar movable or temporary sleeping quarters of any kind.

~~CANNABIS DEFINITIONS:~~ See ~~MN~~Cannabis. As defined by Minnesota Statute 342.01.

~~CEMETERY:~~Cannabis mezzobusiness. A business entitled to grow, manufacture, process and sell cannabis products per Minnesota Statute 342.29.

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

~~CENTRALIZED WATER AND SEWER SYSTEMS; CENTRALIZED UTILITIES:~~Centralized water and sewer systems; centralized utilities. Utilities systems serving a group of buildings, lots, or an area of the County, with the design and construction of such utility systems as approved by the County and/or the State of Minnesota. A centralized sewer system may include, but is not limited to, a community mechanical treatment system or a shared mound septic system.

~~CERTIFICATE OF COMPLIANCE: A letter from the Director or County Feedlot Pollution Control Officer to the owner of an animal feedlot stating that the feedlot meets agency requirements.~~

~~CHANGE IN OPERATION: An increase beyond the permitted maximum number of animal units, an increase in the number of animal units which are confined at an unpermitted animal feedlot requiring a construction investment, or a change in the construction operation of an animal feedlot that would affect the storage, handling, utilization, or disposal of animal manure.~~

~~CLUSTER DEVELOPMENT: A pattern of **Cluster subdivision** development which. A subdivision that places housing units/dwellings into compact groups and in which all lots are accessible via an internal subdivision road.~~

~~COMMERCIAL AGRICULTURE: **Commercial agriculture.** The use of land for commercial agricultural purposes including farming, dairying, pasturage, horticulture, floriculture, animal and poultry husbandry and the necessary accessory buildings and accessory uses for packing, treating or storing produce; provided agricultural revenues shall be the principal source of income from any operations.~~

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

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

~~COMMISSIONER: The Commissioner of the State Department of Natural Resources.~~

~~COMMUNICATION TOWER: **Communication tower.** A structure that is used primarily as a communication antenna or as a communication antenna support structure.~~

~~COMPREHENSIVE PLAN: A compilation of goals, policy statements, standards, programs and maps for guiding the physical, social and economic development, both public and private of the County and its environs and includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.~~

~~CONDITIONAL USE: A specific type of structure or **Comprehensive Plan.** The Clay County 2045 Comprehensive & Transportation Plan.~~

~~**Conditional use.** A land use listed in the official control or development that would not be appropriate generally but may be allowed but only after an in-depth review procedure and~~

with appropriate ~~conditions or restrictions as provided in the official zoning controls~~ and upon a finding that :

certain conditions as detailed in ~~Section 8-4-6 of~~ this Ordinance exist; ~~and,~~

~~The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.~~

~~CONSERVATION EASEMENT:~~ **Conservation easement.** A legal agreement restricting development of farmland or natural areas. Lands subject to a conservation easement are generally restricted to farming and open space uses. A conservation easement does not imply any right of public access, except for periodic monitoring by the agency or entity holding the easement.

~~CORRECTIVE OR PROTECTIVE MEASURE: A practice, structure, condition, or combination thereof which prevents or reduces the discharge of pollutants from an animal feedlot to a level of conformity with Agency rules.~~

~~COUNTY:~~ **County.** Clay County, Minnesota.

~~COUNTY BOARD:~~County Board. The Clay County Board of Commissioners.

~~COVENANTS:~~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.

~~CROP EQUIVELANCY RATING: The weighted average per quarter-quarter section of land that represents the relative net economic return per acre of soil as reflected by the differences in productivity between soils, as determined by the University of Minnesota.~~

~~DAY CARE:~~Day care. Any facility operated for the purpose of providing care, protection, and guidance to seven (7) or more individuals during only part of a 24-hour day, outside their place of residence. This term includes nursery schools, preschools, day care centers for adults, and other similar uses but excludes public and private educational facilities or any facility offering care to individuals for a full 24-hour period.

~~DECK:~~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~~3 feet ~~(3')~~ above ground.

~~DEVELOPMENT: The performance of any building or mining operations, the making of any material change in the use of any structure or land, the parceling of land into one or more lots, tracts or parcels and the creation or termination of rights of access or riparian rights.~~

~~DEVELOPMENT ORDER:~~Development. As defined under *8-1-6 (Development Defined)*.

~~Development Permit. Also referred to as a Zoning Certificate. Any approval, conditional approval or denial of a development permit by the County Board of Commissioners, Planning Commission, Board of Adjustment, administrative officer or employee, board or individual responsible for administration of this Ordinance.~~

~~DEVELOPMENT PERMIT: Any Administrative Permit customarily called a buildingan Access Permit, Administrative Permit, building permit, land alteration permit, septic permit, zoning certificate, conditional use sign permit, subdivision plat, zoning amendment, certification, varianceesolar energy permit or other action having the effect of permitting development.~~

~~DIRECTOR: The Executive Director of the Minnesota Pollution Control Agency whose duties are defined in Minnesota Statutes Annotated section 116.03.~~

~~DOMESTIC FERTILIZER:~~

District. A specifically delineated area of the County within which regulations and requirements uniformly govern the use and area of lots and the placement, spacing, and size of structures.

District, base. A zoning district established by the Clay County Land Development Ordinance that prescribes basic regulations governing land use and site development standards. Base districts consist of the Agricultural General, Agricultural Service Center, Highway Commercial and Limited Highway Commercial Districts.

District, overlay. A zoning district overlying a base district established by the Clay County Land Development Ordinance that prescribes additional land use and site development standards. Overlay zoning districts consist of Flood Hazard, Landing Field, Shoreland, Resource Protection, and Urban Expansion Districts.

Domestic fertilizer. Animal manure that is put on or injected into the soil to improve the quality or quantity of plant growth; or animal manure that is used as compost, soil conditioners, or specialized plant beds.

~~A-**Drinking** animal manure that is used as compost, soil conditioners, or specialized plant beds.~~

~~**DRINKING**~~ **Water Supply Management Area (DWSMA).** An area, including the entire Wellhead Protection Area, determined using identifiable landmarks such as roads and property boundaries within which drinking water supply activities are managed and risks are mitigated.

~~**DRIVEWAY:**~~ **Driveway.** A roadway or opening constructed for vehicular travel and which is privately owned and maintained; and provides the principal means of access to three (3) or fewer abutting parcels or ~~residences~~ dwellings.

~~DWELLING OR DWELLING UNIT:~~**Dwelling; dwelling unit.** A residential building or portion thereof, including mobile homes, intended for occupancy by a single person or family but not including hotels, motels, boarding or rooming houses, or tourist (e.g., short term rental) homes.

~~DWELLING, SINGLE FAMILY:~~**Dwelling, single-family.** A building containing one (1) dwelling unit only, including a manufactured home ~~with one dwelling unit.~~

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

~~DWELLING, TWO FAMILY:~~**Dwelling, two-family; duplex.** A building containing two (2) dwelling units. ~~Also~~

~~Easement.~~ An interest in land possessed by another which entitles the grantee of the interest to a duplex-limited use or enjoyment of that land.

~~EQUAL DEGREE OF ENCROACHMENT: A method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.~~

~~ESSENTIAL SERVICES:~~**Effective date.** The date of adoption of this Ordinance or any amendment thereto by action of the County Board.

~~Environmental Assessment Worksheet (EAW).~~ A brief document designed to lay out the basic facts of a project necessary to determine if an Environmental Impact Statement (EIS) is required for the proposed project. In addition to the legal purpose of the EAW in determining the need for an EIS, the EAW also provides permit information, informs the public about the project, and helps identify ways to protect the environment. The EAW is not meant to approve or deny a project, but instead act as a source of information to guide other approvals and permitting decisions. The EAW is completed by the Responsible Governmental Unit (RGU) designated according to Minnesota Rules 4410.0500.

~~Environmental Impact Statement (EIS).~~ A study that provides detailed information about the extent of potentially significant environmental impacts of a proposed project, presents alternatives to the proposed project, and identifies methods for reducing adverse environmental effects. The required form and content of an EIS is described in Minnesota Rules 4410.2300, and shall be prepared using an interdisciplinary approach that includes the natural, environmental, and social sciences. The EIS is not meant to approve or deny a project, but instead act as a source of information to guide approval and permitting decisions. The EIS is completed by the Responsible Governmental Unit (RGU) designated according to Minnesota Rules 4410.

~~Essential services.~~ Underground or overhead gas, electrical, steam, water, television, telephone, sanitary or storm sewer distribution systems, including poles, wires, pipes, conduits, cables and accessory equipment in conjunction therewith, except buildings as are required for the protection of the public

health, safety and general welfare.

~~EXTRACTIVE USE:~~**Expansion.** Any increase in a dimension such as number of units or size, area, volume, or height of an existing structure or accessory structure or facility.

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

~~FAMILY:~~**Extraterritorial Area.** See Extraterritorial Jurisdiction.

Extraterritorial Jurisdiction. An unincorporated area that is contiguous to the municipal boundaries where the municipality maintains subdivision authority.

Family. An individual or two (2) or more persons related by blood, marriage or adoption, living together, or a group of not more than five (5) persons who need not be related by blood, marriage or adoption living together as a single housekeeping unit in a dwelling unit.

~~FARM:~~**Farm.** Real property used for commercial agriculture or horticulture comprising at least ~~thirty-five (35)~~10 contiguous acres and which may contain other contiguous or noncontiguous acreage, all of which is owned, rented and operated by a single family, family corporation, individual, corporation, or partnership.

~~FARM BUILDING:~~**Farm animals.** Those animals defined by Minnesota Rules, Chapter 7020, including cattle, swine, horses, sheep, turkeys, chickens, and ducks

Farm building. Any building or accessory structure ~~other than on~~ a farm ~~or nonfarm dwelling which that~~ is used ~~in a farm implement storage building or milk house for agricultural purposes, such as housing livestock, storing equipment, or processing produce.~~ Farm buildings do not include residential living areas.

~~FARMER:~~**Farmer.** Any individual, partnership, association, or corporation that cultivates, operates or manages a farm either as an owner or tenant.

~~FARM HOMESTEAD:~~**Farmstead ring levee.** Earthen embankments typically three to six feet above grade and enclosing approximately one to five acres, designed and constructed to prevent entry of flood waters into areas containing residences, other high-value structures, drinking water wells, septic systems, harvested agricultural commodities and/or farm equipment.

Farm homestead. The site used for a farm dwelling and associated farm buildings occupied by a farmer or farm dwelling. ~~All building sites classified by the County Assessor as farm homesteads shall be considered to meet the requirements of this provision.~~

Farm stand. A structure used seasonally from which agricultural products grown by the owner of the site on which the farm stand is located are sold.

~~**FARM STAND:** A structure used seasonally from which agricultural products grown by the owner of the site on which the farm stand is located are sold.~~

Field access/opening.

~~**FEEDLOT OPERATOR:** An individual, a corporation, a group of individuals, a partnership or joint venture or any other entity having charge or control of one or more feedlots.~~

~~**FEMA:** Federal Emergency Management Agency~~

~~**FIELD ACCESS/OPENING:** An access ~~Connection~~ to an agricultural field used for the movement of farm vehicles and equipment. access to a ~~farmstead~~farm, feedlot, farm-related structures or uses contemplated under the agricultural use definition, exclusive of any uses that fall within this definition, are not considered a field access or opening.~~

~~**Flag lot.** A lot shaped like a flag, with a long, narrow strip that extends from the street to the lot's buildable area. The buildable area is surrounded by lots on all sides and contains no street frontage beyond the driveway.~~

~~**Flood and related terms.** See 8-3-2 (Definitions).~~

~~**Forest management.** Activities conducted on or directly pertaining to forest land relating to the growing, managing, harvesting, and interim storage or merchantable timber for commercial value.~~

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

~~**FLOOD FREQUENCY:** The frequency, statistically determined, for which it is expected that a specific flood stage or discharge may be equaled or exceeded.~~

~~**FLOOD FRINGE:** That portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for Clay County, Minnesota and Incorporated Areas.~~

~~**FLOOD INSURANCE RATE MAP (FIRM):** The Flood Insurance Rate Map, "Clay County, Minnesota and Incorporated Areas", dated April 17, 2012 and prepared by the Federal Emergency Management Agency.~~

~~**FLOOD INSURANCE STUDY:** The Flood Insurance Study, "Clay County, Minnesota and Incorporated Areas", dated April 17, 2012 and prepared by the Federal Emergency Management Agency.~~

~~FLOOD PLAIN: The beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the 100-year flood as determined by the use of the 100-year flood profile and other supporting technical data in the Flood Insurance Study.~~

~~FLOODPROOFING: A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages. For the purpose of this Ordinance, the classification of buildings and structures (FP-1 through FP-4) shall be as defined in section 210.1 of the 1972 edition and any amendments thereto of "Flood Proofing Regulations," as developed by the office of the Chief Engineers, U.S. Army, Washington, D.C.~~

~~FLOODWAY: The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry, store, and discharge the regional flood as determined by the use of the 100-year flood profile and other supporting technical data in the Flood Insurance Study.~~

~~FOREST LAND CONVERSION: The clear-cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.~~

~~FOREST MANAGEMENT: Activities conducted on or directly pertaining to forest land relating to the growing, managing, harvesting, and interim storage or merchantable timber for commercial value.~~

GARAGE, PRIVATE: Garage, non-commercial. An accessory building housing non-commercial motor driven vehicles that are the property of and for the private use of the occupants of the lot on which the private garageuse is located.

~~GEOLOGIC SENSITIVITY: The Minnesota Department of Natural Resources (DNR) identifies sensitive areas as geographic areas defined by natural features where there is significant risk of ground water degradation from activities conducted at or near the surface (Minn. Stat. Sec. 103H.005). The natural features are the geologic conditions in the area. This approach is called intrinsic or geologic sensitivity.~~

~~GOLF COURSE:~~ Gas station/convenience store. Any building, structure, or land used primarily for the dispersal, sale, or offering for sale of automotive fuels, oils, automobiles and replacement or installation of minor parts and accessories, but not including automotive repair uses.

Golf course. A tract of land laid out with at least nine holes for playing a game of golf and improved with tees, greens fairways, and hazards. ~~A golf course includes, which may or may not include a clubhouse and shelters as~~ with accessory commercial uses.

~~GOVERNMENTAL FACILITY:~~ **Government facility.** A building or structure owned, operated, or occupied by governmental agency to provide a governmental service to the public.

~~HARDSHIP: The same as that term is defined in Minnesota Statutes Annotated chapter 394, as amended.~~

~~HISTORIC SITE:~~ **Heliport.** An area of land or water, or a structure, used or intended to be used for the landing and takeoff of helicopters, together with appurtenant buildings and facilities.

Historic site. A location set aside for no other purpose than to commemorate a historical event, activity, or person.

~~HOME OCCUPATION:~~ **Historic structure.** As defined in 44 Code of Federal Regulations, Part 59.1.

Home occupation An occupation, profession or craft which is customarily incidental to or carried on at a residential dwelling site or farm homestead ~~and serving a local service area.~~

~~IRRIGATION SYSTEM:~~ **Hotel.** Shall have the meaning given in Minnesota Statutes, Section 157.15, subdivision 7.

Impervious surface. Any material that substantially reduces or prevents the infiltration of water. impervious surfaces include, but are not limited to: streets, roofs, sidewalks, driveways, parking lots, and similar facilities and areas covered with gravel, concrete, bituminous, compacted sand, lime rock, clay or other surfaces that substantially reduce or prevent the infiltration of water.

Incorporated community. A city or municipality with corporate status and the power to govern itself.

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

~~**Intentional community.** A permanent, artificial watering system designed to transport and distribute water to plants.~~

~~INTENSIVE VEGETATION CLEARING: The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.~~

~~INTENTIONAL COMMUNITY:~~ voluntary residential ~~communities~~community that ~~are~~is designed from the start to have a high degree of social cohesion and teamwork. A person or family may choose to reside in an intentional ~~Living~~community for social, political, religious, or spiritual reasons, amongst others. A common example in Minnesota is a Hutterite colony. This use supports multifamily dwellings and accessory uses.

Interim use. As defined in by 8-11-8 (Interim Use Permits).

Irrigation system. A permanent, artificial watering system designed to transport and distribute water to plants.

~~INTERIM PERMIT: A permit issued by the Director or County Feedlot Pollution Control Officer~~

~~which expires no longer than ten (10) months from the date of issue.~~

~~KENNEL: Any lot or premises on which four (4) or more dogs or cats of over three (3) months of age are kept or raised.~~

~~LANDFILL: **Joint Powers Agreement.** An agreement between two or more governmental units, entered into through action of their governing bodies, which allows for the joint or cooperative exercise of any power common to the contracting parties or any similar powers, including those which are the same except for the territorial limits within which they may be exercised. The agreement may provide for the exercise of such powers by one or more of the participating governmental units on behalf of the other participating governmental unit.~~

~~**Junkyard.** See salvage yard.~~

~~**Kennel.** Any place, building, tract of land, abode, or vehicle wherein or whereupon dogs or cats are kept, congregated, or confined, if the dogs or cats were obtained from municipalities, pounds, auctions, or by advertising for unwanted dogs or cats, or dogs or cats strayed, abandoned, or stolen. “Kennel” does not include a pound owned and operated by any political subdivision of the state or a person's home where dogs or cats are kept as pets.~~

~~**Landfill.** A State-licensed site used for disposing of solid wastes, including organic materials such as garbage.~~

~~LAND USE: **Land use; use.** The development existing ~~on~~ use or function of an area of land.~~

~~LEVEE: **Levee.** A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.~~

~~LOT: A parcel **Light industrial.** Manufacturing and processing activities that are considered relatively clean and non-disruptive, typically with minimal off-site impacts like noise, odor, dust, and smoke, and contained within a building.~~

~~**Lot.** An area of land designated by plat, metes and bounds, registered land survey, ~~auditors~~ auditor's plot, or other accepted means and separated from other ~~parcels or portions~~ land by said description for the purpose of sale, lease, or separation, and which is of sufficient size to meet minimum requirements of this Ordinance or, when used in reference to a feedlot, is an open air space designed to confine livestock.~~

~~LOT AREA: **Lot area.** The area of a lot ~~in a horizontal plane~~ within the lot lines.~~

~~LOT CORNER: **Lot line adjustment.** The relocation or elimination of a common boundary between two legal lots, provided no new lots are created as a result of the relocation of the common boundary.~~

~~LOT COMBINATION:~~ **Lot combination.** The act of joining two or more adjacent parcels of land, legally considered separate lots, under common ownership to create a single, larger lot for development purposes.

~~LOT CORNER:~~ **Lot, corner.** A lot which occupies the interior angle at the junction of two (2) intersecting street lines, which make an angle not exceeding ~~one hundred thirty five~~ 135 degrees ~~(135°).~~

~~LOT DEPTH:~~ **Lot depth.** The mean horizontal distance between the front lot ~~lines~~ line and the rear lot line of a lot.

~~LOT LINE, FRONT:~~ **Lot line, front.** That boundary of a lot which abuts an existing or dedicated public street and in the case of a corner lot, the shortest dimension on a public street which meets County specifications. If the dimensions of a corner lot are equal, the front lot line shall be designated by the owner.

~~LOT LINE, REAR:~~ **Lot line, rear.** That boundary of a lot which is opposite the front lot line. If the rear lot line is less than ~~ten~~ 10 feet ~~(10')~~ in length or if the lot forms a point at the rear, the rear lot line shall be a line ~~ten~~ 10 feet ~~(10')~~ in length within the lot, parallel to and at the maximum distance from the front lot line.

~~LOT LINE, SIDE:~~ **Lot line, side.** Any boundary of a lot ~~which~~ that is not a front lot line or rear lot line.

~~LOT OF RECORD:~~ **Lot of record.** Any lot that has been recorded in the office of the County Recorder of Clay County, Minnesota, prior to the effective date hereof.

~~LOT WIDTH:~~ **Lot split.** The legal process of dividing a singular lot into two or more lots.

Lot width. The width of a lot along a line parallel to the frontage thereof and lying at a distance therefrom equal to the required setback on such lot. Does not apply to lots in shoreland zoning districts.

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

~~MAINTENANCE OR MINOR REPAIRS:~~ Includes **minor repairs.** Nonstructural repair and structural alteration ~~which does~~ alterations that do not expand the external dimensions of a building or structure. Does not apply to buildings or structures in shoreland zoning districts.

~~MANUFACTURED HOME (Floodplain Definition):~~ A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent

~~foundation when attached to the required utilities. The term “manufactured home” does not include the term “recreational vehicle.”~~

~~MANUFACTURED HOME: A structure, transportable in one or more sections, which in the traveling mode, is eight (8) body feet or more in width or forty (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 with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that the term includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development (HUD) and complies with the standards established in Minn. Stat. 2004, Chapter 327.31.~~

~~MANURE STORAGE AREA: An area associated with an animal feedlot where animal manure or runoff containing animal manure is stored, temporarily, until it can be utilized as domestic fertilizer applied at agronomic rates or removed to a permitted animal manure disposal site. Examples include, but are not limited to; earthen basins or lagoons, concrete basins or lagoons, or commercial storage tanks. Animal manure packs or mounding within the animal feedlot shall not be considered to be manure storage for these parts.~~

~~MARINA: A dock or basin where slips, moorings and often supplies, repairs, and other services are available for craft.~~

~~MARKET VALUE:~~Manufactured home. A non-mobile housing unit that is fabricated at a central factory and transported to a site where it is permanently affixed.

Market value. An estimate of what is a fair, economic, just, and equitable value under normal local market conditions as arrived at by a consideration of prior sales of the property being acquired, reasonably recent and not forced. In the absence of accurate comparables (basis for past ~~sales~~), market values may be determined through other means including calculations of replacement costs less depreciation.

~~METES AND BOUNDS:~~Metes and bounds. A description of real property which is not described by reference to a lot or block shown on a map or a recorded ~~plot, plat~~ but is described by starting at a known point and describing the bearing and distances of the lines forming the boundaries of the property.

~~MOBILE HOME: A dwelling unit that does not meet the standards for a manufactured home and is designed for transportation after fabrication on streets and highways on its own wheels or on a flatbed or other trailer and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on jacks or permanent foundation connections to utilities and the like. See MANUFACTURED HOME.~~

~~MOTEL:~~ **Mobile home.** A large trailer or transportable prefabricated structure that is used as a dwelling unit, which does not comply with the U.S. Department of Housing and Urban development (HUD) Code. Such dwellings were built before June 15, 1976, and are considered to be a legal nonconforming use.

Motel. A building or group of attached or detached buildings containing individual sleeping or living units primarily for transient occupancy. A "motel" furnishes customary services such as ~~maidhousekeeping service and linen laundering~~ and desk service, and with parking facilities conveniently located to each unit.

~~MOTOR SPORTS FACILITY:~~ **Motor sports facility.** A track or course, paved or unpaved, and associated facilities for the racing or driving of automobiles, tractors, motorcycles, motorized bicycles, or any other motorized vehicle.

~~NATIONAL FLOOD INSURANCE PROGRAM (NFIP): The program of flood insurance coverage and floodplain management administered under the National Flood Insurance Act and applicable Federal regulations promulgated in Title 44 of the Code of Federal Regulations, Subchapter B.~~

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

~~NEW ANIMAL FEEDLOT: An animal feedlot constructed and operated at a site where no animal feedlot existed previously or where a pre-existing animal feedlot has been abandoned or unused for a period of five (5) years or more.~~

~~NIGHTCLUB: Any room, place, or space maintained for general patronage where food and drink are served or dispensed and where patrons are permitted to engage in dancing.~~

~~NONCONFORMING ACCESS: An Access Connection to a property or parcel~~ **Nonconforming access.** An access to a property or lot that existed prior to the effective date of this Ordinance that does not conform with the requirements of this Ordinance.

~~NONCONFORMING STRUCTURE:~~ **Nonconforming lot.** Any lot that does conform with the minimum lot area or lot width requirements for the district or subdivision in which it is located.

Nonconforming structure. A structure or portion thereof lawfully existing on the effective date of this amendment and Ordinance that does not conform ~~to the dimensional and flood protection regulations (i.e., bulk, yard, setbacks, height, floodproofing, etc.)~~ with the requirements of the district(s) in which it

is located.

~~NONCONFORMING USE:~~ **Nonconforming use.** A use of land, building, or structures lawfully existing at the time of adoption of the Ordinance codified in this Ordinance or amendment thereof which does not comply with all the provisions of this Ordinance or the applicable use regulations of the district in which it is located.

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

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

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

~~OFFICE:~~ **Office.** Non-residential space that is used primarily for administrative, clerical, professional, or similar activities.

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

~~OWNER:~~ **Outlot.** A tract of land identified by a capital letter and is land that is not part of a block.

Owner. All persons having possession, control, or ~~Ordinance~~ interest to ~~an animal feedlot or other~~ parcel of land ~~as described in each specific section.~~

~~PARCEL OF LAND:~~ **Parcel.** Any quantity of land capable of being described with such definiteness that its location and boundaries may be established which is designated by its owner or developer as land to be used or developed as a unit or which has been used or developed as a unit. parcel includes an

easement supporting or related to a primary parcel.

~~PARK:~~ **Park.** Any public or private land available for recreational, educational, cultural, or aesthetic use.

~~PARKING SPACE: An off-street area of motor vehicles not less than ten feet by twenty feet (10' x 20') in area, having access to a public street or alley or private driveway. In determining the gross area required for a specified number of off-street parking places including driveways and aisles three hundred (300) square feet per space shall be used.~~

~~PASTURES: Areas where grass or other growing plants are used for grazing and where the concentration of animals is such that a vegetation cover is maintained during the growing season except in the immediate vicinity of temporary supplemental feeding or watering devices, corrals and pasture lanes.~~

~~PICNIC GROUND:~~ **Picnic ground.** Two or more picnic tables reserved for use by 10 or more persons equipped with picnic tables, and barbecue stands, and which may be provided with a roofed shelter.

~~PLAYHOUSE: A freestanding structure, exclusively for the use of children, with a maximum height of 12 feet and an area not to exceed 120 square feet.~~

~~POOL HALL: A business establishment containing more than two pool or billiard tables for the use of patrons.~~

~~PRECAST PLANT:~~ **Precast concrete plant.** Any building, structure, or land used primarily in the fabrication, processing, or storage of casted concrete and related products.

~~POTENTIAL POLLUTION HAZARD: A condition which indicates a potential for pollution of the land or waters of the State including:~~

- ~~A. An animal feedlot or manure storage area whose boundaries are located within shoreland, flood plain, or are located in an area draining directly to a sinkhole or draining to an area with shallow soils overlying a fractured or cavernous rock, or are located within one hundred feet (100') of a water well; or~~
- ~~B. An animal feedlot or manure storage area whose construction or operation will allow a discharge of pollutants to surface waters of the State in excess of applicable standards, including, but not limited to, Minnesota Rules chapter 7050, during a rainstorm event of less magnitude than the 25-year, 24-hour event, or will allow uncontrolled seepage of~~

~~pollutants into ground water, or will violate any applicable State rules.~~

~~POULTRY LOT: A confined area or structure used intensively for raising, feeding, breeding or holding chickens, turkeys and other poultry for eventual sale or the production of eggs, not including areas normally used for the growing of crops.~~

~~PRESERVE:~~ **Wildlife preserve; nature preserve.** Open space that preserves or protects endangered species, a critical environmental feature, or other natural feature.

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

~~PUBLIC WATERS:~~ **Prime farmland.** Land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and that is available for these uses.

~~Principal use; principal structure.~~ The primary use of or structure on a lot that is permitted under the district regulations in this ordinance. Generally, only one principal use may be made of a single lot, along with uses that are accessory to that principal use.

~~Public waters.~~ Any waters as defined in Minnesota Statutes Annotated section 105.37, subdivisions 14 and 15.

~~QUARTER/QUARTER SECTION:~~ **Quarter section.** An approximately ~~forty (40)-160-acre~~ parcel ~~tract of land constituting the northeast, northwest, southeast or southwest quarter of a section in the United States Government System of Land Survey.~~

~~Quarter-quarter section.~~ An approximately 40-acre tract of land constituting the northeast, northwest, southeast or southwest quarter of a quarter section in the United States Government System of Land Survey.

~~REACH: A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or manmade obstruction. In an urban area, the segment of a stream or river between two (2) consecutive bridge crossings would most typically constitute a reach.~~

~~RECREATIONAL VEHICLE: A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.~~ **Radio or television transmission facility.** A facility consisting of antennas, transmitters, and buildings used to generate and broadcast audio and visual signals.

~~Recreational use.~~ Activities or spaces designed for leisure, enjoyment, or physical exercise. This use can include sports, outdoor pursuits like hiking or swimming, and other forms of entertainment or

relaxation.

Recreational vehicle. A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this Ordinance, the term recreational vehicle shall be synonymous with the term travel trailer/travel vehicle.

~~REGIONAL FLOOD: A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what has a one (1) percent probability of occurring in any given year and 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, the term 100-Year Flood or the term one (1) percent annual chance flood.~~

~~REGULATORY FLOOD PROTECTION ELEVATION (RFPE): An elevation not less than one (1) foot (freeboard) above the water surface profile associated with the 100-year flood as determined by the use of the 100-year flood profile and supporting technical data in the Flood Insurance Study plus any increase in flood heights attributable to encroachment in the floodplain due to designation of the floodway (stage increase). It is the elevation to which uses regulated by this Ordinance are required to be elevated or floodproofed except for certain residential basements as stipulated in this Ordinance.~~

~~RELIGIOUS INSTITUTION:~~**Religious institution; church.** A building, together with its accessory buildings, where persons regularly assemble for religious purposes and related social events and which building, together with its accessory buildings, is maintained and controlled by a religious body organized to sustain religious ceremonies and purposes.

~~REPLACEMENT COSTS:~~**Replacement cost.** The current cost of rebuilding a structure to its pre-damaged condition.

~~RESTAURANT:~~**Residential use.** The use of land or property primarily for living purposes.

Restaurant. A commercial establishment where food and beverages are prepared, served, and consumed primarily within the principal building and where food sales constitute more than 80 percent of the gross sales receipts for food and beverages.

~~RESTAURANT, DRIVE-IN: An establishment whose primary business is serving food to the public for consumption on the premises by order from and service to vehicular passengers outside the structure, where revenues from the sale of food equal at least 40 percent of the gross revenue.~~

~~RETAIL:~~**Retail.** The selling of goods, wares, or merchandise directly to the ultimate consumer or

persons without a resale license.

~~RETREAT CENTER:~~**Retreat center; wedding venue.** A semipublic use oriented to using the natural features and outdoor character of the area for short term stays and featuring educational, contemplative and human development workshops and related training activities, which may include the following: religious worship and workshops; life events (i.e. weddings, reunions, birthdays); passive recreation (non-motorized) oriented to appreciating the outdoor and natural character of the area; a nature center, conservatory, interpretive center, exhibit, museum or library space; residential building(s) (rooms or cabins) for short term occupancy by a single family or unrelated individuals attending an educational or life event or workshop at the retreat (but not designed or intended for use as a residence); and/or having limited communal facilities for dining, sanitation, meeting, educational or worship purposes.

~~RIGHT-OF-WAY:~~**Right-of-way.** Land in which the County or State has an interest (including, but not limited to, by fee title, easement or plat dedication), which is primarily intended, directly or indirectly, to be used for a Highway, street, road, alley or drainage facility.

~~ROAD:~~**Road; street.** A public thoroughfare ~~twenty, at least 20~~ feet ~~(20')~~ in width ~~or more,~~ in which supporting access by pedestrians and motor vehicles to abutting properties including without limitation streets, Highways, freeways, parkways, thoroughfares, roads, avenues, boulevards, lanes or places, however described; however, not including privately owned driveways and access routes.

~~SALVAGE YARD:~~**Road classification.** The classification of roadways in Clay County based on the Federal Highway Administration Functional Classification Guidelines. Road classification guides road setback and access spacing standards. This Ordinance references the following road classifications.

- Principal arterial. A major road that carries a high volume of traffic and part of the National Highway System.
- Minor arterial. A road that connects cities, towns and other major traffic generators.
- Collector. A road that connects township (local) roads to arterial routes.
- Township (local). A road that provides access to homes, businesses, farms, small communities and other destinations.

Salvage yard. A lot or portion thereof where waste, discarded or salvaged materials are bought, sold, exchanged, baled, stored, packed, disassembled or handled, including auto wrecking activities, building wrecking activities, used lumber places and places for storage of salvaged building materials and equipment; but not including such places where such uses are conducted entirely within a completely enclosed building.

~~SCHOOL:~~**School.** An institution for the teaching of children or adults, including public, private or religious primary and secondary schools, colleges, professional schools, dance schools, business schools, trade schools, art schools, and similar facilities.

~~SEMI-PUBLIC USE: The use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.~~

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

~~**Sensitive areas.** Include shorelands; delineated ~~flood-plains~~ floodplains (along Red River only includes 1,000 feet from bank); federal, state, or local wild and scenic river districts; within 1,000 feet of a karst feature (sinkhole, cave, disappearing spring, resurgent spring, karst window, dry valley or blind valley); within 1,000 feet of a fen, spring or flowing well; sites listed on the Clay County Biological Survey; vulnerable parts of delineated drinking water supply management areas; and those areas having a “very high” ~~sensi- tivity~~ sensitivity rating to pollution as shown on Plate 4 of 4, “Sensitivity of Surficial Aquifers to Pollution” from the MN DNR Regional Hydrogeologic Assessment Southern Red River Valley, Minnesota, 2000.~~

~~SENSITIVE RESOURCE MANAGEMENT: The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over ground water or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.~~

~~SERVICE BUSINESS: **Service business.** A retail business offering services, rather than products, as the primary business.~~

~~SETBACK: **Setback.** The minimum horizontal distance between a structure, sewage treatment system, or other facility and an use, animal feedlot, ordinary high-water level, ~~sewage treatment system,~~ top of a bluff, road, highway, ~~property or lot line,~~ or other facility.~~

~~SEWAGE TREATMENT SYSTEM: A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Ordinance 6, Chapter 1 of this Code.~~

~~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.~~

~~SHELTERBELT: **Sewage treatment system.** As defined under Minnesota Rules, part 7080.1100, Subp. 82.~~

~~**Sewer system.** Pipelines or conduits, pumping stations, force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage to a point of ultimate disposal.~~

~~**Shelterbelt.** A linear area of trees and/or shrubby vegetation designed to shelter buildings from wind~~

and snow accumulation.

~~SHOOTING RANGE:~~**Shooting range.** An area or structure specially designed for the safe discharge and use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any similar firearm for the purpose of sport shooting or military/law enforcement training.

~~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 fifty percent (50%) of the structure setback.~~

~~SHORELAND: Land located within the following distances from public waters:~~

~~A. One thousand feet (1,000') from the normal high water mark or a lake, pond, or flowage; and~~

~~B. Three hundred feet (300') from a river or stream.~~

~~The limits of shoreland may be reduced whenever the waters involved are bounded by natural topographic divides which extend landward for a lesser distance and when approved by the Commissioner of the Department of Natural Resources.~~

~~SIGN:~~**Shop condo.** Mixed-use real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

Shoreland and related terms. See 8-4-3 (Definitions).

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, OFF-SITE:~~**Sign, off-premise.** A sign which directs attention to a business, commodity, service, activity or entertainment not conducted, sold or offered upon the premises where the sign is located.

~~SIGNFACE:~~**Sign, on-premise.** A sign located on the premises or contiguous property of an individual, business, or organization when the sale or lease of the premises or the identification, products, or services of the individual, business, or organization are the subject of the advertising device.

Sign face. 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 V-type sign~~ structure face shall be used in computing the total surface area.

~~SIGN, TEMPORARY:~~ **Sign, monopole.** A freestanding sign mounted atop a single pole or column.

Sign, pylon. A freestanding sign or collection of signs mounted on one or two poles.

Sign, temporary. A banner, pennant, poster, or advertising display constructed of cloth, canvas, plastic sheet, cardboard, wall board or similar material and intended to be displayed for a limited period of time but does not include candidate advertisements.

~~SIGN, WALL:~~ **Sign, wall.** A sign attached to a wall and not projecting away from the wall more than 12 inches.

~~SIGNIFICANT HISTORIC SITE:~~ **Significant historic site.** Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of historic sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes Annotated section 307.08. ~~Any~~ historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota State Archaeologist or the Director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

~~SINKHOLE:~~ **Sinkhole.** A surface depression which is connected to cavernous bedrock (generally limestone) by a channel or collapse of the overlying formation.

~~SPECIAL FLOOD HAZARD AREAS:~~ **Solar energy system and related terms.** See 8-8-6(C).

~~Start of construction.~~ ~~Any of the areas delineated on Flood Insurance Rate Maps as Zone AE or Zone A.~~

~~START OF CONSTRUCTION:~~ The first placement of permanent construction on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. For a structure without a basement or poured footings, the start of construction includes the first permanent framing or assembly of the structure or any part thereof on its pilings or foundation or the affixing of any prefabricated structure or mobile home to its permanent site. Permanent construction does not include land preparation, land clearing, grading or filling; excavation for basement, footings, piers or foundations; installation of sewer, gas and water pipes or electric or other service lines from the street or existence on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not a part of the main structure.

~~STEEP SLOPE: Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available County soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this Ordinance. Where specific information is not available, steep slopes are lands having average~~

~~slopes over twelve percent (12%), as measured over horizontal distances of fifty feet (50') or more, that are not bluffs.~~

~~STORAGE STRUCTURE, RESIDENTIAL: A structure to be used, or intended to be used, for the private noncommercial, nonindustrial storage uses by the property owner prior to the construction of a residence on the property.~~

~~STORAGE UNITS:~~**Storage units.** A commercial building or group of buildings that have a single open storage floor or contain varying sizes of individual compartmentalized and controlled access stalls or lockers for ~~the storage of~~ customers'~~customers'~~ goods, personal property, or wares.

~~STREET CLASSIFICATION: All streets are to be considered classified under the following categories in the County Comprehensive Plan:~~

~~Arterial Street and Highways: Those which are used primarily for fast or heavy traffic.~~

~~Collector Street: Those which carry traffic from minor streets to the major system of arterial streets and highways, including principal entrance streets of a residential development and streets for circulation within such a development.~~

~~Minor Streets: Those which are used primarily for access to and adjacent to arterial streets and highways and which provide access to abutting properties and protection from through traffic.~~

~~STRUCTURAL ALTERATION:~~**Storage yards.** A large outdoor space used to store goods, supplies or equipment.

Stormwater management. The process of controlling and improving the quality and quantity of stormwater runoff.

Stormwater management features. Structural and engineered devices, best management practices, and natural features that help control the quantity and quality of stormwater runoff.

Structural alteration. Any change, other than maintenance and minor repairs which would prolong the life of the supporting members of a building, such as bearing walls, columns, beams, girders, or foundations.

STRUCTURE:**Structure.** Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, decks, manufactured homes, or recreational vehicles not meeting the exemption criteria specified elsewhere in this Ordinance ~~and other similar items.~~

~~SUBDIVISION:~~ **Subdivision.** Land, vacant or improved, which is divided or proposed to be divided into lots, parcels, sites, units, ~~plots~~lots or interests for the purpose of offer, sale, lease or development either on the installment plan or upon any and all other plans, terms and conditions, including re-subdivision. “Subdivision” includes the division or development of residential and ~~nonresidential~~non-residential zoned land, excluding a division of land for commercial agricultural purposes into lots or parcels of five (5) acres or more, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat, or other recorded instrument.

~~SUBSTANTIAL DAMAGE: Means~~ ~~Damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.~~

~~SUBSTANTIAL IMPROVEMENT:~~ **Subdivision, agricultural or natural resources.** A major subdivision that results in the creation of three or more lots serviced by an internal road, characterized by increased density, and the preservation of prime agricultural and natural resources.

Subdivision, administrative. Any lot line adjustment, lot combination, or subdivisions that results in two (2) lots intended for agricultural or residential use. Such subdivisions are subject to approval by the Zoning Administrator following the procedures of 8-10-9 (Administrative Subdivisions).

Subdivision, cluster. A major subdivision that results in the creation of three or more lots serviced by an internal road and characterized by increased density.

Subdivision, major. A subdivision that results in the creation of three or more non-agricultural lots or one or more commercial or industrial lot.

Subdivision, standard. A major subdivision that results in the creation of three or more non-agricultural or one or more commercial or industrial lots along existing public right-of-way.

Substantial damage. Damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement. Within any consecutive ~~1,825 day (five-year)~~ period, any reconstruction, rehabilitation (including Normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the initial improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:

- Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
- Any alteration of ~~an~~ “a historic structure,” provided that the alteration will not preclude the structure’s continued designation as ~~an~~ “a historic structure.” ~~For the purpose of this Ordinance, “historic structure” shall be as defined in 44 Code of Federal Regulations, Part 59.1.~~

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

~~SWIMMING POOL, PRIVATE: An accessory use established or maintained on any premises by an individual for personal or family use or for guests of the individual or family.~~

~~SWIMMING POOL, PUBLIC: A swimming pool, admission to which may be gained by the general public with or without payment of a fee.~~

~~SWIMMING POOL, SEMI-PRIVATE: A swimming pool on the premises of, or part of, a hotel, motel, mobile home or travel trailer park, apartment house, private club, association or similar establishment, where admission to the use of the pool is included in the fee, or consideration paid or given for the general use of the premises.~~

~~TEMPORARY USE:~~ **Temporary use.** Those land uses and insubstantial structures that are needed or are in place for only short periods of time not exceeding ~~three (3)~~ six (6) months and not intended for long-term or permanent use.

~~TRAIL:~~ **Text amendment.** A change in the wording or regulations of this Ordinance, which requires approval by resolution of the County Board.

Trail, motorized and non-motorized. A publicly or privately owned or maintained trail/ or path system, including trailheads ~~as defined in the parks and recreation master plan.~~ Trailheads may include parking lots, drinking fountains, restrooms, and ~~signages~~ signs.

~~TRANSIENT AGRICULTURAL LABOR: Person employed in farming operations on the premises where housed or other lands owned by the owner of the premises, provided that said persons may be employed a maximum of eight (8) weeks.~~

VARIANCE: **Variance.** A modification of a specific permitted development standard required in an official control including this Ordinance to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a practical difficulty or unique circumstance, but not including a use not allowed in the applicable ~~zoning~~ district.

Vehicle sales; equipment sales. An open area on other than a street, used for the display, sale, or rental of new or used motor vehicles, truck, garden and farm equipment, watercraft, or trailers in operable condition and an enclosed area where limited repair and service work is done, but not to include storage of automobiles not in operating condition, outdoor storage of vehicle parts, or other work involving

noise, glare, fumes, smoke, or other nuisance characteristics.

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

Wellhead Protection Area (WHPA): The surface and subsurface area surrounding a well that supplies a public water system, through which contaminants are likely to move through and reach the well. WHPA boundaries are scientifically calculated using the following criteria: time of travel of substances; flow boundaries; daily volume of water pumped; groundwater flow field; and aquifer transmissivity.

~~WETLAND: A surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39, 1971 Edition and any amendments thereto.~~

~~WHARF: Any structure built or maintained for the purpose of providing a berth place for vessels.~~

~~WHOLESALE BUSINESS:~~**Wetland.** As defined by Minnesota Administrative Rules, part 8420.0111.

Windbreak. A linear planting of trees or shrubs that reduces wind speed and creates a protected area.

Wind energy conversion facility and related terms. See 8-8-6(D).

Wholesale business. A business primarily engaged in selling and/or distributing merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

~~WIND BREAK: A linear area of trees and/or shrubby vegetation designed to decrease wind flow and accumulate snow away from roads.~~

YARD:Yard. An open space on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this Ordinance.

YARD, FRONT:Yard, front. A yard extending along the full width of the front lot line between side lot lines and extending from the abutting street right-of-way line to a depth required in the setback regulations for the zoning-district in which such a the lot is located.

YARD, REAR:Yard, rear. A space extending between the rear building line of the main building principal or accessory structure and the rear lot line of the lot, and extending the full width of the lot. In the case of through lots and reversed frontage corner lots, there will be no rear yard. In the case of corner lots with normal frontage, the rear yard shall extend from the inner

Yard, side-yard line of the side yard adjacent to the interior lot at the rear building line to the rear line of the half depth front yard. Depth of required rear yards shall be measured at right angles to a

~~straight line joining the rearmost points of the side lot lines. The forward rear yard line (rear building line) of a required rear yard shall be parallel to the straight line so established.~~

~~**YARD, SIDE:**~~ An open, unoccupied space on the same lot with a building, located between the building and the side lot line of the lot and extending from the front lot line to the rear lot line.

~~**Zoning Map amendment.** A change in zoning for a property or collection of properties, which requires approval by resolution of the County Board. Also called rezoning.~~