

CLAY COUNTY, MINNESOTA
ORDINANCE NO. 2025-5

**AN ORDINANCE OF THE COUNTY OF CLAY, STATE OF MINNESOTA TO ADOPT
AMENDMENTS TO THE CLAY COUNTY LAND DEVELOPMENT ORDINANCE:
ZONING AND SUBDIVISION REGULATIONS.**

WHEREAS, the County of Clay, State of Minnesota (“County”) is a statutory County duly organized and existing under Article XII of the Minnesota Constitution; and

WHEREAS, pursuant to Minnesota Statutes Chapter 394 and specifically § 394.21, the County has the power and authority to conduct and implement planning activities; and

WHEREAS, the County has amended and adopted the 2045 Clay County Comprehensive and Transportation Plan on May 17th, 2022; and

WHEREAS, the County has been involved in a process for approximately two years to amend its existing Land Development Ordinance to implement the goals and objectives of the 2045 Comprehensive and Transportation Plan; and

WHEREAS, the Land Development Ordinance amendment process has involved considerable input from the Study Review Committee, Planning Commission, and members of the public; and

WHEREAS, the Planning Commission has held a series of monthly public hearings since July 2023 on the amendments to the Land Development Ordinance; and

WHEREAS, the Planning Commission held a public hearing on April 15th, 2025, and made a unanimous recommendation to the Clay County Board of Commissioners to adopt the Land Development Ordinance as attached hereto; and

WHEREAS the County hereby finds and determines that the ordinance is necessary to promote the public health, safety, morals and general welfare of the County, including the terms and regulations herein;

NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF THE COUNTY OF CLAY, STATE OF MINNESOTA HEREBY ORDAINS AS FOLLOWS:

Section 1. The Clay County Land Development Ordinance: Zoning and Subdivision Regulations is hereby amended as attached hereto and codified as Title 8 in the Clay County Code.

Section 2. Severability. If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect.

Section 3. Effective Date. This Ordinance shall become effective and be in force Upon enactment.

ADOPTED BY THE CLAY COUNTY BOARD OF COMMISSIONERS ON TUESDAY, JUNE 3rd, 2025.



KEVIN CAMPBELL, CHAIR, CLAY COUNTY BOARD OF COMMISSIONERS

ATTEST: 

STEPHEN LARSON, CLAY COUNTY ADMINISTRATOR

Clay County Land Development Ordinance

Adopted June 3rd, 2025

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- 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 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

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 and Function

- A. This Ordinance is enacted 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.
- 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, 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

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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, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. 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 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. 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. **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. 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 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

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

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

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.

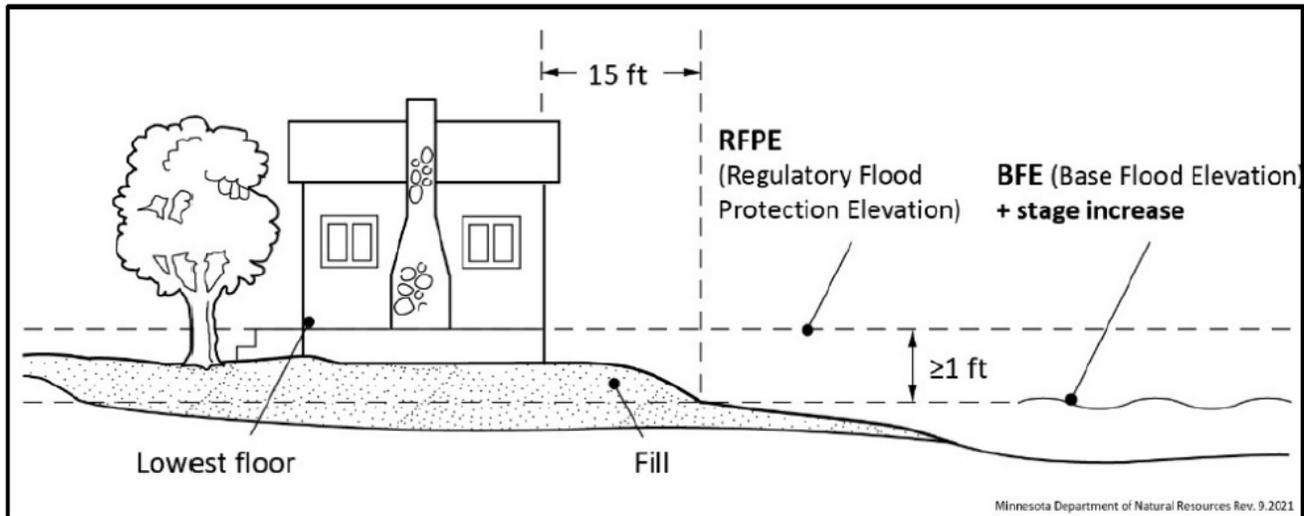
- h. **Property Record.** A document must be prepared and recorded that references the property in question such that it would appear in the chain of title and clearly states all of the conditions that have been stipulated in the Conditional Use Permit.
5. **Farmstead Ring Levees.** Permanent structural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

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

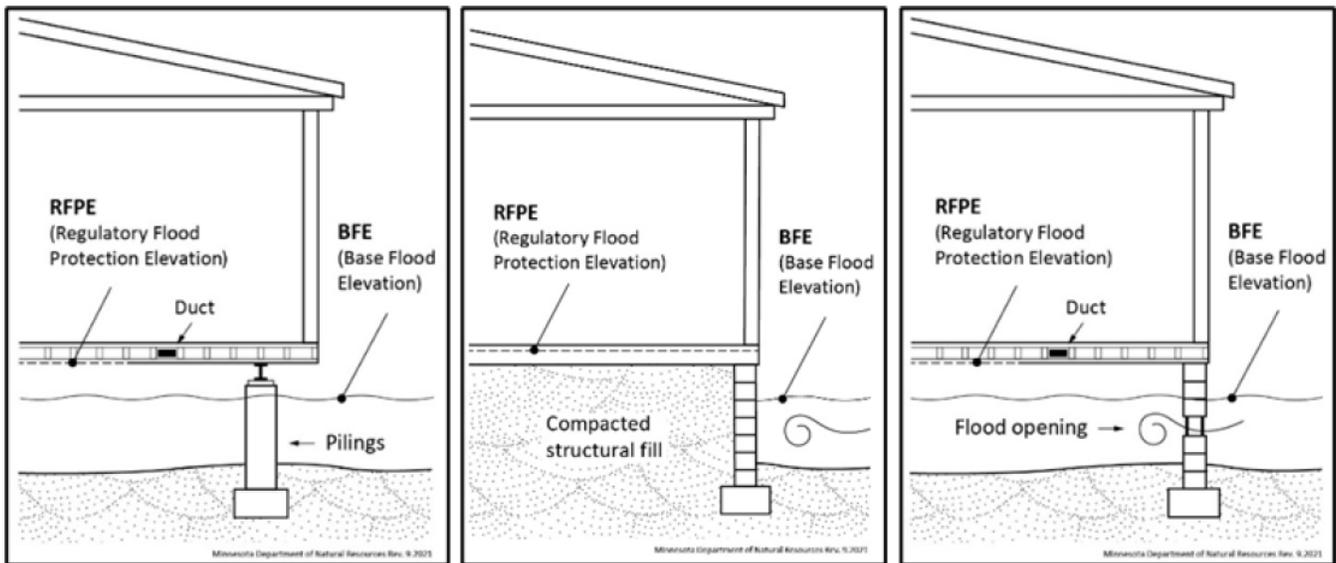
- A. **Uses.** Permitted, conditional and accessory uses in the FF, Flood Fringe District shall be those permitted, conditional, and accessory uses allowed in the base district and as indicated in *Table 8-1 (Use Table)*.
1. **Permitted Uses.** Any uses or activities allowed in any applicable underlying 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 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. 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 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 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. The prevention of soil erosion and other possible pollution of public waters, both during and after construction.
 - d. Other conditions as deemed appropriate by the Planning Commission or the County Board.

C. Notifications to the Department of Natural Resources.

1. All notices of public hearings to consider variances or conditional uses under this Article must be sent via electronic mail to the Department of Natural Resources respective area hydrologist at least 10 days before the hearings. Notices of hearings to consider subdivision plats must include copies of 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 nuisance.
- 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.
- 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 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

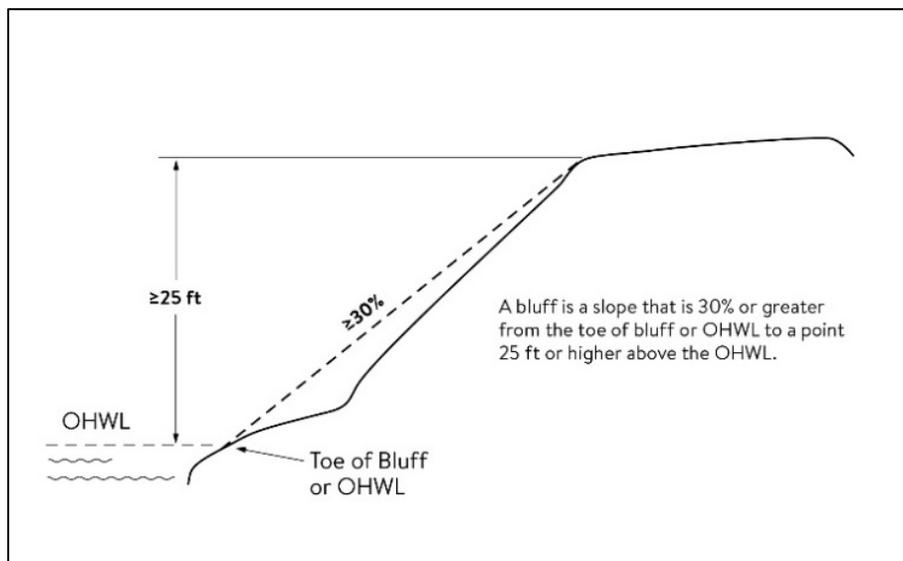
Accessory structure or facility. Any building or improvement subordinate to a principal use which, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks. Examples include: swimming pools, saunas, detached garages, and storage sheds.

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

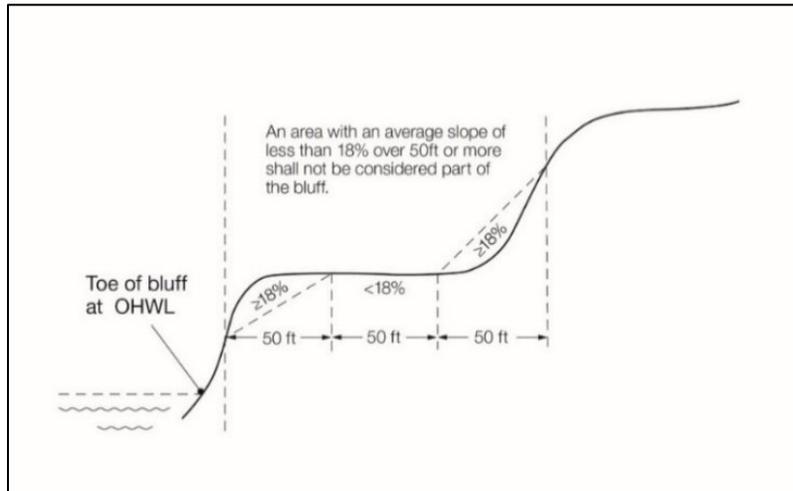
Bluff. A topographic feature such as a hill, cliff, or embankment having the following characteristics:

- 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

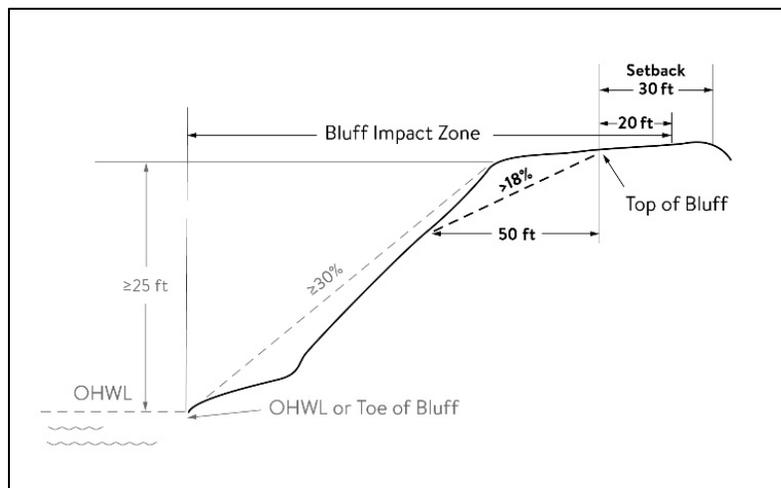


Bluff Exception



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.

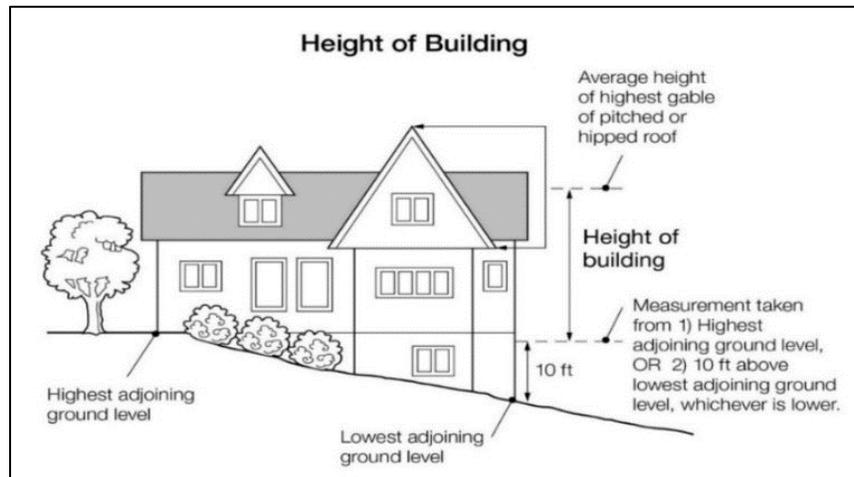
Extractive use. The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes, Sections 93.44 to 93.51.

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.

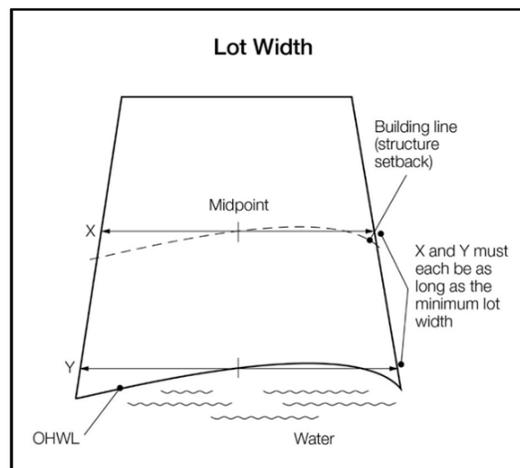
Intensive vegetation clearing. The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

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.

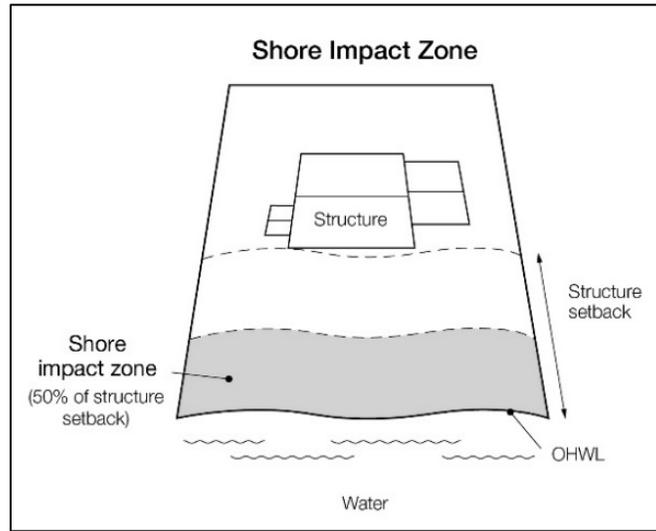
Setback. The minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high-water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility

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.

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.

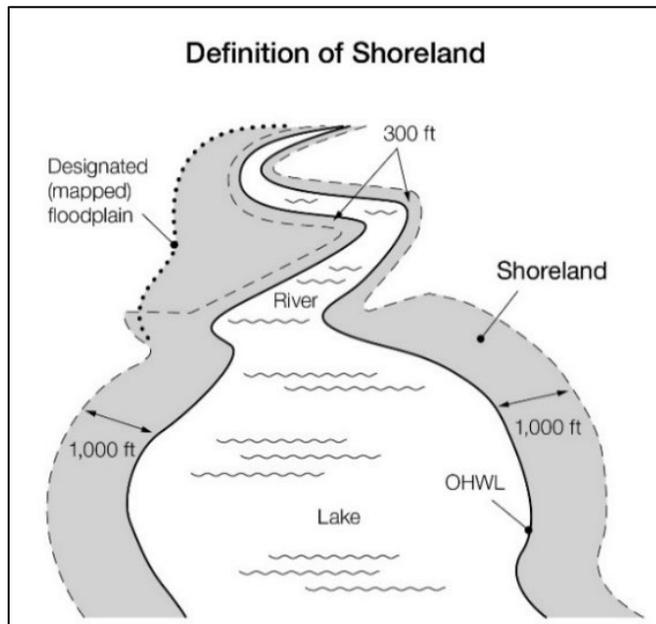
Shore Impact Zone



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

A. Permits.

1. A permit is required for the 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.
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 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, 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:
 - a. 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.

1. All legally established nonconformities as of the date of this ordinance may continue, but will be managed according to Minnesota Statutes, Sections 394.36 Subd. 5 and other regulations of this community for alterations and additions; repair after damage; discontinuance of use; and intensification of use.
2. 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 this article. Any deviation from these requirements may only be authorized by a variance.
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

| Inventory ID# | Lake Name | Section | Township | Range | Acres |
|----------------------------------|--------------|------------|----------|--------|-------|
| Natural Environment Lakes | | | | | |
| 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 |

| Inventory ID# | Lake Name | Section | Township | Range | Acres |
|---------------|-----------------------|------------|----------|--------|-------|
| 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 |
| 14-95 | Rushfeldt (Rushfield) | 3, 9, 10 | 138 | 45 | 54 |
| 14-96 | Bjordahl | 12 | 138 | 45 | 56 |
| 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 |

| Inventory ID# | Lake Name | Section | Township | Range | Acres |
|---------------------------------------|-----------|---------------|----------|--------|-------|
| 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 |
| Recreational Development Lakes | | | | | |
| 3-657 | Turtle* | 7,12 | 138 | 43, 44 | 183 |
| 3-659 | Sand* | 7, 18,12, 13 | 139 | 43, 44 | 199 |
| General Development Lakes | | | | | |
| 14-80 | Flora | 4, 34 | 140, 141 | 44 | 66 |

*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

| Name | From | To |
|----------------------------|--|--|
| Transition Rivers | | |
| Red River of the North | Confluence with Buffalo River 30, T142N, R48W | N. section line in Sec. 12, T142N, R49W |
| Agricultural Rivers | | |
| Red River of the North | Border of Wilkin and Clay Counties | N section line in 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 |

| Name | From | To |
|--|--|---|
| Urban Rivers | | |
| Red River of the North | South section line, Sec. 31, T129N, R48W | 15 th Ave. North in City of Moorhead |
| 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 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:

Table 4-4. Controlled Access Lot Frontage

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

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.
 - 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

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

B. Setbacks from the Ordinary High-Water Level.

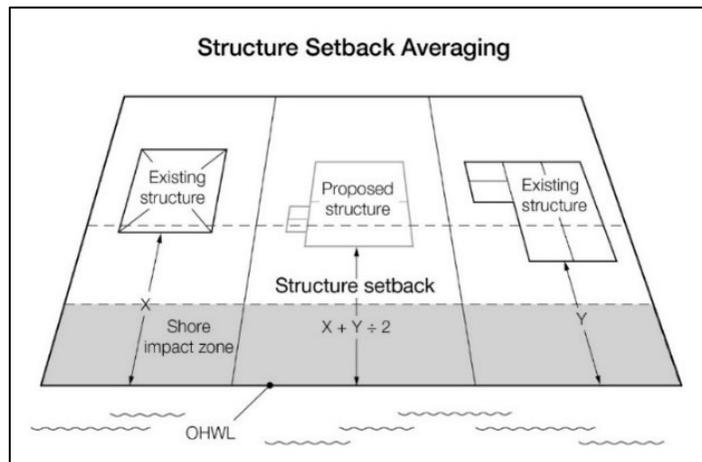
- 1. Minimum Setback Requirements.** Structures, impervious surfaces, and sewage treatment systems must meet setbacks from the ordinary high-water level (OHWL) as provided in *Table 4-6 (Shoreland District Setback Requirements)*, except that water-oriented accessory structures and facilities, designed 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.

Table 4-6. Shoreland District Setback Requirements

| Setback | SP-LD District | SP District | RD District | SP (Rivers and Streams) |
|--|--|-------------|---------------------------------|-------------------------|
| Minimum setbacks from ordinary high-water level for all structures and on-site sewage systems, except water-oriented accessory structures or facilities | | | | |
| OHWL setback | 150 feet | 150 feet | 100 feet; 150 feet for NE Lakes | 150 feet |
| Minimum setbacks for all structures | | | | |
| Shore impact zone | 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. | | | |
| Bluff impact zone | | | | |
| Unplatted cemetery | 50 feet | 50 feet | 50 feet | 50 feet |
| Right-of-way line of federal, state, or County highway | 50 feet | 50 feet | 50 feet | 50 feet |
| Right-of-way line of township road, public street, or other roads not classified | 20 feet | 20 feet | 20 feet | 20 feet |
| Side yard setback | 10 feet | 10 feet | 10 feet | 10 feet |

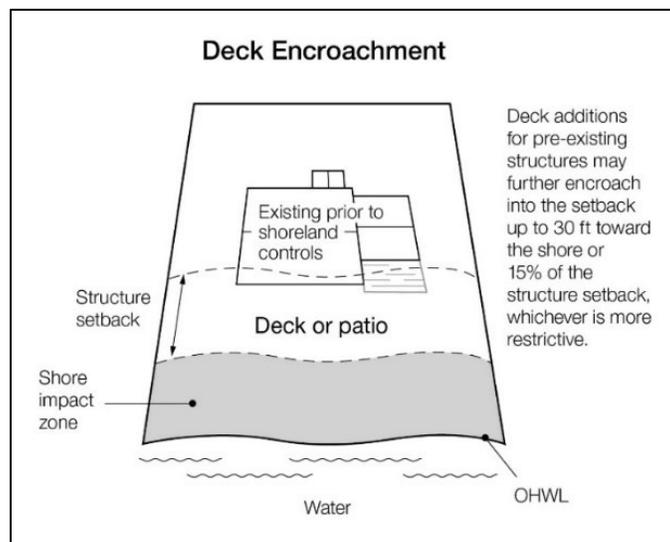
2. **Setback Averaging.** Where principal structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining principal structure setbacks from the ordinary high-water level (OHWL), provided the proposed structure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

Structure Setback Averaging



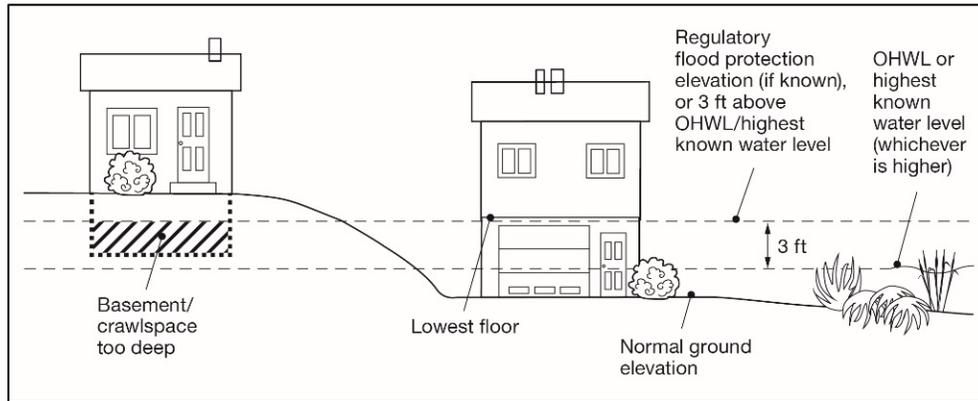
3. **Decks.** Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high-water level (OHWL) if all of the following criteria are met:
 - a. The structure existed on the date structure setbacks were established.
 - b. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing OHWL setback of the structure.
 - c. The deck encroachment toward the OHWL does not exceed 15 percent of the existing setback of the structure from the OHWL or is no closer than 30 feet from the OHWL, whichever is more restrictive.
 - 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.

Lowest Floor Elevation



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:

1. **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 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.

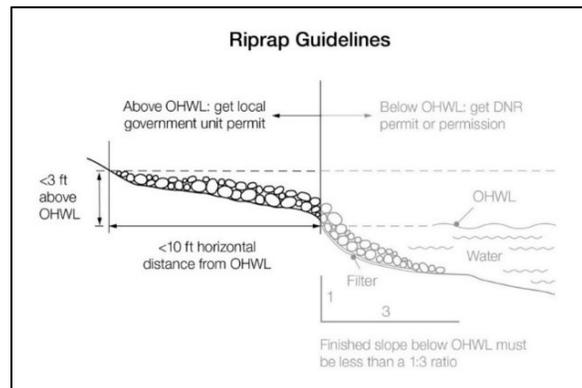
- b. Existing shading of water surfaces along rivers is preserved.
 - c. Cutting debris or slash shall be scattered and not mounded on the ground.
 - d. Perennial ground cover is retained.
 - e. Picnic areas, access paths, livestock watering areas, beaches, and watercraft access areas are prohibited 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 correct 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 vertical.
 - 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 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. **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

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

- c. **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. **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.
 5. **Fertilizer Use.** The application and use of fertilizers shall be conducted in a way to adhere to best use practices as determined by the product manufacturer. Any excessive application of fertilizer above the aquifer is highly discouraged.
 6. **Hazardous Materials.** Non-agricultural bulk storage of hazardous materials shall be prohibited within the RP-WHP overlay district.
 7. **Underground Storage Tanks.** New underground tanks shall be prohibited within the RP-WHP overlay district.
 8. **Aggregate Mining.** Expansion of existing aggregate mining operations and permitting of new aggregate mining operations shall be prohibited within the RP-WHP overlay district.

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 Moorhead 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 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.

Table 8-1. Use Table

* 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) |

| 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 living facility (fewer than six residents) | P | P | | | | | P | P | P | | P | | | P | P | 8-8-3(C) |
| 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) |

| 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) | | |
| Commercial entertainment use | | C | P | C | | | | | | | | | | | | | |
| Commercial PUD* | C/PL* | | | | | | C/PL | C/PL | C/PL | C/PL | | | | | | 8-4-14 (shoreland) | |
| Extractive use | A/I | | | | | | | | | | | A/I | A/I | | | 8-8-4(D) | |
| Gas station/convenience store | | C | C | | | | | | | | | | | | | | |
| Kennel | I | I | I | I | | | I | I | | | | | I | | I | 8-8-4(I) | |
| Landscaping, nursery, or building material sales | | P | P | C | | | | | | | | | | | P | | |
| Motel/hotel | | C | P | C | | | | | | | | | | | | | |
| Motor sports facility | C | | C | | | | | | | | | | | | | | |
| Office | | P | P | C | | | | | | | | | | | | | |
| Precast concrete plant | C | C | C | | | | | | | | | | | | | 8-8-4(F) | |
| Restaurant | | C | P | C | | | | | | | | | | | | | |
| Retreat center or wedding venue | C | | | | | | | C | C | | | C | C | | C | 8-8-4(J) | |
| Shop condo | | C/PL | C/PL | C/PL | | | | | | | | | | | | | |
| Storage/stockpiling of extracted materials | I | I | I | I | | | | | | I | I | I | I | | I | | |
| Salvage yard | C | C | C | | | | | | | | | | | | | 8-8-4(H) | |
| Service business | | P | P | P | | | | | | | | | | I | I | 8-8-4(K) | |
| Storage units | C | P | P | C | | | | | | C | C | | | | C | 8-8-4(L) | |
| Temporary tire, waste collection, or recycling operation | I | I | I | I | | | | | | | | | I | | I | | |
| Vehicle and equipment sales | | I | P | I | | | | | | | | | | | | 8-8-4(G) | |
| Warehouse | C | P | P | C | | | | | | | | | | | C | | |
| Wholesale business | C | P | P | C | | | | | | | | | | | C | | |
| PUBLIC SERVICE & UTILITY USES | | | | | | | | | | | | | | | | | |
| Essential services | C | C | C | C | | | | | | | C | C | C | C | C | C | 8-8-6(A) |
| Landfill, public | P | | | | | | | | | | | | | | P | | |
| Landfill, demolition wastes only | C | | | | | | | | | | | | | | C | | |
| Communication towers | C | C | C | C | | | | | | | C | C | C | C | C | C | 8-8-6(B) |
| Meteorological towers | I | I | | | I | I | I | | | | I | I | I | I | | | 8-8-6(B); 8-8-6(D) |
| Radio or television transmission facility | C | | C | C | | | | | | | C | C | | | C | | |
| Railroad, street, bridge, utility transmission line or pipeline | P | P | P | P | P | C | P | P | P | P | P | P | P | P | P | P | 8-3-10 (floodplain) |

| 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) | |
| Towers exclusively for governmental or national defense purposes | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | |
| Solar farm | C | | | | | C | C | C | | C | C | | C | | C | 8-8-6(C) |
| Wind energy conversion system (Tier 1) | C | | | | | | C | | | C | C | C | C | | | 8-8-6(D) |
| 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 | 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

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

| Setback Feature | Tier I (10-49 AU) | Tier II (50-999 AU) | Tier III (1,000+ AU) |
|--|-------------------|-----------------------|-----------------------|
| Wetland types 3, 4, and 5 that are not protected waters wetlands | 300 feet | 300 feet | 300 feet |
| State park | 500 feet | 1,320 feet (1/4 mile) | 2,640 feet (1/2 mile) |
| Campgrounds | 500 feet | 1,320 feet (1/4 mile) | 2,640 feet (1/2 mile) |
| ROW of Federal, State, or County highway or Township road | 125 feet | 125 feet | 125 feet |
| <p>*Note: The required setback from dwellings, incorporated communities, and platted subdivisions may be reduced by up to 25% for confined animal feedlots.</p> | | | |

- 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.

10. **Nonconforming Feedlots.** All nonconforming 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.
- c. **Development Permits.** The facility must receive the appropriate permits for any new structure or addition to any existing structure, proposed sewage treatment

system systems, and proposed restroom facilities.

- d. **Licenses.** The facility must receive all Federal, State, and local licenses required for operation including food, beverage and lodging licenses as necessary.
2. **Application Requirements.** A Site Plan shall be submitted with the Interim Use Permit application showing the location and proposed use of all existing and planned structures, parking, well, sewage treatment system, and agricultural tourism activity locations.
3. **Location.** Agricultural tourism uses shall not be located in platted subdivisions. Agricultural tourism activities should primarily be conducted outside, though they may be located within a primary dwelling or in separate residential, non-residential, or farm buildings. All structures to be associated with the activity must be included in the Site Plan.
4. **Minimum Lot Area.** The minimum lot area for a lot containing an agricultural tourism activity shall be the minimum lot size for the zoning district it is within.
5. **Setbacks.** Any structures associated with an agricultural tourism activity must be located at least 250 feet from a residential structure located on adjacent property.
6. **Sign.** One non-illuminated sign only of a maximum size of forty (40) square feet is allowed to advertise the agricultural tourism use on site. Such sign shall meet the setbacks for structures for the district within which the use is located.
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 processes used at an agricultural tourism activity shall create noise, vibration, glare, fumes, odors or electrical interference that could create a nuisance off the premises.
 - b. **Traffic and Roads.** 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 agricultural tourism use 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.

D. Temporary Agricultural Employee Housing.

1. **Location.** Agricultural employee housing shall be allowed only in the Agricultural General Zoning District and not in cluster subdivisions.
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. **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.
 - iii. **Reclamation Plan.** A plan and 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.

- iv. **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.
3. **Interim Use.** Any extractive use that does not meet the criteria of 8-8-4(D)(2)(b), above, may only be permitted with an Interim Use Permit, subject to the following standards.
 - a. **Application Requirements.** A map of the proposed pit or excavation shall be prepared 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 the extraction is completed.
 - b. **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 or Environmental Impact Statement conforming to the requirements of the Minnesota Environmental Policy Act of 1973 and Minnesota Administrative Rules Chapter 4410.
 - c. **Required Permit Conditions.** An Interim 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.
 - ii. Provide adequate planting, fencing, or berm-ing in areas where extractive uses are adjacent to public roads or residential uses.
 - iii. During operation, keep any excavation in such condition as not to be dangerous from caving or sliding banks.
 - iv. Properly drain, fill, or level any excavation, after created, so as to make the same safe and healthful.
 - v. Restrict runoff from the site to lake, rivers, streams, or adjacent 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 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. Storage 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. **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.
2. **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.

- c. **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.
6. **Transmission Services.** The applicant for such a conditional use shall conform to the following procedures and 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.
2. **Exemptions.**
- 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 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 20 feet.
 - ii. 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 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 NDPES 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.

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

| Setback Feature | Tier I Turbines | Tier II and Tier III Turbines (Micro-WECS) | Meteorological Tower |
|--|--|---|---|
| Lot lines ¹ | 5 rotor diameters along the primary wind axis, 3 rotor diameters along the secondary wind axis | The fall zone + 10 feet or 1.1 times the total height | The fall zone + 10 feet or 1.1 times the total height |
| Dwellings ² , participating | 750 feet | NA | The fall zone + 10 feet or 1.1 times the total height |
| Dwellings ² , non-participating | 1,000 feet | Encompassed in property line setback. | The fall zone + 10 feet or 1.1 times the total height |
| Public right-of-way (roads, railroads, power lines, etc.) ³ | The fall zone + 10 feet or 1.1 times the total height | The fall zone + 10 feet or 1.1 times the total height | The fall zone + 10 feet or 1.1 times the total height |
| Public conservation lands | 600 feet | 1.1 times the total height. | 600 feet |
| Wetlands, USFW Types III, IV, and V | 600 feet | NA | 600 feet |
| Other structures | To be considered. | To be considered. | To be considered. |
| Other Existing WECS ⁴ | To be considered. | To be considered. | To be considered. |
| Airports | 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. | | |

| Setback Feature | Tier I Turbines | Tier II and Tier III Turbines (Micro-WECS) | Meteorological Tower |
|---|-----------------|--|----------------------|
| <p>Notes:</p> <ol style="list-style-type: none"> 1. Internal lot line setbacks may be waived for aggregated projects. 2. The setback for new dwellings shall be reciprocal in that no new dwelling shall be constructed within the required WECS setback. 3. The setback shall be measured from future rights-of-way if a planned change or expanded right-of-way is known. 4. 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. | | | |

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

- 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.
- C. **Interpretation and Exceptions.**
1. When the base district underlies one or more overlay districts, development shall conform with the strictest setback requirements.
 2. 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
 - c. Collector road: 125 feet

Roads entirely within a platted subdivision

 - d. Township (local) road: 90 feet
 - e. Township (local) road (Oakport Township): 75 feet
 - f. Township (local) road (UE District): 65 feet
 2. **Cul-de-Sacs.** The front yard setback from cul-de-sacs shall be 20 feet, as measured from the edge of the road right-of-way.
 3. **Pipelines.** All structures shall be set back a minimum of 60 feet from the edge of any public or private utility pipeline right-of-way.
 4. **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

| Base Zoning District | Development Type | Maximum Density | Yard Setbacks ¹ | | | Lot Standards | | |
|--|--|---|--|-----------------------------------|------------------------------------|------------------|-------------------|----------------------|
| | | | Front Yard Setback | Rear Yard Setback | Side Yard Setback | Minimum Lot Area | Minimum Lot Width | Maximum Lot Coverage |
| AG, Agricultural General District | Administrative Subdivision | 1 dwelling unit per 40 acres (max 2 if one dwelling unit exists) | Same as roadway setback under 8-9-1(D) | 25' (5' for accessory structures) | 15' (10' for accessory structures) | 1.5 acres | 200' | No requirement |
| | Standard Subdivision | 5 dwelling units per quarter-quarter; 8 dwelling units per quarter | Same as roadway setback under 8-9-1(D) | 25' (5' for accessory structures) | 15' (10' for accessory structures) | 1.5 acres | 200' | No requirement |
| | Cluster Subdivision | 8 dwelling units per quarter | Same as roadway setback under 8-9-1(D) | 25' (5' for accessory structures) | 15' (10' for accessory structures) | 1.5 acres | 100' | No requirement |
| | Agricultural or Natural Resource Subdivision | 8 dwelling units per quarter with optional density bonus ² | Same as roadway setback under 8-9-1(D) | 25' (5' for accessory structures) | 15' (10' for accessory structures) | 1 acre | 100' | No requirement |
| ASC, Agricultural Service Center District | Residential uses | No requirement | 90' from road centerline | 25' (5' for accessory structures) | 15' (10' for accessory structures) | 1 acre | 200' | No requirement |
| | Commercial and industrial uses | No requirement | 90' from road centerline | 25' (5' for accessory structures) | 15' (10' for accessory structures) | 1 acre | 200' | 30% |
| HC, Highway Commercial District | All | No requirement | Same as roadway setback under 8-9-1(D) | 40' | 30' | 1 acre | 100' | 30% |
| LHC, Limited Highway Commercial District | All | No requirement | Same as roadway setback under 8-9-1(D) | 40' | 30' | 1 acre | 100' | 30% |
| <p>Notes:</p> <ol style="list-style-type: none"> 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. 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 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 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 as contemplated within state statutes and applicable case law, under the context of access control standards and access management policies established to fulfill the 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 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, may designate, locate, improve, and maintain controlled-access Highways for public use as it deems appropriate. Further, the road authority may design, regulate, restrict, or prohibit access pursuant to terms and conditions as specified by the County. This authority applies to all Highways under the County's purview, inclusive of all County highways, all County State-Aid Highways, and Township roads as may be applicable.
- C. **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 requirements of this section shall apply as follows:
1. The requirements of this section shall apply to all roadways under Clay County's jurisdiction.
 2. Any access legally established as of the effective date of this Ordinance that does not conform with the standards of this section may continue in existence subject to the regulations of 8-9-2(M).
 3. For any Access Plan or Access Permit request that is filed for development within a city or within a UED, Urban Expansion District, the city's access spacing requirements, if applicable, shall supersede those of Clay County. In this case, a County Access Permit is still required and must be obtained prior to or concurrent with any development application required by said city.
 4. Any proposed access modification to the County roadway system contemplated under the Barnesville Area Joint Powers Agreement and Zoning Ordinance 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 must be obtained prior to or concurrent with the Joint Powers Development application process.

- E. **Violation and Penalty.** Any access to a County roadway that is constructed or reconstructed without an Access Permit or in violation of an approved Access Permit after the effective date of this Ordinance shall be illegal. The County Engineer may order the removal 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 access closure or removal and 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*).
- F. **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.
 - b. An Access Plan, as described under 8-9-2(G), below.
 4. When the application fee has been paid for one Access Permit, the fee shall be waived for any additional Access Permits 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 upon receipt of the application and shall render a final decision on the Access Permit within 30 days following acceptance of a complete application. If the application is forwarded to the Highway Tracking Committee, the review period may be extended by up to 30 additional days.
 6. Receipt of an Access Permit from the Clay County Highway Department does not preclude the need to obtain any other 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.

G. **Access Plan.** An Access Plan is required with all Access Permit applications. In addition, any applicant seeking to construct or modify an access to a roadway owned by another governmental unit that is within one-eighth (1/8) mile of an intersecting County roadway must submit an Access Plan to the Clay County Highway Department. The Access Plan shall consist of the following:

1. A Site Plan, drawn to scale, to include the following:
 - a. The location and type of proposed access changes.
 - b. All lot(s) and rights-of-way that will be impacted by access construction, modification, or closure, with labeled dimensions. At the County Engineer's discretion, this may require the submission of survey accurate data or other title/property information, which shall be the applicant's responsibility to procure.
 - c. The location of, and distance to, all existing public or private 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;
4. A development phasing plan, if applicable;
5. A signal justification report or warrant analysis, if a traffic signal is proposed or anticipated as a need;
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
7. Proof of the appropriate watershed permit for culvert sizing.

H. **Review Standards.** The County Engineer shall consider the following standards in granting Access Permits:

1. The proposed development is consistent with all provisions of this section and any other applicable requirements as set forth within the County Code;
2. Adequate capacity is provided to convey drainage within the public right-of-way;
3. Adequate sight distance is provided at intersections; and
4. Access spacing and design conforms to the standards of this section.

I. **Minimum Access Spacing Requirements.** All access modifications on County roadways shall conform to the minimum access spacing requirements of *Table 9-2 (Minimum Access Spacing Requirements)*, as measured from the centerline of each access, unless these requirements are superseded by city 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 | Intersection Spacing | | Driveway Spacing | | |
|------------------------------|----------------------|----------------|--------------------|-----------|----------|
| | Full Access | Limited Access | Posted Speed Limit | | |
| | | | < 35 mph | 35-45 mph | > 45mph |
| Principal Arterial* | NA | NA | NA | NA | NA |
| Minor Arterial* | 1,320 feet | 660 feet | 330 feet | 660 feet | 660 feet |
| Collector | 660 feet | 330 feet | 160 feet | 330 feet | 330 feet |
| Township (Local) Road | 330 feet | 120 feet | 50 feet | 160 feet | NA |

***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.

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 properties with inadequate roadway or right-of-way frontage to meet the minimum access spacing requirements, the County Engineer shall work with the applicant to determine the most appropriate access point(s), which may require access via connections to local streets or developed service roads or via shared access with a lot that has conforming access.
2. **Temporary Access.** The County Engineer may approve a temporary access that does not meet the minimum access spacing requirements if the Access Plan demonstrates how access spacing requirements will ultimately be met and the applicant submits a recorded easement or access agreement 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.

1. **Access Alignment.** On undivided highways, accesses 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.
3. **Auxiliary Lanes.** The County Engineer may require auxiliary lanes on the major roadway if warranted by traffic volumes or other operational or safety issues. access shall not be approved within any auxiliary lane unless there is no reasonable alternative.
4. **Limited Access.** In certain circumstances, the County Engineer may require turning or through movements to be restricted to reduce vehicular conflicts. Turning movement restrictions shall be enforced with barrier median channelization or driveway channelization, as determined by the County Engineer.
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 if the property can reasonably be accommodated via indirect access or shared access. The County Engineer shall determine, on a site-specific basis, which lot or lots shall be permitted direct access to the County roadway. Direct access to a County roadway may be prohibited if:
 - a. The property abuts multiple roads and access can be reasonably accommodated via an alternative road.
 - b. The property abutting a County roadway is to be subdivided into more than two lots. Direct access to a County roadway shall not be used in lieu of an adequate internal traffic circulation system that provides access to the County roadway or another public roadway.
6. **Access Closure.** When a development activity that requires an Access Permit would result in the relocation of an existing access, any existing access not approved for continuance shall be removed and the land shall be graded and landscaped to conform with adjacent land.
7. **Culverts.** Clay 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 section.

L. **Access Construction.** The following standards shall apply to all access construction:

1. All access construction activities shall be consistent with the approved Access Plan. Completed work shall be inspected and approved by the County 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.

M. **Nonconforming Access.** The purpose of this subsection is to recognize the existence of accesses

that were lawfully established prior to the effective date of this Ordinance but that do not meet the requirements of this Ordinance; to discourage the expansion and alteration of nonconforming accesses; and to encourage the elimination or mitigation of nonconforming accesses as opportunities arise to reduce their negative impact on the County roadway system.

1. **Continuation.** A nonconforming access shall be allowed to continue as long as there is no physical change in the access; the use served by the access remains unchanged and does not intensify; and no development is contemplated. Normal maintenance and repair of 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 an Access Permit is issued pursuant to this section. If a nonconforming access serves a nonconforming use or structure, the use of which has been discontinued for more than one (1) year, or if a nonconforming structure sustains substantial damage, any subsequent access serving the property shall conform to the provisions of this section.

8-9-3. Fences

The following requirements shall apply to fences in all Districts:

- 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. **Minimum Roadway Clearance.** Trees shall be trimmed to provide at least 12 feet of clearance above roadway surfaces. It is the responsibility of all persons, whether owners or tenants, to trim trees on property adjoining public roads so they do not interfere with travel on roads and sidewalks.
- B. **Planting Prohibited in Right-of-Way.** No person shall plant any tree, shrub, or other vegetable growth except lawn grass in the right-of-way or within the ditch backslope.
- C. **Vegetation Setbacks from Roadway**
 1. Shelterbelts shall not be planted within 125 feet of the roadway centerline.
 2. Windbreaks located north or west of a road shall not be planted within 100 feet of the roadway centerline.
 3. Windbreaks located east or south of a road shall not be planted within 75 feet of the

roadway centerline.

4. In platted subdivisions, trees and shrubs shall not be planted within 70 feet of the roadway centerline.

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.
 2. Off-street parking facilities existing at the effective date of this Ordinance shall not be reduced to less than the minimum requirements of this section.
- B. **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 set back at least 10 feet from the edge of the wayright-of-way.
 3. Any lighting used to illuminate an off-street parking area shall be reflected away from public right-of-way and adjacent property.
 4. Fencing or landscaping shall be required between off-street parking or loading facilities and adjacent platted residential lots for the entire length of the parking or loading facility.
 5. Parking aisles shall be designed for safe, efficient traffic flow.
 6. Off-street parking areas designed for more than four vehicles shall meet the surfacing and drainage requirements of the County Engineer.
- D. **Minimum Off-street Parking Requirements.** *Table 9-3 (Minimum Off-Street Parking Requirement)* lists the minimum number of required off-street parking spaces for common uses. These requirements shall be interpreted and administered as follows:
 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.
- E. **Loading and Unloading Areas.** Loading and unloading areas for goods, supplies, and services shall be sufficient to meet the needs of each use.

Table 9-3. Minimum Off-Street Parking Requirements

| Land use | Minimum Number of Parking Spaces |
|--|--|
| Automotive repair | 1 per service bay + 1 per 300 square feet of office/administrative space |
| Commercial entertainment | Parking study |
| Dwelling unit | 2 per dwelling unit (single garage + driveway) |
| Gas station/convenience store | 4 + 2 for each service bay |
| Kennel | Schedule A |
| Industrial uses | Schedule A or parking study |
| Landscaping, nursery, or building material sales | Schedule A |
| Motels and hotels | 1 per guest room + 1 per 300 square feet of office/administrative space |
| Offices and government facilities | Schedule A or parking study |
| Public or religious assembly | 1 per 4 seats or parking study |

| Land use | Minimum Number of Parking Spaces |
|--|--|
| Recreational uses (public and private) | Parking study |
| Restaurants and bars | 1 per 75 square feet of customer area or parking study |
| Retail sales and services | 1 per 300 square feet of customer area |
| Retreat center or wedding venue | Parking study |
| School | Parking study |
| Shop condo | Schedule A |
| Vehicle and equipment sales | Schedule A |

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.
 - c. All areas surrounding a permitted sign shall be kept free from unreasonable growth and debris. Unkempt areas shall be corrected within 30 days upon receipt of notice from the Zoning Administrator.
 - 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.
5. **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.
6. **Number of Faces.** No sign shall have more than two (2) faces.
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
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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. **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 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. 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.
 10. **Proposed Easements.** All proposed easements as permitted 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. **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.
2. **Double-Fronting Lots.** Lots with frontage on two (2) parallel streets shall be avoided.

E. Flag Lots. Flag lots shall be avoided.

F. Minimum Setbacks. Minimum lot line setbacks shall be those specified for the district within which the 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.
3. **Sanitary System.** Sanitary sewage disposal shall be by a central system serving the subdivision or by individual systems. In 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 installed as will adequately provide for the drainage of surface waters.
5. **Traffic Control.** Stop or yield signs shall be placed at all streets intersecting arterial or collector roads as approved by the County Engineer.

B. 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:

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8-11-1. Zoning Administrator

- A. **Powers and Duties.** The Clay County Zoning Administrator or their designee is responsible for fulfilling all administrative duties and planning activities as defined by this Ordinance, including but not limited to the following specific duties and any additional duties so delegated by the County Board:
1. Administer and enforce the provisions of this Ordinance.
 2. Coordinate Ordinance administration and County planning activities.
 3. Receive and provide administrative support in handling applications for conditional or Interim Use Permits, variances, zoning amendments, and other approvals under this Ordinance.
 4. Review and decide on applications for Development Permits and maintain records thereof, including records of the elevation of the first floor (including basement) of all structures or additions to existing structures in Flood Hazard Districts. The Zoning Administrator shall also maintain a record of the elevations to which structures or additions are floodproofed.
 5. 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.
 7. Conduct necessary inspections of structures and uses of land to determine compliance with the provisions of this Ordinance.
 8. Provide and maintain public records of this Ordinance and the Clay County Comprehensive Plan and any amendments thereto.
 9. Advise the County Board of Commissioners, Planning Commission, and Board of Adjustment on matters originating from administration of this Ordinance.

10. Perform all duties in addition to those listed herein that may be necessary for the proper administration of this Ordinance.

B. **Appeals.** Any decision by the Zoning Administrator authorized by 8-11-1(A), above, shall 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.

8-11-2. County Board

A. **Powers and Duties.** The County Board shall have jurisdiction in all matters permitted by law including the following:

1. 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 by assigning enforcement duties of any officer, department, agency, or employee of the County.
2. 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. The County Board shall have the power to initiate, consider, adopt, or reject proposed Zoning Map amendments or Ordinance text amendments.
4. The County Board shall have the power to consider, approve, conditionally approve, or disapprove any Final Plats forwarded by the Planning Commission.

B. **Appeals.** Any decision by the County Board authorized by 8-11-2(A), above, shall constitute a final decision. Any aggrieved persons may appeal the decision of the County Board to the appropriate court pursuant to state law.

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 of the Planning Commission shall be comprised of 11 members determined according to Minnesota Statutes Section 394.30.
2. Each member of the Planning Commission shall be appointed by the County Board to serve a three (3)-year term of office. No member shall serve more than three (3) consecutive three (3)-year terms on the Planning Commission. Interim appointments for less than three 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. 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. The Planning Commission shall have the authority to hear and decide on all applications for Conditional Use Permits, Interim Use Permits, and use permit revocations.

3. The Planning Commission shall have the authority to make Environmental Impact Statement needs decisions and Environmental Impact Statement adequacy decisions.
 4. The Planning Commission shall have the authority to review proposed Preliminary Plats, Final Plats, Zoning Map amendments, and Zoning Ordinance Text Maps and make recommendations to the County Board to approve, conditionally approve, or disapprove such items.
- C. **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, with the following provisions:
1. The Board of Adjustment shall be comprised of five (5) members, with membership determined according to Minnesota Statutes Section 394.27.
 2. Each Board of Adjustment member shall be appointed to serve a three (3)-year term of office. No member shall serve more than three (3) consecutive three (3)-year terms on the Board of Adjustment. Interim appointments for less than three (3) years may be made to fill vacancies for unexpired terms.
- B. **Powers and Duties.** The Board of Adjustment shall have the following powers and duties:
1. The Board of Adjustment shall have the authority to hear and decide on all variance applications.
 2. The Board of Adjustment shall have the authority to hear and decide on appeals of final administrative decisions.
- 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 permit holder, 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.
- 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. **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.
- D. Review Standards.** In the granting or denial of a variance, the Board of Adjustment shall identify in writing specific findings of fact that are consistent with the criteria specified in Minnesota Statutes Annotated Section 394.27 and the criteria of this section. The Board of Adjustment shall not grant a variance unless it finds at a public hearing that all of the following standards are met:
1. The variance is in harmony with the general purposes and intent of this Ordinance.
 2. The variance is consistent with the Clay County Comprehensive Plan.
 3. The applicant establishes that there is a practical difficulty in complying with the strict letter of this Ordinance, by demonstrating:
 - a. The applicant proposes to use the property in a reasonable manner not permitted by an official control;
 - b. Exceptional or extraordinary circumstances apply to the property that do not

apply generally to other properties in the same district or vicinity, and which result from lot size or shape, topography, or other circumstances over which the landowner has no control or influence; and

- c. Granting the variance will not alter the essential character of the property's locality.
 4. A literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other landowners in the same district under the terms of this Ordinance.
 5. The variance is the minimum variance that 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.
- 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;
 2. The landowner's practical difficulty is self-imposed;
 3. The variance would allow a use that is prohibited by zoning;
 4. The variance would result in noncompliance with the Regulatory Flood Protection Elevation (RFPE); however, variances may be used to modify permissible methods of flood protection; or
 5. 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;
 3. Whether the violation was intentional or unintentional; and
 4. The benefit to the County of enforcement compared to the burden on the applicant if compliance were required.
- 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.** Special provisions apply to the consideration and granting of variances to property located within a Flood Hazard District or shoreland 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 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)*.
 - d. Any additional application submittal materials required for the proposed use in *Chapter 8 (Use Regulations)*.
 - e. 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.
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 Conditional Use Permit and advise the Planning Commission in its decision.
6. At the public hearing, the Planning Commission shall hear testimony and comments regarding the request for Conditional Use Permit. The Planning Commission may deem to continue the public hearing or hold additional public hearings at their discretion.
7. After the public hearing, the Planning Commission shall make one of the following decisions:
 - a. Grant the Conditional Use Permit with established conditions;
 - b. Deny the Conditional Use Permit, stating its findings of facts for denial;
8. If the Conditional Use Permit is granted, it shall be filed at the office of the County Recorder, and the original shall be provided to the applicant. The Zoning Administrator

shall provide to the Commissioner of Natural Resources a copy of any Conditional Use Permit applying to property within a Flood Hazard District or Shoreland District within 10 days of the approval decision.

- C. **Review Standards.** In granting a 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 uses and especially the effect on Agricultural 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. The conditional use will not be injurious to the health, safety, morals and general welfare of residents of Clay County.
 2. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted.
 3. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding property for uses predominant in the area.
 4. 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. Adequate measures have been or will be taken to prevent or control noxious odor, fumes, dust, noise, or vibration 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.
 6. 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, roads, water supply, sanitary sewers, and storm sewers, unless the County and the applicant establish a Development Agreement that determines how such impacts will be resolved.
 7. 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.
 8. The conditional use is consistent with the goals and objectives of the Clay County Comprehensive and Transportation Plan and any comprehensive plan of a township or city as may be applicable.
- D. **Conditions.** In permitting a new conditional use, 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. Increasing the required lot area or setbacks;
 2. Limiting the height, size, or location of structures;
 3. Controlling the location and number of vehicle access points;
 4. Increasing the 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
 9. All standards and requirements for specific uses listed in *Chapter 8 (Use Regulations)*.
- E. **Revocation of Conditional Use Permit.** If the conditions of the permit are not being satisfied, the Planning Commission has the authority to revoke the permit upon public notice and hearing.
- F. **Conditional Uses in Flood Hazard Districts and Shoreland Districts.** Any conditional use located within a Flood Hazard District or Shoreland District shall conform to 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 process is to allow a use, which may not be appropriate generally or on a permanent basis, to exist for a definite duration, subject to conditions as set forth in this Ordinance 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 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 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.
6. 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. 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, or makes false statements in any document submitted under the provisions thereof shall be guilty of a misdemeanor and shall be punished as defined by law.

B. Enforcement.

1. The Zoning Administrator, or other appointed official is responsible for the administration and enforcement of this Ordinance. In the event of a violation or threatened violation of this Ordinance, 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. In responding to a suspected Ordinance violation, the Zoning Administrator and the County may utilize the full array of enforcement actions available to 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. 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. When the Zoning Administrator learns of an Ordinance violation, the Zoning Administrator shall investigate the situation as soon as is reasonably possible and shall document the nature and extent of the violation.

4. 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 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. As may be necessary and as soon as is reasonably possible, the Zoning Administrator shall report the violation and the County's plan for corrective 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 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 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 period specified by the Zoning Administrator, Planning Director, or any other appointed official responsible for enforcing this Ordinance.

- 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, 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 upon the lapse of the specified period notify the landowner to restore the land to the condition which existed prior to the violation of this Ordinance.

Chapter 8-12. Rules and Definitions

Chapter Contents:

- 8-12-1. Rules
- 8-12-2. Definitions

8-12-1. Rules

1. **Rules of Construction.** 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 vice versa.
 - d. The word “shall” is mandatory and the word “may” is permissive.
 - e. The use of the neuter gender, (they/them) is used throughout in place of the feminine and 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.
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. A means of providing vehicular entrance or exit to a property or 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, 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 or road that provides reasonable access for the movement of vehicles between the County road system and an abutting property.

Access Plan. A plan reviewed by the County Planning Commission and approved by the Board of Commissioners upon recommendation of the County 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. An access connection that is privately owned and maintained and which provides the primary means of access to an abutting property.

Access, public. An access connection under the jurisdiction of a public authority that provides the principal means of access to an abutting property.

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

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 50 percent of the video products in stock shall be considered an adult entertainment use.

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 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. 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 rights-of-way, including all necessary taxi ways, aircraft storage and tie-down areas, hangars, and other necessary buildings and open spaces.

Airport hazard. Any structure, tree, or use of land which obstructs the air space required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport; and any use of land which is hazardous to persons or property because of its proximity to the airport.

Airport hazard area. Any area of land upon which an airport hazard might be established. airport hazard Areas are identified by the Landing Field Overlay District and the Zoning established by the Hawley Municipal Airport Zoning Ordinance and the Moorhead Municipal Airport Zoning Ordinance.

Annexation. The incorporation of a land area into an existing municipality with a resulting change in the boundaries of that municipality.

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. 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.

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 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 use for fewer than 14 consecutive days.

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 8-11-4 (*Board of Adjustment*) and authorized under Minnesota Statutes, Section 394.27.

Board of Commissioners. See County Board.

Buildable area. The area of a lot remaining after the minimum setback requirements of this Ordinance have been complied with.

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.

Building height. The vertical distance between the highest adjoining ground level at the building, or 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 setback line. A line parallel with the street right-of-way line, private road, lot line, ordinary high-water level, or access easement, at the required setback beyond which a building may not extend. This definition also applies to structures.

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. As defined by Minnesota Statute 342.01.

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. 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.

Cluster subdivision. A subdivision that places dwellings into compact groups and in which all lots are accessible via an internal subdivision road.

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 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.

Communication tower. A structure that is used primarily as a communication antenna or as a communication antenna support structure.

Comprehensive Plan. The Clay County 2045 Comprehensive & Transportation Plan.

Conditional use. A land use or development that would not be appropriate generally but may be allowed with appropriate controls upon a finding that certain conditions as detailed in this Ordinance exist.

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.

County. Clay County, Minnesota.

County Board. The Clay County Board of Commissioners.

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.

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. 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.

Development. As defined under 8-1-6 (*Development Defined*).

Development Permit. Also referred to as a Zoning Certificate. Any Administrative Permit customarily called an Access Permit, Administrative Permit, building permit, land alteration permit, septic permit, sign permit, solar energy permit or other action having the effect of permitting development.

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.

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. 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 dwellings.

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. A building containing one (1) dwelling unit only, including a manufactured home.

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; duplex. A building containing two (2) dwelling units.

Easement. An interest in land possessed by another which entitles the grantee of the interest to a limited use or enjoyment of that land.

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.

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.

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. Real property used for commercial agriculture or horticulture comprising at least 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 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 on a farm that is used for agricultural purposes, such as housing livestock, storing equipment, or processing produce. Farm buildings do not include residential living areas.

Farmer. Any individual, partnership, association, or corporation that cultivates, operates or manages a farm either as an owner or tenant.

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.

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. An access to an agricultural field used for the movement of farm vehicles and equipment. access to a 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.

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 use is located.

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, which may or may not include a clubhouse with accessory commercial uses.

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

Hazardous Materials. Any item or agent (biological, chemical, radiological, and/or physical), which has the potential to cause harm to humans, animals, or the environment, either by itself or through

interaction with other factors.

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.

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.

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 voluntary residential community that 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 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.

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; use. The use or function of an area of land.

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.

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, auditor's plot, or other accepted means and separated from other 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. The area of a lot within the lot lines.

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. 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. A lot which occupies the interior angle at the junction of two (2) intersecting street lines, which make an angle not exceeding 135 degrees.

Lot depth. The mean horizontal distance between the front lot line and the rear lot line of a lot.

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. That boundary of a lot which is opposite the front lot line. If the rear lot line is less than 10 feet in length or if the lot forms a point at the rear, the rear lot line shall be a line 10 feet in length within the lot, parallel to and at the maximum distance from the front lot line.

Lot line, side. Any boundary of a lot that is not a front lot line or rear lot line.

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 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.

Maintenance or minor repairs. Nonstructural repair and structural 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. 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. A description of real property which is not described by reference to a lot or block shown on a map or a recorded 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 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 housekeeping service and desk service, and with parking facilities conveniently located to each unit.

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 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 concentrated animal feeding operations.

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 lot. Any lot that does not 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 Ordinance that does not conform with the requirements of the district(s) in which it is located.

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. Any legal use, structure, or 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 such use, structure, or lot was established, recorded, or authorized.

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.

Office. Non-residential space that is used primarily for administrative, clerical, professional, or similar activities.

Ordinary high-water level (OHWL). 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.

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 interest to a 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. Any public or private land available for recreational, educational, cultural, or aesthetic use.

Picnic ground. Two or more picnic tables reserved for use by 10 or more persons equipped with picnic tables and barbecue stands, which may be provided with a roofed shelter.

Precast concrete plant. Any building, structure, or land used primarily in the fabrication, processing, or storage of casted concrete and related products.

Wildlife preserve; nature preserve. Open space that preserves or protects endangered species, a critical environmental feature, or other natural feature.

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 section. An approximately 160-acre 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.

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.

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 cost. The current cost of rebuilding a structure to its pre-damaged condition.

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.

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

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. 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; street. A public thoroughfare, at least 20 feet in width, 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.

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. 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.

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 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.

Service business. A retail business offering services, rather than products, as the primary business.

Setback. The minimum horizontal distance between a structure, sewage treatment system, use, animal feedlot, ordinary high-water level, top of a bluff, road, highway, or lot line.

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 or shrubby vegetation designed to shelter buildings from wind and snow accumulation.

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.

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-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.

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 sign face shall be used in computing the total surface area.

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. A sign attached to a wall and not projecting away from the wall more than 12 inches.

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. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota State Archaeologist or the Director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

Sinkhole. A surface depression which is connected to cavernous bedrock (generally limestone) by a channel or collapse of the overlying formation.

Solar energy system and related terms. See 8-8-6(C).

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.

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' goods, personal property, or wares.

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. 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.

Subdivision. Land, vacant or improved, which is divided or proposed to be divided into lots, parcels, sites, units, 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 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.

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 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 a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Temporary use. Those land uses and insubstantial structures that are needed or are in place for only short periods of time not exceeding six (6) months and not intended for long-term or permanent use.

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. Trailheads may include parking lots, drinking fountains, restrooms, and signs.

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 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. 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.

Yard. An open space on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this Ordinance.

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 district in which the lot is located.

Yard, rear. A space extending between the rear building line of the principal or accessory structure and the rear lot line, and extending the full width of the lot.

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.