WILKIN COUNTY LAND USE ORDINANCE

AN ORDINANCE REGULATING THE USE OF LAND & WATER IN WILKIN COUNTY.

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

SECTION 1 TITLE

1.00 TITLE

1.00 Title.

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

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SECTION 2 INTENT AND PURPOSE

2.00 INTERPRETATION AND APPLICATION

2.01 Interpretation and Application.

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

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

2. protecting and preserving economically viable agricultural land.

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

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

5. conserving and developing natural resources in the county.

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

7. minimizing environmental pollution.

2.02 Purpose and Intent of Adult Use Zoning Regulations. The purpose and intent of the adult use regulations set forth in this Ordinance is to serve a substantial government interest by attempting to preserve the quality and vitality of neighborhoods, protect the City's retail trade, curtail the depression of property values, restrain criminal activity and slow the spread of sexually transmitted diseases. These regulations allow adult uses only in C-I, Commercial-Industrial District. Adult Uses, as defined by this Ordinance, because of their very nature, are recognized as having serious objectionable operational characteristics that have a deleterious effect upon the use and enjoyment of adjacent areas. These secondary effects are especially evident where such uses are concentrated. One objective of this ordinance is to disperse the adult uses through separation requirements from another adult use and from other significantly incompatible uses. The secondary effects associated with adult uses include an increased level of criminal activity, increased risk of exposure to sexually transmitted diseases, depression of property values and a detrimental change in the character of surrounding neighborhoods. However, it is recognized that such regulations cannot de facto approach prohibition.

Otherwise, a protected form of expression would vanish. The adult use regulations set forth in this Ordinance represent a balancing of competing interests: reduction of objectionable secondary effects through the regulation of adult uses versus the protected rights of the owners, operators, performers and patrons of those adult uses.

SECTION 3 APPLICATION OF THIS ORDINANCE

3.00 APPLICATION OF THIS ORDINANCE

3.01 Application.

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

2. **Other Laws.** Where the conditions imposed by any provision of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail. Nothing in this Ordinance removes the requirements of other permits or authorizations from other local, state, or federal agencies.

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

4. **Permits.** Zoning Permits, Conditional Use Permits, and Variances are issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized, shall be deemed a violation of this Ordinance.

5. **Compliance.** No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance. Existing uses and structures will be allowed to continue and may be enlarged, expanded and rebuilt as provided for in Section 6 of this Ordinance.

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

SECTION 4 RULES

4.00 RULES

4.01 Rules.

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

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

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

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

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

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

7. The present tense includes the past and future tenses and the future tense includes the present.

SECTION 5 DEFINITIONS

5.00 DEFINITIONS.

5.01 Definitions.

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

"**Adult Use**" means any establishment including, but are not limited to: adult arcade, adult bookstore, adult cabaret, adult motion picture theater, adult theater, or sexual encounter establishment, where (1) for any form of consideration, one or more motion picture projectors, slide projectors, or similar machines for viewing by 5 or fewer persons each, are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; (2) a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following: i) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or ii) instruments, devices or paraphernalia that are designed for use in connection with specified sexual activities; (3) the establishment regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, slides, or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; (4) for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas; or (5) for any form of consideration, provides a place where 2 or more persons may congregate, associate, or consort in connection with specified sexual activities or the exposure of specified anatomical areas. This definition does not include hotels, motels, or an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in sexual therapy.

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

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

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

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

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

3. Aquaculture.

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

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

"**Airport**" - Means HARRY STERN AIRPORT located in Richland County, North Dakota, and the vicinity of Wahpeton, North Dakota, and the City of Breckenridge, Minnesota.

"Airport Hazard" - Means any structure, tree or use of land which obstructs the airspace required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport; and any use of land, which is hazardous to persons or property because of its proximity to the airport.

"Airport Hazard Area" - means any area of land upon which an airport hazard might be established.

"Airport Reference Point" - Means the point established as the approximate geographic center of the airport landing area and so designated on the airport zoning map.

"Alley" - is a public right-of-way, which affords a secondary means of access to abutting property.

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

"Animal Unit" shall be as defined by Minnesota Rules 7020.0300, Subd. (5).

"**Antenna**" means any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including but not limited to directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whip antennas.

"As-Builts" means drawings and documentation specifying the final in-place location, size and type of all system components. These records identify the results of materials testing and describe conditions during construction. As-builts contain a certified statement.

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

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

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

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

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

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

1. Part or all of the feature is located in a shoreland area;

2. The slope rises at least 25 feet above the ordinary high water level of the water body;

3. The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater; and

4. The slope must drain toward the water body.

An area with an average slope of less than 18 percent over a distance for 50 feet or more shall not be considered part of the bluff.

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

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

"Board" means the board of County Commissioners.

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

"Boathouse" means a structure designed and used solely for the storage of boats or boating equipment.

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

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

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

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

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

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

"Certificate of Compliance, SSTS" means a document from a licensed sewage treatment inspector fully licensed by the State of Minnesota or a qualified employee provided to the owner of property on which a dwelling is located which is required to have an ISTS and to the LGU, indicating that said ISTS is not a failing system nor an imminent threat to public health or safety and, for new construction and replacement, is constructed in compliance with Minnesota Rules, Chapter 7080, as amended.

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

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

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

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

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

"Compliance Inspection" means any evaluation, investigation, inspection, or other such process to make conclusions, recommendations, or statements regarding an individual sewage treatment system to reasonably assure an individual sewage treatment system is in compliance as specified under part 7080.0060. Compliance inspections must be conducted by a qualified employee or under a license independent of the owner and the installer.

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

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

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

"County" means Wilkin County, Minnesota.

"County Board" means the Wilkin County Board of Commissioners.

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

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

"Department" means the Wilkin County Environmental Services or other designated agent who is a qualified employee or licensee.

"Dike / 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

"Duplex," "Triplex," and "Quad" means a dwelling structure on a single lot, having two, three, and four units respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.

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

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

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

"Dwelling, Farm" - a single-family dwelling located on a farm, which is used, or intended for use by a farmer.

"Dwelling, Multiple Family" - A dwelling designed for or occupied by two (2) or more families.

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

"Dwelling, Transient Agricultural Labor" - a free standing mobile or permanent structure used or intended or habitation by transient agricultural labor.

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

"Earthen Storage Manure Basin" means a dike or excavated structure, often lined with clay or synthetic liner, in which manure is stored. They are considered manure storage areas for purposes of this Ordinance.

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

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

"Energy Project" an electric generation project, subsidiary stations of electricity generation, and distribution systems where voltage is transformed from high to low or the reverse using transformers, thermal power or combustion turbine electric generation projects, solar electric generating projects, geothermal electric generating projects, and electric transmission and distribution lines.

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

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

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

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

"**Extraction Pit**" means any artificial excavation of the earth exceeding one hundred (100) square feet of surface area or two (2) feet in depth, excavated or made by the removal from the natural surface of the earth, or sod, soil, sand, gravel, stone or other natural matter, or made by turning, or breaking or undermining the surface of the earth. Excavations ancillary to other construction of any installation erected or to be erected, built, or placed thereon in conjunction with or immediately following such excavation shall be exempted, if a permit has been issued for such construction for installation. Excavations for agricultural purposes shall be exempt.

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

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

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

"Farmstead" means a development area designed and arranged to support farm activities. A variety of structures, storage area, and other facilities, including adjacent windbreaks and shelter belts, typically comprise a farmstead. The area may contain one or more Farm Dwellings. A livestock Feedlot may be present within the defined area of a Farmstead, but for the purpose of this Ordinance, Livestock Feedlots shall not be considered to be part of a Farmstead. A Farmstead has boundaries which can be approximately defined and differentiated from surrounding fields and pastures and the Administrator shall determine such boundaries as necessary.

"Feedlot" see definition for "Animal Feedlot".

"Feedlot, Existing" means an existing feedlot which was in operation on August 4, 1998, or within the previous 5 years.

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

"Feedlot Operator" means an individual, corporation, a group of individuals, a 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.

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

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

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

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

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

"Floodplain" means the areas adjoining a watercourse or water basin that have been or may be covered by the regional flood.

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

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

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

"Floodproofing" means a combination of structural provisions, changes or adjustments to properties and structures subject to flooding primarily for the reduction or elimination

of flood damages to properties, water and sanitary facilities, structures, and contents of buildings in a flood hazard area.

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

"Floodway" means the channel of the watercourse, the bed of water basins, and those portions of the adjoining floodplains which are reasonably required to carry and discharge floodwater and provide water storage during a regional flood.

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

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

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

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

"Government Survey" a survey which was conducted by the United States of America in dividing the land into congressional townships, sections, and subdivisions thereof.

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

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

"Highway" means any public thoroughfare or vehicular right-of-way with a federal, state or county numerical route designation.

"Home Occupation" - Any occupation of a service character which is clearly secondary to the main use of the premises as a dwelling and does not change the character thereof or have any exterior evidence of such secondary use.

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

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

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

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

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

"Individual Sewage Treatment System (ISTS)" means a sewage treatment system, or part thereof, serving a dwelling, or other establishment, or group thereof, and using sewage tanks or advance treatment followed by soil treatment and disposal. Individual sewage treatment system includes holding tanks and privies. As defined in MN Rules Chapter 7080.1100 Subp. 41.

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

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

"Inspector" means an individual qualified to review proposed plans and inspect ISTS and who meet the licensure and registration requirements of the Minnesota Pollution Control Agency.

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

"Junk Yard" - Land or buildings where waste, discarded or salvaged material are bought, sold, exchanged, stored, cleaned, packed disassembled or handled, including, but not limited to, scrap metal, rags, paper, rubber products, glass products, lumber products and products resulting from the wrecking of automobiles or other vehicles, provided further that the storage of three (3) or more inoperative motor vehicles for a period in excess of three (3) months shall also be considered a junk yard.

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

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

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

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

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

"Land Use Development Application" means, including, but not limited to applications for the following: construction permits, ISTS Permits, vegetative alteration permits, topographic alterations permits, or other types of zoning permits, conditional use permits, amendments to this Ordinance, variances from the provisions of Ordinance, and the subdivision of real estate. The application is not considered complete and will not be accepted by the Environmental Services Department unless all fees are paid, preliminary reviews and approvals completed, submitted with associated supporting information and documents, and such other informational required by the Environmental Services Department.

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

"Local Governmental Unit (LGU)" means a county, statutory or home rule charter city, town, watershed district or lake improvement district.

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

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

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

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

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

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

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

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

"Lot Width" means the shortest distance between lot lines measured at the midpoint of the building line.

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

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

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

"Metes and Bounds" is a method used to describe property which does not rely on descriptions in the platted townsites or upon the U.S. Government survey, but rather

identifies the property by reference to distances, angles, direction, objects, or a combination of two or more.

"Mitigation" means the act of alleviating the effects of floods and flooding by moderating or reducing the severe damages resulting from floods through structural and nonstructural flood management measures.

"Mitigation Measures" means structural or nonstructural flood management measures, or both.

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

"MPCA" means the Minnesota Pollution Control Agency.

"Municipality" means a city however organized.

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

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

"Non-Farm Dwelling" means any dwellings located on a parcel of land contiguous to or surrounded by farm land which is under separate ownership and whose occupants do not derive their predominant income from agricultural activities on the farm.

"Nonstructural Flood Management Measures" means action in floodplains designed to reduce the damaging effects of floods on existing and potential users of floodplains, without physically altering the flood behavior. Nonstructural flood management measures include:

(1) public acquisition of floodplain lands;
(2) relocation of public and private structures and facilities;
(3) floodproofing of public and private facilities;
(4) installation and operation of flood warning systems and evacuation procedures;

(5) adoption and enforcement of land use control ordinances and building codes;
(6) installation of signs and other notifications in regional flood areas; and
(7) provision of flood insurance and public education.

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

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

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

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

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

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

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

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

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

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

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

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

"Performance Bond" A bond which may be required by the County Board, Planning Commission, or Board of Adjustment to insure the completion of any activity falling under the jurisdiction of this ordinance.

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

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

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

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

"Planning Commission" means the Planning Commission of Wilkin County.

"Platted Areas" means such plots where a plat has been filed with the County Recorder in the County of Wilkin, State of Minnesota, as subscribed by Minnesota Statute Section 505.08.

"Practical Difficulties" as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

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

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

"Protective Covenants" are contracts made between private parties as to the manner in which land may be used, with the view to protecting and preserving the physical and economic integrity of any given area

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

"Public Water" means any waters as defined in Minnesota Statutes, Section 103G.005, Subdivisions 14 and 15. A body of water capable of substantial beneficial public use. This shall be construed to mean, for the purposes of this Ordinance, any body of water which has the potential to support any type of recreational pursuit or water supply purpose. The term "protected water" is synonymous with the term "public water" for the purpose of this Ordinance.

"Qualified Employee" means an individual licensed and registered by the MPCA who conducts site evaluation or design; installs, maintains, pumps, or inspects individual sewage treatment systems as part of employment duties and is registered on the SSTS professional register with specialty area endorsements applicable to the work being conducted. A qualified employee may be an apprentice if the individual has specialty area endorsements applicable to the work to be completed, has fulfilled the contractual requirements under Chapter 7080, and has been issued performance restrictions.

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

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

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

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

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

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

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

"Registered Land Survey" means a survey map of registered land designed to simplify a complicated metes and bounds description, designating the same into a tract or tracts of a Registered Land Survey Number. See Minnesota Statutes 508.47.

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

"Residential Planned Unit Development" means a use where the nature of residency is nontransient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential planned unit developments.

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

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

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

"Salvage Yard" means an open area where used or secondhand materials are bought, sold, exchanged, stored, baled, packed, disassembled, recycled or handled, including but not limited to: motor vehicles, scrap iron and other metals, paper, rags, rubber, tires, and bottles. This definition does not include solid waste or demolition landfills.

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

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

"Sensitive Resource Management" means the preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

"Septage" means solids and liquids removed during periodic maintenance of an SSTS, or solids and liquids which are removed from toilet waste treatment devices or a holding tank.

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

"Sewage" means any water-carried domestic waste, exclusive of footings and roof drainage, from any industrial, agricultural, or commercial establishment, or any dwelling or any other structure. Domestic waste includes liquid waste produced by toilets, bathing, laundry, culinary operations, and the floor drains associated with these sources, and specifically excludes animal waste and commercial or industrial wastewater.

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

"Subsurface Sewage Treatment System (SSTS)" Either an individual subsurface sewage treatment system (ISTS) or a midsized subsurface sewage treatment system (MSTS) as defined in Chapters 7080 and 7081.

"Subsurface Sewage Treatment System, Individual (ISTS)" means a subsurface sewage system as defined in Minnesota Rules, Chapter 7080, subpart 41, as amended from time to time.

"Subsurface Sewage Treatment System, Midsized (MSTS)" means a subsurface sewage system as defined in Minnesota Rules, Chapter 7081, subpart 4, as amended from time to time.

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

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

"Shoreland Setback" means the minimum horizontal distance between a structure and the normal high water mark.

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

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

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

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

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

"**Sign, On-premises**" means sign which directs attention to a business, commodity, service, activity or entertainment which is sold or offered upon the premises where the sign is located or which is only an incidental item or activity offered at that premises where the sign is located.

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

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

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

"Significant Historic Site" means any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the

director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

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

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

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

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

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

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

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

"Structure" means any building or appurtenance, including decks, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers,

poles, smoke stacks and other supporting facilities. The term "structure" for purposes of the Airport Zoning restrictions includes overhead transmission lines.

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

"Structural Flood Management Measures" means physical actions taken to modify the behavior and extent of floods and flooding, including the construction of dams, dikes, levees, flood bypass channels, floodwater storage and retardation structures, excluding deepening or straightening of existing stream channels.

"Subdivision" is a described tract of land which is to be or had been divided into two or more lots or parcels, any of which resultant parcels is less than two and one-half (2 1/2) acres in area and two hundred (200) feet in width, for the purpose of transfer of ownership or building development, or, if a new street or road is involved, any division of a parcel of land. The term includes resubdivision and, where it is appropriate to the context, relates either to the process of subdividing or the land subdivided.

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

"Toe of the Bluff" means the lower point of a 50-foot segment with an average slope exceeding eighteen (18) percent.

"Toilet Waste Treatment Devices" means privies and other devices including incinerating, composting, biological, chemical, recirculating, or holding toilets.

"Top of the Bluff" means the higher point of a 50-foot segment with an average slope exceeding eighteen (18) percent.

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

"Township" means any township.

"Transfer of Property" means the Act of a party by which a title to property is conveying from one person to another. The sale and every other method, direct or indirect, of disposing or parting with property, or with an interest therein, or with the

possession thereof, absolutely or conditionally, voluntarily or involuntarily, by or with judicial proceedings, as a conveyance, sale, mortgage, gift, or otherwise. A contract for deed is considered a transfer of property whether it has been filed or not.

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

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

"Variance" means any modification or variation of official controls where it is determined that, by reason of exceptional circumstances, the strict enforcement of the official controls would cause practical difficulties.

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

"Waterbasin" has the meaning given it by Minnesota Statutes Section 103G.005, Subdivision 16.

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

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

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

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

"Wetland" means a surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 edition), which is hereby incorporated by reference, is available through the Minitex interlibrary loan system, and is not subject to frequent change, and refers to land which is annually subject to periodic or continual inundation by water and commonly referred to as a bog, swamp, marsh or slough.

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

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

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

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

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

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

SECTION 6 NON-CONFORMITIES

6.00 NON-CONFORMING USES , STRUCTURES, AND LOTS

6.01 Non-conforming Structures.

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

1. No such structure shall be expanded, changed, altered or enlarged except in conformity with the provisions of this Ordinance, nor shall such expansion, change, alteration or enlargement increase the nonconformity. Expansion includes, but is not limited to, any increase of height, width, footprint, or volume.

2. If occupancy of a non-conforming structure is discontinued for twelve (12) consecutive months, any future use of the structure shall conform to this Ordinance. The county assessor shall notify the Zoning Administrator in writing of instances of non-conforming structure that have been discontinued for a period of (12) consecutive months.

3. If a non-conforming structure, classified as homestead or non-homestead residential real estate or seasonal residential real estate occupied for recreational purposes, is destroyed by any cause (including floods), to an extent exceeding fifty (50) percent of its fair market value as indicated by the records of the County Assessor, and no building permit has been applied for within 180 days of when the structure is damaged, the structure may not be rebuilt except in conformity with this Ordinance.

4. If a non-conforming structure, not covered by Section 6.01 (3) above, is destroyed by any cause (including floods), to an extent exceeding fifty (50) percent of its fair market value as indicated by the records of the County Assessor, the structure may not be rebuilt except in conformity with this Ordinance.

5. Normal maintenance of a lawful non-conforming structure is permitted, including necessary repairs and maintenance which do not extend or intensify the non-conforming use.

6.02 Non-conforming Uses.

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

1. No non-conforming use shall be expanded, enlarged or altered, including any increase in volume, intensity or frequency of use of the property where a nonconforming use exists.
2. A change from one nonconforming use to another nonconforming use is prohibited.
3. A nonconforming use of a parcel of land may not be extended to cover more land than was occupied by that use when it became nonconforming.
4. A nonconforming use that has been discontinued for a period of twelve (12) consecutive months shall not be re-established, and any further use shall be in conformity with this Ordinance.

6.03 Non-conforming Lots.

1. All lots or tracts, the plat or deed to which has been recorded in the Office of the County Recorder on or before the effective date of this Ordinance shall be considered a parcel of record.

2. A parcel of record shall be a legally buildable parcel if it has a buildable lot area even though such parcel may not conform to the lot area, lot width or residential density requirements of the district, provided all of the following are met:

   (1) The use is permitted in the applicable zoning district;
   (2) The lot was created compliant with the official controls in effect at the time;
   (3) The applicable setback requirements of this Ordinance are met; and
   (4) The sewage treatment system standards are met.

3. If, in a group of two or more contiguous lots or parcels under the same ownership, any individual lot or parcel does not meet the lot area or width requirements set forth in this Ordinance, the lot or parcel shall not be considered as a separate lot or parcel for the purposes of sale, transfer or development; and the lot or parcel shall be combined with one or more contiguous lots or tracts so that together, they equal one or more lots or tracts, each meeting the requirements of this Ordinance.

6.04 Non-conformity in Floodplain or Shoreland.

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

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

SECTION 7 ADMINISTRATION

7.00 ADMINISTRATION

7.01 Zoning Administrator.

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

7.02 Zoning Administrator Powers and Duties.

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

1. To receive and review Land Use Development Applications and issue permits if such permit request is in full conformance with the provisions of this Ordinance.

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

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

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

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

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

7. To make determinations at to the meaning of provisions of this Ordinance.

7.03 Appeal of Decision

Applicants may appeal decisions of the Zoning Administrator to the Board of Adjustment within 30 days of the decision. The person making the appeal must apply for a hearing before the Board of Adjustment on forms provided by the Zoning Administrator.

SECTION 8 APPEALS AND THE BOARD OF ADJUSTMENT AND APPEALS

8.00 APPEALS AND THE BOARD OF ADJUSTMENT AND APPEALS

8.01 Membership.

There is hereby created a Board of Adjustment which shall consist of five (5) members appointed by the County Board who may be the same members who serve as the five (5) members of the Planning Commission.

1. No elected officer of the County nor any employee of the County Board shall serve as a member of the Board of Adjustment/Planning Commission. At least one member of the Board must reside in an unincorporated area of the County.

2. Members shall be appointed to four (4) year terms except that when the Board of Adjustment/Planning Commission is first established. Terms shall be staggered so that no more than two (2) terms end at the same time.

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

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

5. The County Board may remove a member for nonperformance or misconduct.

8.02 Decisions.

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

8.03 Duties.

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

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

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

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

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

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

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

8.04 Conflicts of Interest.

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

8.05 Authority.

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

SECTION 9 PLANNING COMMISSION

9.00 PLANNING COMMISSION

9.01 Membership.

There is hereby created a Planning Commission consisting of six (6) members who maybe the five (5) members of the Board of Adjustment and one (1) member of the County Board, as appointed by the County Board. At least two members of the Board must reside in unincorporated areas of the County. No voting member of the Planning Commission shall have received, during the two (2) years prior to appointment, any substantial portion of income from business operations involving the development of land within the County for urban and urban related purposes. The County Board may remove a member for nonperformance or misconduct.

9.02 Decisions.

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

9.03Duties.

The Planning Commission shall have the following powers and duties:

1. The Planning Commission shall review Conditional Use Permits applications and make recommendations to the County Board. The County Board will make the final decision on all Conditional Use Permit applications.

2. The Planning Commission shall review applications for the subdivision of land and make recommendations to the County Board. The County Board will make the final decision on all subdivision applications.

3. The Planning Commission shall review and make a recommendation to the County Board on all rezoning applications. Since rezonings are completed by ordinance, the County Board will make all decisions with regard to rezonings.

4. The County Board may assign additional duties and responsibilities to the Planning Commission including but not restricted to:

   A. The Authority to elect a Chairperson and Secretary/Treasurer from among its members.

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

SECTION 10 PERMITS AND FEES

10.00 PERMITS AND FEES

10.01 Zoning Permits.

For purposes of enforcing this ordinance, a zoning permit shall be required of all persons outside of incorporated municipalities that have adopted zoning controls prior to:

1. Erecting, altering, or moving any building or part thereof without first securing a permit, except that no permit shall be required for an expansion or new construction covering less than 500 square feet.

2. Erection of signs, except political and real estate signs that conform to the standards of Section 19.05.

3. Installation, alteration, repair or extension of any sewer system.

4. Shoreland Alterations, including removal of trees and shoreland vegetation.

5. Location of all essential services.

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

7. Within the flood plain, prior to the erection, addition, or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the change or extension of a nonconforming use; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment.

8. The addition of a bedroom to a residence, either by creating additional space or by the conversion of existing space.

10.02 Zoning Permit Procedures

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

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

   A. Zoning district permitted and conditionally permitted land uses.

   B. Zoning district dimensional standards and setbacks.

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

   D. Other requirements established by the Zoning Administrator.

3. **Fee.** A fee, established by resolution of the County Board of Commissioners, shall be submitted along with the permit application. An additional fee may be charged, for atypical projects, whether based on size or type of use. In such case, the applicant shall reimburse the County for administrative time and professional services and costs incurred by the County.

10.03 Deadline For Action

The County will seek to approve or deny a permit application within 60 days after receipt of a complete application and full payment of fees.

1. An application that requires a site inspection is not deemed complete until a site inspection is complete by County Staff. When weather, or other uncontrollable natural conditions, makes a site inspection temporarily impossible, then the timeline under this Section and Minnesota Statute 15.99 is suspended until conditions allow for the site inspection. Within 15 business days of receiving an application, the County will notify the applicant if the application is incomplete and whether the application requires a site inspection and is therefore incomplete until the site inspection is performed.

2. The County will comply with Minnesota Statutes Section 15.99 where it is applicable. Failure to meet an approval deadline shall not authorize any activity for which a permit cannot be granted because the activity is unlawful under applicable law.

3. If a state or federal law or court order requires a process to occur before the County acts on an application, or if an application requires prior approval of a state or federal agency, any applicable deadline for the County to approve or deny is extended to 60 days after completion of the required process or the required prior approval is granted.

4. Before the expiration of the initial 60 days, the Zoning Administrator or other designee of the County Board may extend any applicable initial 60-day period to 120 days by providing written notice of the extension to the applicant.

10.04 Other Regulations

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

SECTION 11 ZONING AMENDMENTS

11.00 ZONING AMENDMENTS

11.01 Criteria

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

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

11.02 Ordinance Amendment Procedure

1. **Initiation of Process/Application.** An amendment to the Ordinance may be initiated by the County Board or the Planning Commission.

2. **Referral to Planning Commission**. An amendment not initiated by the Planning Commission shall be referred to the Planning Commission for study and report and may not be acted upon by the County Board until the County Board has received, prior to the recommendation of the Planning Commission. The Zoning Administrator may review the proposed amendment and provide the Planning Commission with a report and recommendation.

3. **Planning Commission Recommendation to the County Board.** After reviewing the proposed amendment, the Planning Commission will make a recommendation to the County Board as to whether the amendment should be made. The County Board may proceed without a recommendation from the Planning Commission if the Planning Commission fails to provide a recommendation after 60 days from the referral to the Planning Commission.

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

5. **Public Hearing & Notice.** The County Board will hold a public hearing regarding any proposed amendment to the Zoning Ordinance. In addition to the

requirements of Minnesota Statutes Section 375.51, subdivision 2, written notice of public hearings on all amendments to the Zoning Ordinance must be sent to the governing bodies of all townships located within the County. Such public hearings may be continued from time to time and additional hearings may be held. Notice shall also be sent to the Commissioner of Natural Resources if the amendment relates to Shoreland District regulations.

6. **3/5ths Vote Required.** A 3/5ths vote of the County Board is required for any amendment to this Ordinance.

7. **Floodplain & Shoreland.** In addition to the procedures provided for above, all amendments to the Floodplain and Shoreland Districts including amendments to portions of the Official Zoning Map must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the floodplain portions of the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given10-days written notice of all hearings to consider an amendment to this Ordinance and said notice shall include a draft of the ordinance amendment or technical study under consideration.

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

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

11.03 Rezoning Procedure

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

2. **Referral to Planning Commission**. A rezoning not initiated by the Planning Commission shall be referred to the Planning Commission for study and report and may not be acted upon by the County Board until the County Board has received, prior to the recommendation of the Planning Commission. The Zoning Administrator may review the proposed rezoning and provide the Planning Commission with a report and recommendation.

3. **Planning Commission Recommendation to the County Board.** After reviewing the proposed rezoning, the Planning Commission will make a recommendation to the County Board as to whether the amendment to the zoning map should be made. The County Board may proceed without a recommendation from the Planning Commission if the Planning Commission fails to provide a recommendation after 60 days from the referral to the Planning Commission.

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

5. **Public Hearing & Notice.** The County Board will hold a public hearing regarding any proposed rezoning. Public hearings may be continued from time to time and additional hearings may be held. Written notice of public hearings regarding rezoning must be sent to:

    A. The Applicant, if any;

    B. Adjacent property owners within one-half (½) mile of the affected property; and

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

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

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

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

SECTION 12 VARIANCES AND APPEALS

12.00 VARIANCES AND APPEALS

12.01 Appeals and Administrative Decisions

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

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

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

   A. At least ten (10) days prior to the hearing a notice shall be provided to the appellant.

   B. The Board of Adjustment shall make their decision within as soon as reasonably practical after the hearing in order to provide the appellant and Zoning Administrator with guidance and shall base their decision on the provisions of this Ordinance.

12.02 Variances.

A variance from the requirements of this Ordinance may be issued by the Board of Adjustment to provide relief to landowners where this Ordinance imposes practical difficulties in in complying with this Ordinance. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official control and when the variances are consistent with the comprehensive plan. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the Ordinance; the plight of the property owner is due to circumstances unique to the property not created by the owner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located. The Board of Adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

12.03 Criteria for Granting Variances

Variances may only be granted in accordance with Minnesota Statutes Chapter 394. No variance shall have the effect of allowing in a Floodplain District a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area, or permit standards lower than those required by state law.

12.04 Variance Procedures

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

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

3. **Notice for Floodplain Properties.** If the applicant is requesting a variance from floodplain elevation, the Zoning Administrator shall notify the applicant that: 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance; and 2) Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.

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

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

   A. The Applicant;

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

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

   D. To adjacent property owners of record within ½ mile of the affected property.

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

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

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

8. **Conditions and Changes.** If the Board of Adjustment grants the variance, it may impose conditions it considers necessary to protect the public health, safety and welfare. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance. The Board of Adjustment may also revise the variance application to ensure that only the minimum variance required is granted.

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

10. **Resubmission.** No application which is substantially the same as an application of a denied variance shall be resubmitted for a period of one (1) year from the date of denial. The County Board may permit a new application, if in the opinion of the County Board, new evidence or a change or circumstances warrant it.

12.05 Recording of Variances

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

12.06 Appeal from the Board of Adjustment

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

12.07 Violations of Variance Conditions

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

12.08 Fees

A fee, established by resolution of the County Board of Commissioners, shall be submitted along with the variance application.

SECTION 13 CONDITIONAL USE PERMITS

13.00 CONDITIONAL USE PERMITS

13.01 Procedure

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

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

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

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

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

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

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

   A. The Applicant.

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

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

D. Adjacent property owners of record within one-half (½) mile of the affected property,

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

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

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

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

11. **Time Limitation.** If a time limit or periodic review is necessary to address concerns related to a Conditional Use Permit application, the County Board may issue an Interim Use Permit instead of the requested Conditional Use Permit. An Interim Use Permit may have an expiration date, or may be subject to periodic review. An Interim Use Permit may be reviewed at a public hearing with notice of said hearing published at least ten (10) days prior to the review. It shall be the responsibility of the Zoning Administrator to schedule such public hearings and the owner of the land will not be required to pay a fee for said review.

13.02 Criteria for Granting Conditional Use Permits

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

1. **Not a Burden.** The use will not create an excessive burden on existing parks, schools, streets and other public facilities, utilities, or services such as law enforcement which serve or are proposed to serve the area. The use will not jeopardize the general health, safety, and welfare of County residents.

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

3. **No Adverse Effect on Adjacent Properties.** The structure and site will not have an appearance, traffic, noise, lighting, hours of operation, performance characteristics, or emission levels that will have an adverse effect upon adjacent properties.

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

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

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

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

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

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

13.03 Additional Conditions

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

1. Increasing the required lot size or yard dimensions.

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

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

4. Increasing the street width.

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

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

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

8. Designating sites for open space.

9. Designating operating hours and noise levels.

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

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

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

13. The County Board may require a development agreement with the applicant.

13.04 Changes in Conditional Uses

Any change involving structural alteration, enlargement, intensification of use, or similar change not specifically permitted by the Conditional Use Permit issued shall require an amended Conditional Use Permit and all procedures shall apply as if a new permit were being issued. The Zoning Administrator shall maintain a record of all Conditional Use Permits issued including information on the use, location, and conditions imposed by the County Board and time limits, review dates, and such other information as may be appropriate.

13.05 Recording Conditional Use Permits

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

13.06 Revocation

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

13.07 Fees

A fee, established by resolution of the County Board of Commissioners, shall be submitted along with the permit application. An additional fee may be charged, for atypical projects, whether based on size or type of use. In such case, the applicant shall reimburse the County for administrative time and professional services and costs incurred by the County.

SECTION 14 ZONING DISTRICTS AND DISTRICT PROVISION

14.00 ZONING DISTRICTS AND DISTRICT PROVISION

14.01 Zoning Districts

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

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

Symbol Name:

A- Agricultural
R - Residential
C-I - Commercial - Industrial
FP- Floodplain
S- Shorelands
AP – Airport

14.02 Zoning Map

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

The Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this Ordinance.

The boundaries of the zoning districts shall be determined by scaling distances on the Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary interpretation. In the case of a boundary determination in a Floodplain district, all decisions will be based on elevations on the regional (100-year) flood profile and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board and to submit technical evidence.

District Boundaries

The boundaries between the Districts are, unless otherwise indicated, the center lines of highways, roads, streets, alleys, or railroad rights-of-way or such lines parallel or perpendicular thereto, or section, half-section, quarter-section quarter-quarter-section or other fractional section lines of the United States public land surveys, as established by law. Where figures are shown on the Zoning Map between a road and a district boundary line, they indicate that the district boundary line runs parallel to the road center line at a distance therefrom equivalent to the number of feet so indicated, unless otherwise indicated.

Within Wilkin County, the Flood Plain District shall be defined as areas of the 100 year flood as delineated on U.S. Dept. of Housing & Urban Development Flood Insurance Rate maps for Wilkin County dated Sept. 29, 1978, or subsequent updated maps.

All of the above referred to data are hereby incorporated by reference and declared to be a part of this Ordinance.

Future Detachment

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

SECTION 15 AGRICULTURAL (A) DISTRICT

15.00 PURPOSE

The intent of the "A" Agricultural District is to provide a district that will: be protective of the agricultural lands of Wilkin County from non-farm influences; foster sound development of farmsteads including the location of farm and non-farm dwellings, retain major areas of natural ground cover for conservation purposes; prevent scattered non-farm growth; secure economy in governmental expenditures for public services, utilities and schools; deter abuse of water resources and conserve other natural resources of the County.

15.01 Permitted Uses

The following uses shall be permitted uses within the Agricultural District:

1. Agriculture Use including the accessory raising of livestock or poultry and their associated manure storage areas.

2. Farms, farmsteads and farm dwellings, provided that the number of farm dwellings shall be limited to two (2) per farm.

3. Farm drainage and irrigation systems.

4. Non-farm single-family dwellings provided:

   A. The density is no greater than one per quarter section.

   B. The dwelling lot is located adjacent to and has access to an existing maintained public road.

   C. The lot is located in an area adequate to accommodate private sewer and well without endangering the health and safety of lot residents and surrounding property owners.

5. New animal feedlots of less than 500 animal units and their associated manure storage areas provided the following setbacks are maintained:

   A. ¼ mile from any residence, church, school, recreation area, or public building; no setback shall apply to a residence located on the same farm as the feedlot.

   B. 2 miles from any incorporated community or 1/2 mile from any platted

subdivision.

C. 175 foot setback from property lines.

D. 100 foot setback from right-of-ways and legal ditches (to include a 2 rod grass buffer strip adjacent to the legal ditch).

E. Setback for manure spreading from dwellings, churches, campgrounds and any incorporated municipality:

- 150 feet if incorporated within 24 hours.
- 300 feet if not incorporated.

F. Setbacks shall be measured horizontally and in a straight line, from the closest point of a structure, use, lagoon or district to the closest point of another structure, property line, right-of-way, legal ditch, subdivision, district, of municipal boundary.

G. All legally permitted development in place at the time of the adoption of this ordinance shall be allowed to continue as a permitted or conditional use, however classified, now and into the future for all purposes including expansions or modifications so long as any such expansion or modification does not further encroach on existing setbacks from other development. If the development is conditional use, a conditional use permit must be granted before any expansion or modification occurs.

15.02 Accessory Uses

The following uses shall be permitted accessory uses within the Agricultural District:

1. Private garages and storage buildings.
2. Animal units not exceeding one (1) unit per acre density for non-farm residential units.
3. Energy systems associated with residential uses such as solar collectors, wind generators, etc.
4. Swimming pools.

15.03 Conditional Uses

The following uses shall be conditional uses within the Agricultural District:

1. Private commercial recreation;

2. Kennels;

3. Nursery;

4. Public uses, semi-public uses, and religious institutions including but not limited to, schools, hospitals, places of worship, fairgrounds, parks and cemeteries;

5. Non-farm single family and seasonal dwellings and residential subdivisions where the density is greater than one per quarter;

6. New animal feedlots or 500 or more animal units and/or new animal feedlots proposed within 2 miles of any incorporated community or 1/2 mile from any platted subdivision;

7. Junk Yards;

8. Demolition debris disposal site;

9. Home Occupations;

10. Transient agricultural labor dwellings in compliance with State and Federal Regulations;

11. Extraction of Materials and Minerals;

12. Towers;

13. Essential Services; and

14. Wind Energy Conversion Systems

15. Uses the County Board determines to be substantially similar to those listed in this zoning district and not detrimental to the county's general health and welfare. The Board's determination shall be based on the following:

    A. There is a presumption that uses not specifically listed in the ordinance are not permissible. The presumption may be overcome by County Board finding that the unlisted use is substantially similar to those listed in the zoning district. The applicant has the sole burden to prove that the proposed unlisted use is substantially similar to those listed in the zoning district.

B. The County in reviewing such requests must determine that the proposed use is consistent with the intent of the ordinance and the Comprehensive Plan.

C. The Planning Commission shall make a recommendation to the County Board based on the criteria contained within this section.

D. Upon the Planning Commission's recommendation, County Board in its sole discretion shall make the final determination that the above criteria are met.

E. This provision shall not be interpreted to allow a use that is allowed as a permitted or conditional use in another district.

15.04 Dimensional Standards for Agricultural District

1. **Height Regulations**

Maximum Structure Height of thirty-five (35) feet

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

2. **Front Yard Regulations**

Minimum setback from public road right-of-way:

One hundred seventy-five (175) feet from the centerline of the road and one hundred (100) feet from the centerline of the road for tree plantings.. This requirement shall apply to all new buildings, structures, and tree plantings. Existing buildings, structures, and trees shall be permitted to remain in place as legal non-conforming structures.

Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of the lot.

3. **Side Yard Regulations**

Minimum side yard setback: 10 feet

4. **Rear Yard Regulations**

Minimum setback: 10 feet

5. **Lot Area Regulations**

Minimum lot size: 2.5 acres

15.05 Special Development Regulations

In order to afford equal protection to existing feedlot operations the following special development regulations shall apply:

1. New development must maintain the same setback(s) from an existing feedlot as a new feedlot would be required to maintain from an existing development of the same type. Setbacks stipulated in Permitted Uses shall apply.

2. Variances to these special development regulations may be obtained from the Board of Adjustment.

SECTION 16 RESIDENTIAL (R) DISTRICT

16.00 RESIDENTIAL DISTRICT

16.01 Purpose

The "R" Residential District is intended to provide a district that will allow medium density residential development in areas adjacent to urban development, where municipal utilities are not available.

16.02 Permitted Uses

The following uses shall be permitted uses within the Residential District:

1. Single and multiple family dwellings, whether attached or detached.

2. Parks and recreation areas owned or operated by governmental agencies.

3. Public schools or private schools having a curriculum equivalent to a public elementary school or public high school, provided that no building shall be located within fifty (50) feet of any lot line of an abutting lot or street right-of-way.

4. Churches, provided that no building shall be located within fifty (50) feet of any lot line or street right-of-way line.

5. Agricultural use limited to field crops and hay; animal feedlots and manure spreading are prohibited.

6. Residential Subdivisions.

16.03 Accessory Uses

The following uses shall be permitted accessory uses within the General Residential District:

1. Private garage.

2. Private swimming pool, when completely enclosed within a chain link or similar fence five (5) feet high.

3. Keeping of not more than (4) boarders or roomers by a resident family.

4. Necessary facilities and equipment in connection with schools, colleges, hospitals and other institutions as permitted.

5. Recreation, refreshment and service buildings in public parks and playgrounds.

16.04 Conditional Uses

The following uses shall be conditional uses within the General Residential District:

1. Water supply buildings, reservoirs, commercial wells, elevated tanks, gas regulator stations, electric sub-stations, and similar essential structures, except that no structure shall be located within fifty (50) feet of any lot line of an abutting lot in and RESIDENCE DISTRICT.

2. Golf courses, club house, country club, miniature golf courses, driving tees, public swimming pool, private swimming pool serving more than one family, provided that no principal structure shall be located within fifty (50) feet of any property line of an abutting lot in any RESIDENTIAL DISTRICT.

3. Boarding, lodging and rooming houses; Bed & Breakfast.

4. Hospitals, convalescent or nursing homes.

5. Transient agricultural labor dwellings in compliance with State and Federal Regulation.

6. Home occupations, when such use does not exceed one-third (1/3) of the main floor space of a dwelling and is conducted only in the principal dwelling.

7. Railroad rights-of-way, but not including railroad yards.

8. Cemetery, memorial garden.

9. Public administration buildings, police and fire stations, community center buildings, public libraries, museums, post office and other municipal service buildings, except those customarily considered industrial in use and provided that no buildings shall be located within fifty (50) feet of any lot line of an abutting lot in any RESIDENTIAL DISTRICT.

10. Towers.

11. Essential Services.

16.05 Accessory Buildings

1. An accessory building shall not be closer than five (5) feet to the main buildings, except as otherwise provided in this Ordinance.

2. An accessory building shall not be located in any required front or side yard.

3. A detached accessory building shall not occupy not more than thirty (30) percent of the area of any rear yard, providing further that no detached accessory building shall be located within ten (10) feet of any rear lot line.

16.06 Dimensional Regulations

1. **Height Regulations**

   Maximum height of structures: 35 feet.

   This height limitation shall not apply to cooling towers, water towers, towers, chimneys, smokestacks and church spires.

2. **Front Yard Regulations**

   Minimum setback from public road right-of-way:

   One hundred seventy-five (175) feet from the centerline of the road and one hundred (100) feet for tree plantings from the centerline of the road.

   Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of the lot.

3. **Side Yard Regulations**

   Minimum side yard setback: 10feet

4. **Rear Yard Regulations**

   Minimum setback: 20 feet

5. **Lot Area Regulations**

   Minimum lot area for Residential Buildings: 2.5 acres

6. **Lot Width Regulation**

   Minimum lot width: 200 feet

7. **Residential Setbacks from Feedlots**

Non-feedlot associated residential structures must be setback from existing feedlots by the setbacks established in Section 16.01 (5) of this Ordinance, unless granted a variance.

Measurements shall be taken from the nearest point of a wall of a building to the lot line in question, subject to the following qualifications:

a. Cornices, canopies or eaves may extend into the required from yard a distance not exceeding four (4) feet, six (6) inches.

b. Fire escapes may extend into the required front yard a distance not exceeding four (4) feet, six (6) inches.

c. A landing place or uncovered porch may extend into the required front yard to a distance not exceeding six (6) feet, if the landing place or porch has its floor no higher than the entrance floor of the building. An open railing no higher than three (3) feet, six (6) inches may be placed around such place.

d. The above enumerated architectural features may also extend into any side or rear yard to the same extent, except that no porch, terrace or outside stairway shall project into the required side yard distance.

e. The required front yard setback of a corner lot shall not contain any wall, fence or other structure, tree, shrub or other growth which may cause danger to traffic on a road or public road by obscuring the view.

f. The required front yard setback of a corner lot shall be unobstructed above a height of three (3) feet in a triangular area, two sides of which are the lines running along the side road lines between the road intersection and point fifty (50) feet from the intersection, and the third side of which is the line between the latter two points.

SECTION 17 COMMERCIAL - INDUSTRIAL (C-I) DISTRICT

17.00 COMMERCIAL - INDUSTRIAL (C-I) DISTRICT

17.01 Purpose

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

17.02 Permitted Uses

The following uses shall be permitted uses within the Commercial-Industrial District:

1. Agricultural use limited to field crops and hay; animal feedlots and manure spreading are prohibited.

2. Building material sales yards, if enclosed on all sides by a six (6) foot sight obscuring fence.

3. Wholesale businesses and warehouses.

4. Welding, machine and other metal shops.

5. Automobile, truck, trailer, and garden and farm implement establishments for display, hire sales, and including sales lots.

6. Maintenance shops and garages.

7. Manufacturing plants.

8. Grain elevators, seed plants, and retail fertilizer facilities.

9. Restaurants, bars, service clubs and lodges.

17.03 Conditional Uses

The following uses shall be conditional uses within the Commercial-Industrial District:

1. Junk yards, salvage yards provided that they are properly screened and further

provided they meet the standards of the State of Minnesota.

2. Liquid Petroleum gas storage provided that:

   - All requirements of the current National Fire Protection Association Pamphlet #58 "Liquid Petroleum Gases" are considered and satisfactorily met.
   - Storage is screened from view from the public right-of-way.
   - Storage area is grassed or surfaced to control dust.
   - All lighting shall be hooded and so directed that the light source shall not be visible from neighboring residences.
   - The proposal has been reviewed and approved by the Minnesota State Fire Marshall.

3. Crude oil, gasoline, or other liquid storage tanks.

4. Solid waste transfer stations.

5. Processing and storage of sand, gravel, stone and other raw materials.

6. Anhydrous ammonia fertilizer facilities.

7. Hotels and motels.

8. Offices, clinics, and hospitals.

9. Retail trade.

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

11. Temporary construction buildings.

12. Livestock slaughter houses as processing plants.

13. Freight transportation terminals.

14. Towers.

15. Kennels.

16. Nursery.

17. Essential Services.

18. Adult Uses:

    a. There is a minimum separation of 1000 lineal feet from any other Adult Use, and

    b. 1,000 lineal feet from any hotel, motel, nursing care home, housing for the elderly, day care facility, church, school, and any residentially zoned property.

19. Uses the County Board determines to be substantially similar to those listed in this zoning district and not detrimental to the county's general health and welfare. The Board's determination shall be based on the following:

    A. There is a presumption that uses not specifically listed in the ordinance are not permissible. The presumption may be overcome by County Board finding that the unlisted use is substantially similar to those listed in the zoning district. The applicant has the sole burden to prove that the proposed unlisted use is substantially similar to those listed in the zoning district.

    B. The County in reviewing such requests must determine that the proposed use is consistent with the intent of the ordinance and the Comprehensive Plan.

    C. The Planning Commission shall make a recommendation to the County Board based on the criteria contained within this section.

    D. Upon the Planning Commission's recommendation, County Board in its sole discretion shall make the final determination that the above criteria are met.

    E. This provision shall not be interpreted to allow a use that is allowed as a permitted or conditional use in another district.

17.04 Dimensional Standards

1. **Height Regulations**

   Maximum Structure Height: Forty (40) feet

2. **Front Yard Regulations**

   Minimum setback from public road right-of-way:

   Eighty (80) feet from road center line, except a minimum setback of one hundred seventy-five (175) feet shall be provided from the center line of State and Federal highways.

   Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of the lot

3. **Side Yard Regulations**

   Minimum side yard setback: 30 feet

4. **Rear Yard Regulations**

   Minimum setback: 40 feet

5. **Lot Area Regulations**

   Minimum lot size: 30,000 square feet

6. **Lot Width and Depth Regulations**

   Minimum lot width: 100 feet

7. **Existing Structures**

   Even if they do not meet the setback requirements of this Section, existing buildings, structures, and trees shall be permitted to remain in place as non-conforming under Section 6.

17.05 Uses Adjacent to Residential Property:

Where any structure, parking lot, storage area, or other commercial or industrial use is adjacent to property zoned or developed for residential use, that business or industry shall provide screening along the boundary between its property and the residentially zoned or

developed property. Screening shall also be provided where a business, parking lot, or industry is located across the street from residentially zoned or developed property, but not on that side of a business or industry considered to be the front. Screening may consist of vegetation, landscaping, or fencing. Vegetation shall be of adequate size to provide sufficient year round screening on the date of planting.

17.06 Exterior Storage

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

1. Merchandise being displayed for sale.
2. Materials and equipment presently being used for construction on the premises.

SECTION 18 AIRPORT (AP) DISTRICT

18.00 AIRPORT (AP) DISTRICT

18.01 Airport Zoning Map

In order to carry out the provisions of this Ordinance, there are hereby established and created certain surfaces and zones consisting of a primary surface, a horizontal surface, a conical surface, transitional zones and instrument approach zones. Such surfaces and zones are shown on a certain airport zoning map entitled Breckenridge-Wahpeton Interstate Airport Authority Airport Zoning Map consisting of one (1) page, dated January 30, 1995, and prepared by Interstate Engineering, a registered land surveyor in the State of North Dakota, together with amendments from time to time, which said map is attached to this Ordinance and made a part hereof and incorporated herein.

18.02 Height limitations

Except as provided in this Ordinance, no structure or tree shall be erected, altered, allowed to grow, or maintained on any surface or zone shown on said Airport Zoning Map in excess of the following:

1. **Primary Surface -** No structure or tree shall exceed the elevation of this Zone, which shall be 500 feet wide and centered longitudinally on the runway beginning at Runway Station 13/00 and ending at Runway Station 67/00. The elevation of any point on the Primary Surface shall be the same as the elevation of the nearest point on the Runway Centerline**.**

2. **Horizontal Surface -** No structure or tree shall exceed the elevation of 1067 within the area defined by swinging 5,000 foot arcs from the Runway Centerline, outward at Runway Station 13/00 and at Runway Station 67/00 and connecting the adjacent arcs by lines tangent to those arcs.

3. **Conical Surface -** No structure or tree shall exceed the elevations determined by a plus 20:1 glide ration beginning at elevation 1067 at the outward limits of the Horizontal Surface, then extending outward and upward to 4,000 feet horizontally at elevation 1267.

4. **Transitional Zones -** No structure or tree shall exceed the elevation defined by the following transitional zone surfaces which surfaces shall extend outward and upward at right angles to the Runway Centerline and the Runway Centerline extended at a slope of 7:1 from the elevation of the sides of the primary surface to elevation 1067 on the outer edge of the horizontal surface, and from the elevation of the sides of the instrument approach surface and conical surface to elevation 2234.

5. **Instrument Approach Zone** - No structure or tree shall exceed, within this zone, the elevations of this zone defined as follows: The Northwest zone shall have a width of 1,000 feet and an elevation of 967 feet at Runway Station 13/00, widening there from uniformly to a width of 4,000 feet and rising there from on a slope of 50:1 to an elevation of 1178 feet at Runway Station - (92/60) from which it shall widen to a width of 16,000 feet and rise on a slope of 40:1 to elevation 2234 feet at Runway Station - (515/00) and shall be centered on the extension of the Runway Centerline. The Southeast zone shall have a width of 1,000 feet and an elevation of 967 feet at Runway Station 67/00 widening there from uniformly to a width of 4,000 feet and rising there from on a slope of 50:1 to an elevation of 1178 feet at Runway Station 172/60 from which it shall widen to a width of 16,000 feet and rise on a slope of 40:1 to an elevation of 2234 feet at Runway Station 595/00 and shall be centered on the extension of the Runway Centerline.

   Where an area is covered by more than one (1) height limitation, the more restrictive limitations shall prevail.

18.03. Land Use Safety Zoning.

1. **Safety Zones:** In order to carry out the purpose of this Ordinance, there are hereby created and established the following safety zones:

   Zone A: All that land in the approach zones of a runway, which is located within a horizontal distance of 3400 feet from each end of the primary surface.

   Zone B: All that land in the approach zones of a runway which is located within a horizontal distance of 1700 feet from each end of the primary surface and which is not included in Zone A.

   Zone C: All that land which is enclosed within the perimeter of the horizontal surface and which is not included in Zone A or Zone B.

2. **Use Restrictions:** Subject at all times to the height restrictions set forth in #3 of hereinabove, no use shall be made of any land in any of the safety zones defied in #3 above which creates or causes interference with the operations of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft, makes it difficult for pilots to distinguish between airport lights and other lights, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport, or otherwise endangers the landing, taking off, or maneuvering of aircraft.

18.04 Non-Conforming Uses

The regulations prescribed by this Ordinance shall not be construed to require the removal, lowering, or other changes or alterations of any structure or tree not conforming to the regulations as of the effective date of this ordinance, or otherwise interfere with the continuance of any non-conforming use. Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Ordinance, and is diligently prosecuted.

18.05 Marking and Lighting

Notwithstanding the preceding provisions of this Subdivision, the owner of any non conforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Breckenridge-Wahpeton Interstate Airport Authority to indicate to the operators of aircraft in the vicinity of the airport, the presence of such airport hazards. Such markers and lights shall be installed, operated, and maintained at the expense of the Breckenridge-Wahpeton Interstate Airport Authority.

18.06 Permits

No material change shall be made in the use of land and no structure or tree shall be erected, altered, planted or otherwise established on any surface or in any of the zones shown on said Airport Zoning Map unless a permit therefore shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations herein prescribed.

No non-conforming use shall be enlarged or increased or extended to occupy a greater area of land than was occupied as of the effective date of the adoption of this Ordinance. If any such non-conforming use ceases for any reason for a period of more than thirty (30) days, and subsequent use of such land shall conform to the regulations specified by this Ordinance. Should any tree or structure be destroyed by any means to an extent of more than 51% of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance.

18.07 Variances

Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his property, not in accordance with the regulations prescribed in this Ordinance, may apply to the Board of Adjustments and Appeals for a variance from these regulations. No variance shall be granted without a hearing before the Board of Adjustments and Appeals, and the Breckenridge-Wahpeton Interstate Airport Authority shall be given at least a two-weeks' notice of such hearing. Such variances shall be

allowed where it is duly found that a literal application or enforcement of the regulations contained in this Ordinance would result in practical difficulty and the relief granted would not be contrary to the public interest but will do substantial justice and be in accordance with the spirit of this Ordinance. Any permit or variance granted, if such acting is deemed advisable to effectuate the purpose of this Ordinance and be reasonable in the circumstances, may be so conditioned as to require the owner of the structure or tree in question to permit the Breckenridge-Wahpeton Interstate Airport Authority to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

The provisions of this section shall take precedence over any other provisions of the general zoning ordinance of which this section is made a part in any case where there is an apparent conflict. Except as specifically provided in this section, all provisions pertaining to enforcement, penalties and procedures, which are contained in the general ordinance of which this section is made a part, shall remain in full force and effect and apply to and govern the administration of the provisions contained in this section.

SECTION 19 PERFORMANCE STANDARDS

19.00 PERFORMANCE STANDARDS

19.01 Purpose

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

19.02 Exterior Storage/Landscaping Maintenance

A. On residential property all materials and equipment shall be stored within a building or fully screened so as not to be visible from adjoining properties or public right of way, except for the following: laundry drying and recreational equipment, construction and landscaping materials and equipment currently being used on the premises, agricultural equipment and materials if used or intended for use on the premises, off-street parking of operable passenger automobiles and operable pick-up trucks. Boats and unoccupied trailers, less than twenty (20) feet in length, are permissible if stored in the rear yard more than ten (10) feet from the property line.

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

C. From 1 November through 31 March, no agricultural equipment or agricultural products will be stored within two hundred (200) feet of the center line of any road or highway in the county, unless the road is designated as a minimum maintenance road.

D. In all districts, junk vehicles, as defined by Minnesota Statute 168B.011 Subd. 3, shall not be stored outside except on properties legally permitted as a junk yard.

19.03 Refuse

A. **Waste/Refuse.**

In all districts, all waste material, refuse, or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping such land free of refuse. Ordinary agricultural practices are exempt from this provision.

19.04 Sign Regulations.

A. **Purpose.**

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

B. **Permit Required**.

All signs subject to this Ordinance required the issuance of a permit in accordance with Section 11 of this Ordinance.

C. **Hazard.**

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

D. **Traffic Hazard.**

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

E. **Traffic Signs.**

Private traffic circulation signs and traffic warning signs in alleys, parking lots, or in other hazardous situations may be allowed on private property.

F **Dynamic, Flashing, Moving Signs**.

Dynamic display signs, signs with flashing lights, and signs that move or rotate more than 4 rotations per minute, are prohibited.

G. **Illuminated Signs.**

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

H. **Political Signs.**

Political signs for upcoming elections are allowed in any district on private property with the consent of the owner of the property. A political sign shall be permitted for a period of not more than 60 days before the date of the election to which the sign relates. If the sign relates to an office which is the subject of a primary election, it may be retained in place after the primary election if it relates to the next ensuing election. Campaign signs shall be removed within 10 days following the date of the election to which they relate. Campaign signs shall be set back a minimum distance of not less than 15 feet from the road right of way. No sign shall be on public right-of-way. These restrictions shall not apply to lawfully established billboards.

I. **Construction Signs.**

Construction signs shall be allowed in all zoning districts during construction. Such signs shall be removed when the project is completed.

J. **Billboard Signs.**

Number. For parcels with right-of-way frontage of less than two hundred (200) feet only one (1) sign will be permitted. For parcels with over two hundred (200) feet of frontage or more up to two (2) signs will be permitted. Billboards shall be a conditional use in all zoning districts.

K. **Size - All Signs.**

Except billboards and where a lesser maximum size is specifically provided, the maximum size of any sign is twenty (20) square feet of surface including boarder.

L. **Setbacks - All Signs.**

All signs, other than political signs, must meet the following setback requirements from a
residence.

250’ (feet) for unlighted signs
500’ (feet) for lighted signs

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

1. **Required Marking on Signs.**

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

2. **Sign Maintenance.**

The owner of any sign shall be required to have such sign properly painted as needed.

N. **Non-Conforming Signs.**

All signs not in conformity with the provisions of this Ordinance shall be considered non-conforming and subject to the provisions of Section 6 relating to non-conforming structures and uses.

O. **Unsafe or Dangerous Signs.**

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

P. **Permit Length.**

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

Q. **Exemption.**

The following signs are exempt from the requirement that they obtain a permit, are not subject to setback requirements, and are considered to be permitted signs in all Districts.

(1) Official signs erected and maintained by a public body.

(2) Real Estate and Construction signs limited to one (1) sign per parcel advertising that particular property for sale, rent, or lease.

(3) Nameplate signs less than sixteen (16) square feet.

(4) Signs painted, attached by adhesive, or otherwise attached directly to or visible through windows and glass portions of doors.

19.05 Extraction of Materials and Minerals

A. **Purpose**.

The purpose of this section is to address issues which arise between mining and extraction and other adjoining land uses. In addition, this section is intended to ensure that land is rehabilitated after being subjected to mining and extraction uses. All excavations, extraction of materials and minerals, and open pits hereafter established or enlarged in depth or surface area shall conform with the provisions of this Subdivision and any other ordinance or regulation of Wilkin County and the State of Minnesota

B. **Administration.**

A Conditional Use Permit is required for all mineral extraction purposes involving an Extraction Area or Extraction Pit. The County Board may require a performance bond. Such bond shall be an amount to be determined by the County Board in its sole discretion and must be valid for a period of not less than one (1) year beyond the expiration date of the permit.

C. **Information Required.**

The following information must be provided by the person requesting a permit for mining and extraction:

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

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

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

   (1) Map A-Existing Conditions to include:

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

(2) Map B-A soil erosion and sediment control plan to include erosion and sediment control structures;

(3) Map C-A plan for dust and noise control;

(4) Map D- Proposed Conditions to include:
- (a) A full and adequate description of all phases of the proposed operation to include an estimate of duration of the operation;
- (b) Structures to be erected;
- (c) Location of sites to be excavated showing depth of proposed excavation;
- (d) Location of tailings deposits showing maximum height of deposits;
- (e) Location of machinery to be used in the mining operation;
- (f) Location of storage of mined materials, showing height of storage deposits;
- (g) Location of vehicle parking;
- (h) Location of storage of explosives;
- (i) Access Routes

(5) Map E- A land reclamation plan to include:
- (a) Final grade of proposed site showing elevations and contour lines at reasonable intervals;
- (b) Location and species of vegetation to be replanted;
- (c) Location and nature of any structures to be erected in relation to the end use plan;

(6) Any other information requested by the Planning Commission or the County Board;

4. A narrative document explaining the proposed use and all submitted maps.

D. **Renewal of Mining Permits.**

A public hearing will be conducted for renewal permit approval.

E. **Performance Standards.**

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

2. All equipment used for mining operations shall be maintained and operated in such a manner as to minimize, as far as is practicable, noises and vibrations which are injurious or substantially annoying to persons living in the vicinity. Noise levels shall never exceed the acceptable locational thresholds established by the Minnesota Pollution Control Agency (MPCA).

3. Fuel storage tanks larger than 150 gallons stored on site are required to have an impervious secondary containment.

4. During operation, all excavations shall be kept in such condition as not to be dangerous due to caving or sliding banks.

5. The mining pit area and any non-cropland areas will not be used as a dumping ground for any garbage, refuse, used or broken lumber, wreckage from buildings or other structures, used, broken or junk automobiles, agricultural implements or dismantled parts or bodies thereof, old or junk iron, and any other debris or material.

6. A copy of the lease agreement between Applicant/Contractor and Land Owner must be provided to the Wilkin County Zoning Administrator. (Compensation amount can be blanked out)

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

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

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

10. Safety fencing, signs, gates, or restricted access may be required if mining operations are within 1000’ of a residential or commercial-industrial property.

11. The location of the intersection of mining access roads with any public roads shall be selected such that traffic on the access roads will have a sufficient distance of public road in view so that any turns onto the public road can be completed with a margin of safety. .

12. A screening barrier must be maintained between the mining site and any residence within five hundred (500) feet of any mining or operations. The screening barrier shall be planted with a species of fast growing trees in consultation with the Wilkin Soil and Water conservation District

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

14. **Setback.**

(a) Processing of minerals may not be conducted closer than one hundred (100) feet to the property line and not closer than one thousand (1000) feet to any residential or commercial structure located prior to commencement of processing operations without the written consent of all owners and residents of said structures.

(b) Mining operations shall not be conducted closer than one hundred (100) feet to the boundary of any zone where such operations are not permitted, nor shall such production or processing be conducted closer than one hundred (100) feet to the boundary of an adjoining property, unless written consent of all owners, is first secured in writing.

(c) Mining operations shall not be conducted closer than one hundred (100) feet to the right-of-way line of any existing or platted street, road or highway, except that excavating may be conducted within such limits in order to reduce the elevation thereof in conformity to the existing or platted street, road or highway. No materials, stock piles, equipment or machinery shall be stored adjacent to all public roads that will obscure vehicle visibility or result in a snow removal hazard.

F. **Erosion Control.**

1. All materials to be used for erosion control such as seed mixtures and permanent vegetation must be approved by the Wilkin Soil and Water Conservation District.

2. A dike, berm or other erosion control practices shall be installed along the edge of the mining pit of sufficient height to prevent all surface water runoff from entering or exiting the mining pit.

3. A Minnesota Pollution Control Agency Stormwater Permit must be secured and a copy provided to the Wilkin County Zoning Administrator.

G. **Dust and Dirt.**

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

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

3. Dust complaints and dust management will be the responsibility of the Landowner and contractor

H. **Land Reclamation.**

All mining sites shall be reclaimed immediately after mining operations cease. Reclamation shall be complete within six (6) months after operation ceases. All mined areas will be reclaimed to existing use prior to mining activity, farmable agricultural land, or developable land. The following standards shall apply:

1. All buildings, structures and improvements incidental to such operation shall be dismantled and removed by, and at the expense of, the mining operator last operating such buildings, structures and improvements within six (6) months of operation ceases.

2. The peaks and depressions of the area shall be graded and backfilled to a surface which will conform to the land area immediately surrounding, and which will minimize erosion.

3. Banks of all excavations shall be sloped at a rate which shall not be less than three (3) feet horizontal to one (1) foot vertical,

4. **Vegetation and Topsoil.**

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

(b) Such required topsoil shall be planted with legumes and grasses. Trees and shrubs may also be planted but not as a substitute for legumes and grasses. Such planting must adequately retard soil erosion. If there is land that cannot be put back to farmable agricultural land or developable land, it must be (a) planted to a grass mixture that is beneficial to haying, grazing, or wildlife uses, or (b) converted to an appropriate permitted use. Grass seed mixtures should be chosen in consultation with staff from the Wilkin Soil and Water Conservation District or Natural Resources Conservation Service.

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

5. The finished grade must be such that it will not adversely affect the surrounding land or future development of the site upon which the mining operations have been conducted. The finished grade within 50 feet of a public road right of way must be at a sloped no greater than three (8) feet horizontal to one (1) foot vertical. The mining site must be restored to a condition that allows the site to be utilized for the type of land use proposed by the reclamation plan approved by the County Board.

6. **Notification and Final Inspection.**

After the applicant has completed the reclamation project, the applicant must notify the County Zoning Administrator. Upon notification, the Zoning Administrator will inspect the site to determine if it is in accordance with the approved reclamation plan. If the site is not in accordance with the reclamation plan, the Zoning Administrator will notify the applicant of its deficiencies and the applicant must correct the deficiencies. If the site is in accordance with the approved reclamation plan, the Zoning Administrator will issue a letter of acceptance of the site to the applicant.

19.06 Towers.

A. Purpose

This section is adopted in order to accommodate the communication needs of residents and businesses while protecting the public health, safety and general welfare. The Wilkin County Board of Commissioners finds these regulations are necessary in order to:

1. Maximize the use of existing and approved towers and buildings in order to reduce the number of new towers necessary in order to provide wireless telecommunications services to the community;

2. Ensure wireless communication towers are designed, sited, and constructed in a manner consistent with the protection of the public health, safety, and general welfare; and

3. Require tower sites to be secured in order to discourage trespassing and vandalism.

B. Exemptions.

1. The following tower facilities will be allowed within all districts of Wilkin County without obtaining either a building permit or a conditional use permit:

    a. Antennas incidental to residential use;
    b. Routine maintenance of existing tower facilities; and

2. The following tower facilities will be allowed within Wilkin County without a conditional use permit, but do require a building permit:

    a. The addition of an antenna or antennas on existing tower facilities.
    b. The addition of an antenna or antennas on existing structures including, but not limited to, buildings, flag poles, church steeples, cupolas, ball field lights, power lines support device where no modifications are required to the existing structure if the antenna does not increase the height of the structure by more than 20 feet.

3. All other tower facilities require a conditional use permit and building permit pursuant to the terms of this ordinance.

C. Application.

Application for a conditional use permit shall be submitted pursuant to the requirements of Section 14 of this ordinance and shall be accompanied by the following:

1. A site plan for the proposed tower facility site which shall include the following:

    a. Graphic scale of the plan, not less than one inch to 20 feet;

    b. North directional arrow;

c. Location and size of the proposed tower facility, support structures, accessory buildings, access driveways, public roads, parking fences, signs and landscaped areas;

d. Building setback lines;

e. Existing topography, with contour intervals of not more than ten (10) feet, related to the United States Geological Survey datum;

f. The location of water courses, ravines, bridges, lakes, wetlands, wooded areas, rock outcroppings, bluffs, steep slopes, and other geological features within the site;

g. Proposed surface drainage diagram for the site;

h. Proposed screening; and

i. Proposed removal of natural vegetation.

j. Distance of tower from all dwellings within 500 feet.

2. Vicinity map showing land uses and existing residences and businesses within one half mile of the proposed tower.

3. A sworn statement signed by applicant that the communications equipment for the proposed tower cannot be accommodated on an existing tower or building within a two mile radius of the proposed tower due to one or more of the following reasons:

    a. 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.

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

    c. Existing or approved towers and commercial/industrial buildings within a two-mile radius cannot accommodate the planned equipment at a height necessary to function reasonably as

documented by a qualified and licensed professional radio frequency (RF) engineer.

d. In spite of best efforts, the applicant is unable to negotiate reasonable business terms regarding the lease or purchase of space on an existing tower.

e. The applicant must demonstrate that a good faith effort to co-locate on existing towers and structures within a two-mile radius was made, but an agreement could not be reached.

4. 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.

5. 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.

6. 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.

7. 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.

8. A copy of the Certificate of Insurance for liability and workers compensation insurance that requires notification to Wilkin County Planning and Zoning Office prior to cancellation. This insurance shall be kept in effect until the tower facility is removed.

9. An acceptable financial guarantee equal to one and one-half times the estimated cost of removing the tower facility and restoring the site to its original condition. The estimated cost shall be determined by the Wilkin County Zoning Administrator.

10. Filing fees as determined from time to time by the Wilkin County Board of Commissioners.

D. Standards.

Performance Standards

1. A building permit shall be required for the construction of a tower facility upon approval of a conditional use permit.

2. No conditional use permit shall be issued for a tower facility within a subdivision intended for residential use.

3. All towers requiring a building permit shall conform with the following minimum requirements:
    a. Towers shall be set back from property lines by a minimum distance equal to the height of the tower including all antennas and attachments.
    b. Towers shall be set back from existing or planned public rights of way o by a minimum distance equal to the height of the tower including all antennas and attachments, or 175 feet, whichever is greater.
    c. Towers shall be setback from residentially zoned property by a minimum distance equal to one and a half feet for each foot of height of the tower.
    d. The guy anchors of the tower shall be at least 10 feet from property lines.
    e. Towers shall not be located between a principal structure and a public street, with the following exceptions:

        1. In industrial zoning districts, towers may be placed within a side yard abutting an internal industrial street.

        2. On sites adjacent to public streets on all sides, towers may be placed within a side yard abutting a local street.

4. The owner's name, telephone number and site ID number shall be posted on the gate of the perimeter fence. No other advertising or identification sign of any kind is permitted on the tower facility, except warning and equipment information required by the manufacturer or by federal, state or local authorities.

5. 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.

6. All towers erected or located within the County and all wiring therefore shall comply with the following requirements:

    a. Towers and their antennas shall comply with all applicable provisions of the ordinance.

b. 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.

c. 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.

d. Metal towers shall be constructed of, or treated with, corrosive resistant material.

e. In order to reduce the number of tower facilities needed within the county in the future, any proposed tower shall be designed, structurally, electrically, and in all respects to accommodate at least four 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.

f. All towers shall be reasonably protected against unauthorized climbing. The bottom of the tower shall be designed in a manner to preclude unauthorized climbing or shall be enclosed by a six-foot high chain link fence with anti-climb barbed wire protection and a locked gate.

g. 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.

h. All communication towers and their antennas shall be adequately insured for injury and property damage caused by collapse of the tower.

i. Flight balls are to be installed on all of the top guide wires starting at 60 feet from the top and every 100 feet thereafter.

E. Antennas mounted on 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:

1. A site plan showing the location of the proposed antennas on the structure and documenting that the request meets the requirements of this ordinance;

2. A building plan showing the construction of the antennas, the proposed method of attaching them to the existing structure, and documenting that the request meets the requirements of this ordinance;

3. Proof of the structure's or tower's ability to support the antennas; and

4. An intermodulation study to ensure there will be no interference with existing tenants or public safety telecommunication providers.

F. Completion of Construction.

Construction of approved tower facility shall be completed within one (1) year from the date of the issuance of the conditional use permit.

G. Continued Use And Abandonment And Removal.

1. Existing tower facilities may continue in use and routine maintenance may be performed on them, but they may not be altered, converted, modified, transformed, varied, added to or changed in any way without securing a conditional use permit or amendment and complying with the terms of this ordinance.

2. The owner of an existing tower facility or any tower facility erected or constructed after the passage of this ordinance shall file an annual statement on or before January 10 f each year following construction of the tower. If the statement is not filed by January 10 of any year, the County shall notify the owner in writing of failure to file. Failure to file a statement within sixty (60) days of receiving a notice of failure to file shall be prima facie evidence that the tower facility is no longer in use and may be considered abandoned.

3. Tower facilities that are not in use for 365 consecutive days shall be deemed abandoned and shall be removed by the owner within 365 days from the date of the abandonment. Removal includes removal of the complete tower facility, including accessory buildings and related above ground infrastructures and restoration of the site to preexisting vegetative cover,

4. In case of multiple operators sharing the use of a single tower, the tower shall not be deemed abandoned until all users cease operations for a period of 365 consecutive days.

5. If the tower facility is not removed in accordance with this subdivision, then the County, after 60 days' notice to the owner or operator of the tower facility, may take legal action. The County's remedies may include obtaining a court order

allowing the County to remove the tower facility at the cost of the owner or last operators.

H. Maintenance.

All tower facilities shall be maintained in a safe and clean condition. The tower facility owner shall be responsible for maintaining a graffiti, debris, and litter free site. The landscape plan shall be maintained for the life of the tower facility. If the facility is not maintained, the County may bring legal action. The County's remedies may include, after 60 days' notice to the owner or operators, an order allowing the County to complete the maintenance at the cost of the owners or operators of the tower facility.

19.07 WINDPOWER DEVELOPMENT

A. Purpose

The purpose of this section is to set forth a process for permitting wind energy conversion system (WECS) with a rated capacity of less than 5,000 kilowatts (or five (5) megawatts). Wind energy conversion system with a rated capacity greater than 5,000 kilowatts (or five (5) megawatts) are not permitted within Wilkin County.

B. Conditional use permit required

A conditional use permit shall be required for all WECS. All proposed WECS must fill out a conditional use permit application provided by the Wilkin County Environmental Services Office, as regulated in Section 14 of this ordinance.

C. Setbacks

- Residence The greater of 750 feet or 1.5 feet for every foot of height of the WECS
- Project Boundary/ Property Line The greater of 300 feet or the height of the WECS
- Public Roads The greater of 300 feet or the height of the WECS
- Other Structures The height of the WECS
- New structures should maintain the same setbacks from wind turbines as are implemented for wind turbines

D. Standards

1. All WECS and related improvements shall be in compliance with all other applicable State and Federal Regulatory Standards.
    - Uniform Building Code as adopted by the State of Minnesota
    - The National Electrical Code as adopted by the State of Minnesota
    - FAA Requirements
    - MPCA/EPA Regulations

2. All WECS shall be equipped with redundant braking systems. This includes both aerodynamic (including variable pitch) overspeed controls, and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode, whereby they are engaged in the case of loss of load on the generator. Stall regulation should not be considered a sufficient braking system for overspeed protection.

3. Signs shall be posted at least at facilities entrances to warn of high voltage. Fencing and restricted access measures may be required where necessary to protect public safety.

4. Project developer is responsible for remediation of damaged roads upon completion of the project.

5. All solid waste and hazardous waste shall be removed from the site immediately and managed in a manner consistent with all appropriate rules and regulations.

6. All installed wind turbines must utilize self-supporting tubular towers, if over 100 kilowatts.

E. Decommissioning

Provisions shall ensure that facilities are properly decommissioned upon end of project life or facility abandonment. Decommissioning shall include: removal of all structures and debris to a depth of 4 feet, restoration of the soil; and restoration of vegetation (consistent and compatible with surrounding vegetation) shall also be required.

Provisions shall include a decommissioning plan. This plan will identify:

- When and how a facility is to be decommissioned.
- Estimated cost of decommissioning.
- Financial resources to be used to accomplish decommissioning, i.e. an escrow account or bond. Such surety shall be for an amount as determined by the County Board in its sole discretion.

F. Signage

Signs shall be regulated as set forth in Section 18 of this ordinance.

G. Aesthetics

The following items are recommended standards to mitigate visual impacts:

- Coatings and Coloring: Non-reflective unobtrusive color. Black blades are acceptable for mitigation of icing.
- Turbine consistency: To the extent feasible, the project shall consist of turbines of similar design and size, including tower height. Further, all turbines in project shall rotate in the same direction. Turbines shall also be consistent in design, color and rotational direction with nearby facilities.
- Lighting: Projects shall utilize minimal lighting. No tower lighting, other than normal security lighting, shall be permitted, except as may be required by the FAA. It may be appropriate for permits to allow for some infrared lights or heat lamps to prevent icing of sensors.
- Intra-project power and communications lines: All power lines used to collect power from individual turbines, and all communication lines shall be buried

underground. Allowances shall be provided where shallow bedrock interferes with the ability to bury underground lines.

- Screening: There may be critical vistas or views from public roads to scenic locations, which are negatively impacted by wind turbines. It may be appropriate to require landscaping materials at a scenic overlook, which screens the view of or distracts attention from the turbines in order to minimize the visual impact.

H. Permit application

The following information shall be required with the conditional use permit application:

- A description of the project, including number and capacity of turbines, height and diameter of turbine rotors, turbine color and rotor direction.
- A site plan detailing the location of the project area boundaries, turbines, roads, transformers, power lines, communications lines, interconnection point with transmission lines, and other ancillary facilities or structures.
- Topographic map of the project site and surrounding area.
- Current land use on the site and surrounding area.
- Distance to impacted properties.
- Decommissioning plan.
- Engineering certification of tower and foundation design suitability for turbine and soils.
- Evidence of power purchase contracts and power transmission contracts, or documentation that the power will be utilized on-site.
- Identification and description of neighboring windpower facilities.

19.08 ESSENTIAL SERVICES

1. Purpose and Intent.

This Ordinance is enacted for the following purposes: To promote the health, safety, and general welfare throughout Wilkin County to conserve the value of the properties and encourage the most appropriate use of land; and, pursuant to any act authorizing County planning and zoning activities, passed by the Minnesota state legislature.

2. Findings

In regulating Essential Services, the Wilkin County Board shall consider all relevant facts specified in other sections of this ordinance, other county ordinances, and state and federal law, and:

Performance Standards

1. Make conditions reasonably necessary to protect and restore cultivated agricultural land and to mitigate the impact of the proposed use on the productive use of land.

2. Make conditions reasonably necessary for the protection and restoration of drainage and drain patterns, soil compaction, and for the removal of rocks and debris after construction.

3. Make conditions reasonably necessary for roadway crossings, and the protection and restoration of roadway services, road rights-of-way and all other county and other government property.

4. Find that all necessary state, federal and other governmental permits have been granted or will be granted for the applicant to commence construction.

5. Require that the applicant reimburse the County, in conjunction with a development agreement, for all extraordinary costs and expenses paid or to be paid in connection with the application, including all costs of providing public notice of the application and public hearing on the application, all legal, engineering and other professional costs, and all costs paid or incurred in assuring that the terms of the Conditional Use Permit are met by the applicant.

6. Require that the applicant post a bond, cash or other security as determined by the County Board, to ensure that all terms and conditions of the Conditional Use Permit are met.

7. The Conditional Use Permit shall also be conditioned on any other conditions deemed necessary by the County Board to carry out the terms of this ordinance.

8. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity.

9. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominate in the area.

10. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

11. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

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

3. Scope and Conditional Use.

Essential Services are conditional use within all zoning districts.

4. Fees.

To defray administrative costs of processing requests for Conditional Use Permits, a fee must be paid by the applicant. The fee shall be established by the County Board of Commissioners.

5. Exemptions.

1. Ordinary service extensions of existing gas, electric, telephone, sewer, and water service lines to one parcel of land for the purpose for local service shall be exempt from the conditional use permit requirements of this Section. Consultation with the County Engineer should, however, be made when locating lines within County Highway right-of-way.

2. Repair, maintenance, and replacement of existing gas, electric, telephone, sewer, and water service lines shall be exempt from the conditional use permit requirements of this Section. Consultation with the County Engineer should, however, be made when working within County Highway right-of-way.

19.09Agricultural and Ring Dikes

1. Purpose

It is recognized that the construction of agricultural dikes can and does affect the flow of drainage including the diversion of waters from one drainage system to another, causes and obstruction, deterioration and destruction of public right-of-ways and obstructs and hinders the hydraulic capacity of ditch systems. It is recognized that the construction of ring dikes can and does protect rural personnel property from the effects of flood water when constructed properly.

2. Definitions

"Agricultural Dike" means a dike constructed on or near agricultural lands to control drainage or provide flood protection to agricultural lands.

"Ring Dike" means a dike constructed around a dwelling or farmstead to provide buildings with flood protection.

3. Agricultural Dike Control

A. No person shall construct, maintain, or keep upon their property an agricultural dike without prior approval from Wilkin County.

B. No person shall construct, maintain or keep a dike upon their property which creates a public nuisance or diverts waters from one drainage system to another, obstructs, deteriorates, or destroys any public right-of-way or obstructs the hydraulic capacity of a township, county, state, or legal ditch system including road ditches.

C. No person shall construct any dike infringing upon the public right-of-way without the prior written consent of the public authority controlling said right-of-way.

D. No person shall construct, maintain or keep upon their premises a dike, for the purpose of water containment or channelization shall be no higher than 6 inches below the roadway shoulder elevation when located within 200 feet of the centerline of any public roadway.

4. Ring Dike Control

A. No person shall construct, maintain or keep upon their property a ring dike without prior approval from Wilkin County.

B. No person shall construct any ring dike infringing upon the public right-of-way

without the prior written consent of the public authority controlling said right-of-way.

C. The elevation of the ring dike can be no greater than two (2) feet above the record of flood or one (1) foot above the 100-year flood level, whichever is the greater of the two. This elevation must be established by a Wilkin County Highway Engineer, Registered Professional Engineer, or Land Surveyor.

D. The construction of a ring dike in the floodplain area of the county must comply with the floodplain regulations of this Ordinance.

5. Removal of Abatement

The owner of property where an alleged violation exists, and any person violating the provisions of this ordinance, shall be given ten days' notice to appear before the Wilkin County Board of Commissioners concerning the alleged violation. The Wilkin County Board of Commissioners shall make findings based upon the hearing. If a violation is found, the Wilkin County Board of Commissioners may issue an Order directing the responsible party to alter or remove said dike in compliance with this Ordinance including a reasonable time to complete the terms of the Order. Where there is an imminent public danger, whether to property or person, Wilkin County may immediately abate said violation upon notice to the owner of the property.

SECTION 20 CONSTRUCTION OR MAINTENANCE OF SURFACE WATER IMPOUNDMENTS

SECTION 20.00 SURFACE WATER IMPOUNDMENTS

Section 20.01 Purpose

The purpose of this section is to provide advanced notice of the County's serious concerns and considerations regarding revisions to County land use provisions governing major impoundments, staging and storage. The County intends to listen carefully to concerns from citizens and from other governmental units before revising its zoning ordinance to allow such uses.

This section is not designed to prevent the approval and completion of projects that implement sound flood mitigation predicated on fair share concepts. Wilkin County is proud of its support for Manston Slough Project and expects to engage in future projects that provide benefits to the entire watershed. The County Board is looking for the correct balance between watershed wide and county interests. The County Board strongly encourages continued dialog with area watershed districts to provide mutual reassurance that beneficial projects will be facilitated.

Section 20.02 Findings and Conclusions

The Wilkin County Board makes the following findings and conclusions at the time of the adoption of this ordinance:

1. This section governing construction or maintenance of surface water impoundments is based on the powers granted to Counties to provide for the public health, safety, and welfare, including the powers granted in Chapter 394, 103B, 145A and 373, as well as Minnesota's Water Policy Chapters 103A-F, and the Minnesota Environmental Policy Act, Chapter 106D. Minnesota Statutes Section 394.21 grants Wilkin County the power to carry on planning and zoning. Sections 103B.325, et. seq., recognizes powers and responsibilities of Counties to implement water management plans and official controls that implement its water plan.

2. Wilkin County is located on the western edge of Minnesota, bordering North Dakota. Wilkin County encompasses 751 square miles, and includes twenty-two townships and nine cities. Breckenridge, located in the west-central part of the county is the county seat with a population of 3559 (2000 census) and is recognized as the headwaters of the Red River of the North.

3. The Otter Tail River and the Bois de Sioux River join in Breckenridge to form the Red River of the North. The Otter Tail River reaches Breckenridge after flowing 240 miles

from Clearwater County, 40 miles southwest of Bemidji until it meets the Bois de Sioux River in Breckenridge.

4. The Bois de Sioux River also flows through Wilkin County until it reaches Breckenridge. Its drainage basin includes portions of Traverse, Grant, Wilkin, Stevens, Big Stone and Otter Tail counties, and consists of about 1,412 square miles. Major tributaries in Minnesota are the Mustinka River and the Rabbit River. Tributaries in North and South Dakota contribute drainage from an additional 549 square miles.

5. Two watershed districts have jurisdiction within Wilkin County. Each of these Watershed Districts has adopted water management plans covering portions of Wilkin County. The Buffalo Red River Watershed District ("BRRWD") plan was adopted in 2010. It covers much of the northerly portion of Wilkin County. The Bois De Sioux River Watershed District plan, which addresses the remainder of Wilkin County, was adopted in 2003. The purpose of these plans is to provide guidance on the nature of water projects contemplated for the next decade and to identify the main themes of water management within those districts. Both plans recognize the County's regulatory authority.

6. Neither of the Water Management Plans contemplates the intentional damming of the Red River for the purpose of flooding any part of Wilkin County. Both plans emphasize first use of non-structural measures, the use of distributed storage, and the allocation of flood management responsibility across the Red River basin on a shared responsibility basis. Both plans contemplate the use of the mediated settlement agreement process for conflict resolution and project development for flood reduction. Various projects are identified in each plan, but none involve damming the Red River or intentionally flooding Wilkin County.

7. Wilkin County's existing zoning and planning does not allow, provide for, nor contemplate the use of Wilkin County lands for staging and storage behind a Red River dam.

8. BRRWD rules prohibit public or private entities from burdening another landowner with more water than is reasonable and prohibit persons or public corporations from constructing, altering, repairing or removing any dike without a permit from the Board of Managers. Under those rules, no person or public corporation shall undertake the construction, removal or abandonment of any reservoir for the impoundment of water without a permit from the Managers. BRRWD Rules do not contain guidelines for addressing proposals for permitting or massively flooding Wilkin County or any other County.

9. Both Watershed Districts have been supportive of, and their plans contemplate, fair share participation in coordinated distributed storage projects. Both Watershed District plans contemplate development of smaller water retention impoundments, such as the North Ottawa impoundment, which is

approximately 3 square miles in size. Distributed storage such as the Angus Oslo Impoundment, the Deerhorn Creek Setback Levee, the Dalen Coulee Restoration and Flood Reduction, the North Ottawa Impoundment, the Hay Creek Channel and Levees, the Thief River and Off-channel Storage can be located in areas that minimize damage to productive land and provide benefits to the immediate vicinity as well as the entire Red River basin. The water plans of both watershed districts envision reduction of Red River peak flow of from 20 to 25% by use of coordinated distributed storage.

10. Wilkin County actively supported the Manston Slough Project, to restore approximately 1,300 acres of wetlands and provide for 5,446 acre-feet of flood water storage. Although the project covers a significant geographic area, the project encompassed a variety of features that caused the County to support it. First, the project involved collaboration and partnership including Wilkin County as a full partner in the evaluation and assessment. Second, project sponsors sought to locate the storage in an area that could be acquired voluntarily. Third, the location of the project was selected to utilize natural environmental features and to avoid interference with productive agriculture. Fourth, the project maximized potential flood control benefits while minimizing adverse impacts. It was not imposed on Wilkin County, but was developed through a collaborative process which validated Wilkin County interests.

11. Following completion of the Buffalo River Watershed District Water Management Plan in 2010, the Fargo flood Diversion Authority changed the projected design of the Flood Diversion Project and proposed to build a dam on the Red River periodically to flood Wilkin County. The new concept was imposed entirely by the Diversion Authority to further Fargo's objectives exclusively without Wilkin County's consent. Because such a design was never proposed, advanced or considered in connection with the County's Water Plan, or either of the Watershed District Plan, the concept of intentional flooding of the County was not considered in any of those plans, and indeed such massive flooding contradicts several of the fundamental principles in each of those plans.

12. For this reason, Wilkin County passed an interim ordinance in 2013 so that the County could determine a process by which to evaluate proposals for massive flooding or large impoundments.

13. The County has solicited and received comments and considered information supplied in connection with a proposed amendment to its land use controls.

14. The County finds that intentional flooding of Wilkin County by creation of large impoundments is likely to have major negative economic, social, public

health, environmental, and political impacts. Such flooding will negatively impact the County's tax base, harm agriculture essential to Wilkin County's economic vitality, create uncertainty regarding the County's future, and stifle development. Such flooding is likely to damage public infrastructure including roads and drainage systems. Intentional flooding may cause pollution by carrying chemicals into the groundwater and to neighboring lands. For all of these reasons, a mechanism for proposing such flooding should be provided that assures consideration of the economic, social, public health, environmental and political impacts.

15. The County determines that intentional flooding of the County should be prohibited, and hereby is prohibited, under its land use controls, but that the County should provide a procedural mechanism by which proponents of major storage within the county may be able to petition for amendments to the zoning ordinance, zoning map, and land use criteria and to facilitate a collaborative process that respects Wilkin Counties interests. The following laws, policies and principles guide the County's policy approach.

    a. *Minnesota Environmental Rights Act*: Minnesota's Environmental Rights Act (MERA) requires a proponent of an environmentally damaging project to establish that "that there is no feasible and prudent alternative and the conduct at issue is consistent with and reasonably required for promotion of the public health, safety, and welfare in light of the state's paramount concern for the protection of its air, water, land and other natural resources from pollution, impairment, or destruction." Minn. Stat. § 116B.04
    b. *Minnesota Environmental Policy Act*: Minnesota Statutes Section 16D.04 subdivision 6 states as follows: Prohibitions. --No state action significantly affecting the quality of the environment shall be allowed, nor shall any permit for natural resources management and development be granted, where such action or permit has caused or is likely to cause pollution, impairment, or destruction of the air, water, land or other natural resources located within the state, so long as there is a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety, and welfare and the state's paramount concern for the protection of its air, water, land and other natural resources from pollution, impairment, or destruction. Economic considerations alone shall not justify such conduct.
    c. *Executive Order 11988 and related state and national policies*. The County subscribes to the policies embodied in Executive Order 11988 and principles of sustainable approaches to flood control. The County will ordinarily look with disfavor at proposals to amend the zoning ordinance for the purpose of accepting water diverted as part of projects that destroy significant areas of natural floodplain.

d. *Distributed Storage*. The County finds that distributed storage is an essential component of flood mitigation strategies and accepts the principle that the County should contribute its fair share of distributed storage. Distributed storage involves smaller impoundments like the North Ottawa project (3 square miles) located so as to minimize impacts on productive lands. The County intends to collaborate with its watershed districts to assure that such projects, conducted in accordance with adopted Watershed District plans, permits, and county zoning, can contribute to flood mitigation.

e. *Fair Share Concept*. The County will consider the amount of land within the County already devoted to impoundment and flood storage.

f. *Protection of Agriculture*. A primary function of Wilken County's zoning is to protect and foster the productivity of agricultural lands and practices. The County finds that large impoundments may be contrary to agricultural protections.

16. This section creates no property right to flood lands for flood storage and staging. Nor does this section create any obligation for the County to amend its zoning ordinance to permit impoundments, flood storage and staging. This section creates an orderly mechanism for the County promptly to process applications for zoning ordinance amendments specific to such projects and for provision of the data and information necessary to make legislative judgments on the application for such zoning amendments.

Section 20.03 Definitions

"Large Surface Water Impoundment" is defined as an area exceeding 640 acres devoted to the purpose of flood water storage, staging or retention. For purposes of the definition, multiple impoundments serving the same purpose or project shall be included as a single impoundment. An impoundment includes water stored within a dike, behind a dam, or otherwise intentionally filling a surface area devoted to that purpose on a temporary or permanent basis.

"Productive Land" is defined as land that is regularly cultivated for growing crops, managed for forestry products, or put to an extractive use; including Natural Habitat and land enrolled into conservation programs (i.e. Conservation Reserve Program).

Section 20.04 Prohibition.

Large Surface Water Impoundments are prohibited in Wilkin County.

Section 20.05 Application for Zoning Amendment.

Persons proposing a Large Surface Water Impoundment may submit an application for an amendment to this zoning ordinance. The Zoning Administrator is authorized to develop and adopt an application form and procedure for amending this zoning ordinance to allow flood storage, staging or retention within the County. This procedure shall be in addition to the procedure established in Section 12 of this zoning ordinance. Prior to adoption, the Zoning Administrator shall seek comment from state and local governments with an interest in water management or flood control.

Section 20.06 Application Contents.

Applicants for a zoning ordinance amendment must complete the application and provide data reasonably requested by the Office of Environmental Services in support of the application. In addition to the provisions of Section 12 of this zoning ordinance, the application must include the following data:

a. A full explanation of the environmental, public health, economic and social impacts of the proposal.
b. The amount of land in Wilkin County already devoted to large impoundments.
c. Whether the proposed project utilizes productive land currently devoted to agriculture or other productive uses.
d. Identification of any natural floodplain that is proposed to be eliminated by the project proponent and at a minimum the 8-step findings called for under EO 19888 and its implementing regulations. The extent to which the applicant has taken advantage of mitigation opportunities to avoid the need for storage in Wilkin County.
e. The impact on tax base.
f. A description of any alternatives that would reduce the need for flood storage, staging, or impoundment.
g. Whether the applicant has prepared an operational plan that makes transparent the circumstances under which the staging, storage or impoundment will be utilized.
h. The impact on public and private infrastructure and the impact on agriculture.
i. Whether the applicant has land available in its immediate vicinity that can store the water and the reasons for rejecting local storage.
j. The size of the storage proposed.
k. Whether the proposed project has been, or will be, approved in accordance with the project procedure under Chapter 103D (or its equivalent) such that impacted landowners and others will be entitled to the protections envisioned by Chapter 103D.
l. Whether the applicant has been following the mediated settlement process.
m. Whether the applicant is locating the proposed storage on productive land and floodplain for storage.
n. Whether the proposal provides a positive cost-benefit to Wilkin County.
o. Proposals to mitigate the consequences to Wilkin County.

Section 20.07 Application Completeness.

Upon receipt of the application, the Zoning Administrator shall determine administratively whether the application is complete. If the Zoning Administrator determines the application is incomplete, the applicant may seek review of that determination by seeking review by the County Board within 30 days of the date of the determination.

Section 20.08 Additional Information.

Upon submission of a completed application for a zoning ordinance amendment, the County will process the application and consider it as it would any other application for amendment. During the amendment process, the County Board or Zoning Administrator may request such other additional information as may aid the County it its legislative process.

Section 20.09 Disposition.

As with other applications for an amendment to the zoning ordinance, the County Board may determine that the amendment should not be approved, that the amendment may be approved with modifications, or that the amendment should be approved as submitted.

SECTION 21 SEWAGE AND WASTEWATER TREATMENT

21.00 SEWAGE AND WASTEWATER TREATMENT

21.01 General Provisions.

1. Purpose

The purpose of this ordinance is to establish minimum requirements for regulation of subsurface sewage treatment systems SSTSs for the treatment and dispersal of sewage within the applicable jurisdiction of the County to protect public health and safety, groundwater quality, and prevent or eliminate the development of public nuisances. It is intended to serve the best interests of the County's citizens by protecting its health, safety, general welfare, and natural resources.

2. Jurisdiction

The jurisdiction of this Ordinance shall include all lands of the County except for incorporated areas that administer aSSTS program by Ordinance within their incorporated jurisdiction, which is at least as strict as this Ordinance and has been approved by the County. In the situation where the ordinance requires that the SSTS be brought up to code and the possibility exists that the property may have the opportunity to connect to a community system the County Zoning Administrator may allow a renewable one year extension of the deadline for the SSTS upgrade if the following exist:

- Progress is being made towards the development of the community sewer system.
- The property owner is willing to sign a document which states that if the community sewer system does not continue to progress to the point of construction, that a system will be installed which meets current codes.
- The existing system has not been determined to be imminent threat to public health or safety.

All sewage generated in unsewered areas of the County shall be treated and dispersed by an approved SSTS that is sited, designed, installed, operated, and maintained in accordance with the provisions of this Section or by a system that has been permitted by the Minnesota Pollution Control Agency (MPCA).

21.02 SSTS Standards

1. Standards Adopted By Reference

Wilkin County hereby adopts by reference Minnesota Rules, Chapters 7080 and 708 in their entirety as now constituted and from time to time amended. This adoption does not supersede the County's right or ability to adopt local standards that are in compliance with Minnesota Statute 115.55.

A. Exemptions

All SSTS installed in Wilkin County are exempt from employing flow measurement as identified in Minnesota Rules Chapter 7080.1885, 7080.2210, 7080.2220, 7080.2230, 7080.2350, and 7080.2400.

Minnesota Rules chapter 7080.1930 Septic Tank Capacity Table V should read as follows;

Number of Bedrooms	Septic Tank Liquid Minimum Capacities (gallons)
2 or less	750
3 or 4	1000
5 or 6	1500
7,8, or 9	2000

2. Amendments To The Adopted Standards

A. Determination of Hydraulic Loading Rate and SSTS Sizing

Table IXa from Minnesota Rules, Chapter 7080.2150, Subp. 3(E) entitled "Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas Using Percolation Tests" and herein adopted by reference shall be used to determine the hydraulic loading rate and infiltration area for all SSTS permitted under this ordinance.

B. Compliance Criteria for Existing SSTS

SSTS built before April 1, 1996 outside of areas designated as shoreland areas, wellhead protection areas, or SSTS providing sewage treatment food, beverage, or lodging establishment must have at least two feet of vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock.

C. Holding Tanks

Holding tanks may be allowed for new construction on lots existing as of the date of the enactment of this Ordinance and only where it can be shown conclusively that a SSTS permitted under this Ordinance cannot be feasibly installed or for buildings that have an average daily flow less than 125 gallons per day. All

holding tanks are required to secure an operating permit before construction from the Wilkin County Environmental Office.

3. Variances

A. Variance Requests

A property owner may request a variance from the standards as specified in this ordinance pursuant to county policies and procedures.

B. Affected Agency

Variances that pertain to the standards and requirements of the State of Minnesota must be approved by the affected State Agency pursuant to the requirements of the State Agency.

21.03 General Requirements

All provisions of this Section shall apply to any SSTS regardless of the date it was originally permitted.

1. Existing Permits

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

2. SSTS On Lots Created After January 23, 1996

All lots created after January 23, 1996 must have a minimum of two soil treatment and dispersal areas that can support trenches, seepage beds, mounds, and at-grade systems as described in Minnesota Rules, Chapters 7080. 2200 through 7080.2230 or site conditions described in 7081.0270, Subp. 3 through 7.

3. Failure To Protect Groundwater

An SSTS that is determined not to be protective of groundwater in accordance with Minnesota Rules, Chapter 7080.1500,Subp.4.B shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within 1 year of receipt of a Notice of Noncompliance.

4. Imminent Threat To Public Health Or Safety

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

5. Abandonment

Any SSTS, or any component thereof, which is no longer intended to be used, must be abandoned in accordance with Minnesota Rules, Chapter 7080.2500.

6. SSTS In Floodplains

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

7. Class V Injection Wells

All owners of new or replacement SSTS that are considered to be Class V injection wells, as defined in the Code of Federal Regulations, title 40, part 144, are required by the Federal Government to submit SSTS inventory information to the Environmental Protection Agency as described in CFR40 part 144. Further, owners are required to identify all Class V injection wells in property transfer disclosures.

8. SSTS Practitioner Licensing

No person shall engage in site evaluation, inspection, design, installation, construction, alternation, extension, repair, maintenance, or pumping of SSTS without an appropriate and valid license issued by MPCA in accordance with Minnesota Rules, Chapter 7083 except as exempted in 7083.0700.

9. Prohibitions

a. Occupancy or Use of a Building without a Compliant SSTS

It is unlawful for any person to maintain, occupy, or use any building intended for habitation that is not provided with a wastewater treatment system that disposes of wastewater in a manner that does not comply with the provisions of this Ordinance.

b. Sewage Discharge to Ground Surface or Surface Water

It is unlawful for any person to construct, maintain, or use any SSTS system regulated under this Ordinance that results in raw or partially treated wastewater seeping to the ground surface or flowing into any surface water. Any surface discharging system must be permitted under the National Pollutant Discharge Elimination System program by the MPCA.

c. Sewage Discharge to a Well or Boring

It is unlawful for any person to discharge raw or treated wastewater into any well or boring as described in Minnesota Rules, Chapter 4725.2050, or any other excavation in the ground that is not in compliance with this ordinance.

d. Discharge of Hazardous or Deleterious Materials

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

10. Periodically Saturated Soil Disagreements

If a documented discrepancy arises on the depth of the periodically saturated soil between

a SSTS licensed business and Wilkin County staff, all disputing parties must meet at the disputed site to resolve the differences. If the differences cannot be resolved then Wilkin County staff shall render findings of fact, conclusions of the law, and finds setting forth the reasons for any final decisions they render.

21.04 Administration.

1. Administration By Wilkin County. The Environmental Services Department shall regulate SSTS and septage disposal in Wilkin County pursuant to this Section.

A. The Department shall have the following duties and responsibilities:

1. To review all applications for ISTS;
2. To issue all permits required by this Section;
3. To investigate complaints regarding SSTS and septage disposal;
4. To issue Stop Work Orders and Notices of Violation, pursuant to this Section;
5. To take complaints to the County Attorney for violations of this Section;
6. To maintain proper records for SSTS and septage disposal including site evaluation records, design records including calculations and summaries for all system component sizings and as-builts; and
7. To submit annual reports to the MPCA to demonstrate enforcement of the local ordinance per Chapter 7080.0310.

B. Neither the issuance of permits, certificates of compliance or notices of noncompliance as requested or issued shall be construed to represent a guarantee or warranty of the system's operation or effectiveness. Such certificates signify that the system in question is or has been designed and installed in compliance or noncompliance with the provisions of these standards and regulations.

21.05 Permitting

1. Permit Required

It is unlawful for any person to construct, install, modify, replace, or operate a SSTS without the appropriate permit from Wilkin County. The issuing of any permit, variance, or conditional use under the provisions of this ordinance shall not absolve the applicant of responsibility to obtain any other required permit. A permit shall be obtained by the property owner or an agent of the property owner from the County prior to the installation, construction, replacement, modification, alteration, repair, or capacity expansion of a SSTS. The purpose of this permit is to ensure that the proposed construction activity is sited, designed, and

constructed in accordance with the provisions of this Ordinance by appropriately certified and licensed practitioners.

2. Activities Requiring A Permit

A construction permit is required for installation of a new SSTS, for replacement of an existing SSTS, or for any repair or replacement of components that will alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function. Permits for repair must include any system upgrades that are necessary to bring the entire system into compliance with the prevailing provisions of this Ordinance at the time of permit application.

3. Permit Application Requirements

Permit applications shall be made on forms provided by the Environmental Office and signed by the applicant and an appropriately certified practitioner including the practitioner's certification number and date of expiration. The applications shall include the documents listed in items A through E below.

a. Name, mailing address, telephone number, and email address.

b. Property Identification Number and address or other description of property location.

c. Site Evaluation Report as described in Minnesota Rules, Chapter 7080.1730

d. Design Report as described in Minnesota Rules, Chapter 7080.2430.

e. Management Plan as described in Minnesota Rules, Chapter 7082.0600.

4. SSTS Capacity Expansions

Expansion of an existing SSTS must include any system upgrades that are necessary to bring the entire system into compliance with the prevailing provisions of this Ordinance at the time of the expansion.

5. Bedroom Additions

The owner is allowed a complete construction season (May 15 through November 15) from the date of issuance of a bedroom addition permit to upgrade, repair, replace or abandon an existing system if the following conditions apply:

a. The Wilkin County Environmental office issues a permit to add a bedroom;

b. A SSTS inspection is triggered by a bedroom addition permit request;

c. The existing system was installed between May 27, 1989 and January 3, 1996;

d. The SSTS does not comply with Minnesota Rules, Chapter 7080.1500, Subp. 4.B.;

e. The SSTS is not determined to be an imminent threat to public health or safety in accordance with Minnesota Rules, Chapter 7080.1500, Subp. 4.A.

6. **Property Owner Doing Own Work**.

Property owners are permitted to construct or repair ISTS on their own properties shallbe exempted from providing proof of a State License. A property owner shall have a current license issued by the Minnesota Pollution Control Agency for either a Designer, Immediate Designer or an Advanced Designer if they wish to perform the site evaluation or design their own ISTS. No property owner shall issue a Certificate of Compliance for an SSTS constructed on property they own.

21.06 OPERATING PERMITS

1. SSTS Requiring An Operating Permit

An Operating Permit shall be required of all owners of Type IV and V systems or MSTS or any other system deemed by Wilkin County to require operational oversight. Sewage shall not be discharged to a holding tank , Type IV and V systems, or MSTS until Wilkin County certifies that the SSTS was installed in substantial conformance with the approved plans, receives the final record drawings of the SSTS, and a valid Operating Permit is issued to the owner.

2. Permit Application Requirements

a. Application for an Operating Permit shall be made on a form provided by the Wilkin County Environmental Office.

b. Monitoring and Disposal Contract

Owners of holding tanks shall provide to the Wilkin County Environmental Office a copy of a valid monitoring and disposal contract executed between the owner and a licensed maintenance business, which guarantees the removal of the holding tank contents in a timely manner that prevents an illegal discharge in accordance with *Minnesota Rules, Chapter 7082.0100, Subp. 3G*. This requirement is waived if the owner is a farmer who is exempt from licensing under Minnesota Statutes, section 115.56, subdivision 3, paragraph (b), clause (3).

3. Operating Permit Terms And Conditions

The Operating Permit shall include the requirements found in Minnesota Rules Chapter 7082.0600, subp.2.B. Operating Permits shall be valid for the specific term stated on the permit as determined by Wilkin County. An Operating Permit must be renewed prior to its expiration. If not renewed, Wilkin County may require the system to be removed from service or operated as a holding tank until the permit is renewed. Performance monitoring of a SSTS shall be performed by a licensed inspection business or licensed service provider hired by the holder of the operating permit in accordance with the monitoring frequency and parameters

stipulated in the permit. Operating permits may not be transferred.

21.07 INSPECTIONS REQUIREMENTS.

1. New Construction Or Replacement

A. Compliance inspections must be performed on new or replacement SSTS to determine compliance with Minnesota Rules, Chapters 7080 or 7081.

B. The final SSTS construction inspection shall be conducted by the licensed inspector of Wilkin County. The inspection shall be done, as requested by the licensed installer or property owner, prior to any portion of the excavation being backfilled, unless special arrangements have been made prior with the county office. The licensed installer shall present "as built" drawings or other verification of a properly constructed SSTS to the Wilkin County inspector at the time of inspection. If the county inspector is unable to be at the site within 24 hours, the licensed installer or property owner is responsible to take pictures of the septic tank, drop boxes, drainfield lines, and other critical items along with detailed drawing with measurements and setbacks prior to backfilling of the excavation by the licensed installer or property owner.

C. A Certificate of Compliance for new SSTS construction or replacement, which shall be valid for five (5) years, shall be issued by Wilkin County if the County has reasonable assurance that the system was built in accordance with the applicable requirements as specified in the construction permit, unless the County finds evidence of noncompliance.

2. Existing Systems

A. Compliance inspections shall be required when any of the following conditions occur:

(1) The transfer of real property when a SSTS is present.

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

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

(4) Any time there is a change in use of the property being served by an existing SSTS which may impact the performance of the system;

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

B. Compliance inspections of existing SSTS shall be reported on the inspection report forms provided by MPCA

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

(2) Certificates of compliance for existing SSTS shall remain valid for three (3) years from the date of issue unless Wilkin County finds evidence of noncompliance.

(3) Compliance inspection criteria will allow no more than a 15% reduction in the vertical separation (30.6") distance to account for settling of sand or soil, normal variation of measurement, and interpretation of the limiting layer conditions. SSTS's not issued a certificate of compliance must meet the requirements of Minnesota Rules Chapter 7080 and 7081 within 1 year of inspection.

3. **Stop Work Orders**. Whenever any work is being done contrary to the provisions of this Section, the Department may order the work stopped by verbal or written notice personally served upon the installer or owner of the land. All installation and construction shall cease and desist until subsequent authorization to proceed is received from the Department.

4. **Sale or Transfer of Property.**

A. A Certificate of Compliance shall be presented to Wilkin County before closing.

B. The Certificate of Compliance shall be completed by a sewage treatment system inspector licensed by the State of Minnesota and shall indicate that said ISTS is in compliance with Minnesota Rules Chapter 7080 as amended.

C. In the event that one of the exemptions listed in Subdivision 10. or 11. below, of this Section applies, the Certificate must be signed by both parties to the transaction.

D. A Contract for Deed is considered a transfer of property.

5. **Exempt Transactions**. The Certificate need not be completed if the sale or transfer involves the following circumstances:

A. The tract of land is without buildings or contains no dwellings or other buildings with plumbing fixtures.

B. Any dwellings or other buildings with running water are connected to a municipal wastewater treatment system.

6. Transactions Occurring Between November 1 and May 1.

If the transaction occurs between November 1 and May 1, and the inspection cannot be completed, the transfer may occur with a stipulation that a compliance inspection, as certified by a licensed inspector, be completed and filed with the Environmental Services Department by June 15 following the closing date.

7. Notice of Violations.

A. Cause to Issue a Notice of Violation. Unresolved and either separate, recurrent, or continuing violations of this Section by an applicant, permittee, installer or other person, as determined by inspections, re-inspection, or investigations shall constitute nonconformance or noncompliance with this Section.

B. Serving a Notice of Violation. A Notice of Violation shall be served by mail upon the applicant, permittee, installer or other person found to be in violation of this Section.

C. Contents of a Notice of Violation. A Notice of Violation shall contain the following:

1. A Statement documenting the findings of fact through inspections, re inspections or investigations;
2. A list of specific violations of this Section;
3. The specific requirements for correction or removal of said violations; and
4. A mandatory time schedule for correction, removal and compliance with this Section.

D. State Notification of Violations. Any inspection installation, design, construction, alteration or repair of an SSTS by a licensed person or any pumping and disposal of septage by a licensed pumper or hauler done in violation of the provisions of this Section shall be cause for notification to the Minnesota Pollution Control Agency.

E. Enforcement. Any person, firm, corporation or other entity who violates any of the provisions of this Section, or who makes any false statement on a Certificate of Compliance, shall be guilty of a misdemeanor, punishable by imprisonment or a fine or both as defined by law. In the event of a

violation of this Ordinance, in addition to other remedies, the County Attorney may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations.

21.08 Septage Disposal and Treatment.

1. Only a Minnesota Licensed Maintainer is allowed to service, clean and pump sewa**g**e treatment systems.

2. A record of all the sewage treatment systems serviced shall be maintained by the Maintainer, indicating the date of the pumping, name of the property owner, parcel number where the tank is located, the approximate gallons removed and the disposal area where the waste was discharged. A copy of this record shall be provided on a monthly basis, to the Wilkin County Environmental Officer.

21.09 Licensing Requirements

1. No person shall engage in the evaluation, inspection, design, installation, construction, alteration, extension, maintenance, or pumping of an SSTS in Wilkin county without first obtaining a license to perform such tasks from the Minnesota Pollution Control Agency.

2. A license is not required for an individual who is constructing a ISTS on land that is owned or leased by the individual and functions solely as a dwelling or seasonal dwelling for that individual based upon the design by a licensed designer.

3. A license is not required for a farmer who pumps sewage waste from a ISTS from dwellings or other establishments that are owned or leased by the farmer and disposes of those wastes on land that is owned

SECTION 22 FLOODPLAIN (FP) DISTRICT

22.00 FLOODPLAIN (FP) DISTRICT

22.01 Authorization, Findings of Fact & Purpose.

1. **Authorization.** The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and 394.21 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses.

2. **Findings of Fact.**

   A. The flood hazard areas of Wilkin County, Minnesota, are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures or flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

   B. This Ordinance is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.

3. **Statement of Purpose.** It is the purpose of this Ordinance to promote the public health, safety, and general welfare and to minimize those losses described in Section 21.01(2)(A) by provisions contained herein.

22.02 General Provisions.

1. **Lands to which Section Applies.** This Ordinance shall apply to all lands within the jurisdiction of Wilkin County shown on the Official Zoning Map and/or the attachments thereto as being located within the boundaries of the Floodway; Flood Fringe, or General Flood Plain Districts.

2. **Establishment of Official Zoning Map.** The Official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this Ordinance. The attached material shall include the Flood Insurance Rate Map for the which was developed by the Federal Emergency Management Agency and is hereby adopted by reference as the Official Flood Plain Zoning District Map and made part of this Ordinance.

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

4. **Interpretation.**

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

   B. The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to exact location of the boundaries of the district as shown on the Official Zoning Map, as for example where there appears to be a conflict between mapped boundary and actual field conditions and there is a formal appear of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board and to submit technical evidence.

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

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

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

22.03 Establishment of Floodplain Zoning Districts.

1. **Districts.**

   A. **Floodway (FW) District.** The Floodway District shall include those areas designated as floodway on the Flood Boundary and Floodway Map adopted in Section 21.02.

   B. **Flood Fringe (FF) District.** The Flood Fringe District include those areas designated as floodway fringe on Flood Boundary and Floodway Map adopted in Section 21.02.

   C. **General Flood Plain District.** The General Flood Plain District shall include those areas designated as unnumbered A Zones on the Flood Insurance Rate Map adopted in Section 21.02.

2. **Compliance.** No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance. Within the Floodway, Flood Fringe and General Flood Plain Districts, all uses not listed as permitted uses or conditional uses in Sections 21.04, 21.05 and 21.06 that follow, respectively, shall be prohibited. In addition, a caution is provided here that:

   A. New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this Ordinance and specifically Section 21.09;

   B. Modifications, additions, structural alterations or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this Ordinance and specifically Section 21.11; and

   C. As-built elevations for elevated or flood proofed structures must be certified by ground surveys, and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this Ordinance and specifically as stated in Section 21.10 of this Ordinance.

22.04 Floodway District (FW).

1. **Permitted Uses in a Floodway District.**

   A. General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.

   B. Industrial-commercial loading areas, parking areas, and airport landing strips.

   C. Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.

   D. Residential lawns, gardens, parking areas, and play areas.

2. **Standards for Floodway District Permitted Uses.**

   A. The use shall have a low flood damage potential.

   B. The use shall be permissible in the underlying zoning district if one exists.

   C. The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

3. **Conditional Uses in a Floodway District.**

   A. Structures accessory to the uses listed above and the uses listed in B-H below.

   B. Extraction and storage of sand, gravel, and other materials.

   C. Marinas, boat rentals, docks, piers, wharves, and water control structures.

   D. Railroads, streets, bridges, utility transmission lines, and pipelines.

   E. Storage yards for equipment, machinery, or materials.

   F. Placement of fill.

G. Travel trailers and travel vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of Subdivision 4 of Section 21.09 of this Ordinance.

H. Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

4. **Standards for Floodway Conditional Uses.**

A. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a Conditional Use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.

B. All floodway Conditional Uses will be subject to the procedures and standards contained in Section 21.10 of this Ordinance.

C. The Conditional Use must be permissible in the underlying zoning district if one exists.

D. Fill:

(1) Fill, dredge spoil and all other similar materials deposited or stored in the flood plain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.

(2) Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.

(3) As an alternative, and consistent with Subsection (2) immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the Governing Body has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The

Conditional Use Permit must be title registered with the property in the Office of the County Recorder.

E. Accessory Structures:

(1) Accessory structures shall not be designed for human habitation.

(2) Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters. (a) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and, (b) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

(3) Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP-l or FP-2 flood proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed five hundred (500) square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards, as appropriate:

(a) The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls; and

(b) Any mechanical and utility equipment in a structure must be elevated to or above the Regulatory Flood Protection Elevation or properly flood proofed.

F. Storage of Materials and Equipment:

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

(2) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood

warning and in accordance with a plan approved by the Governing Body.

G. Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of Minnesota Statute, Chapter 103G. Community-wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the floodway.

H. A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

22.05 Flood Fringe District (FF).

1. **Permitted Uses in a Flood Fringe District.**

Permitted Uses shall be those uses of land or structures listed as Permitted Uses in the underlying zoning use district(s). If no pre-existing, underlying zoning use districts exist, then any residential or non-residential structure or use of a structure or land shall be a Permitted Use in the Flood Fringe provided such use does not constitute a public nuisance. All Permitted Uses shall comply with the standards for Flood Fringe "Permitted Uses" listed in Section 21.05(2) and the "Standards for all Flood Fringe Uses" listed in Section 21.05(5).

2. **Standards for Flood Fringe Permitted Uses.**

A. All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the Regulatory Flood Protection Elevation. The finished fill elevation for structures shall be no lower than one (1) foot below the Regulatory Flood Protection Elevation and the fill shall extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure erected thereon.

B. As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed five hundred (500) square feet for the outside dimension at ground level may be internally flood proofed in accordance with Section 21.04(E)(3).

C. The cumulative placement of fill where at any one time in excess of one thousand (1,000) cubic yards of fill is located on the parcel shall be allowable only as a Conditional Use, unless said fill is specifically intended to elevate a structure in accordance with Section 21.05(2)(A) of this Ordinance.

D. The storage of any materials or equipment shall be elevated on fill to the Regulatory Flood Protection Elevation.

E. The provisions of Section 21.05(5) of this Ordinance shall apply.

3. **Conditional Uses.**

Any structure that is not elevated on fill or flood proofed in accordance with Section 21.05(2)(A) and (B) or any use of land that does not comply with the standards in Section 21.05(2)(C) and (D) shall only be allowable as a Conditional Use. An application for a Conditional Use shall be subject to the standards and criteria and evaluation procedures specified in Sections 21.05(4) and (5) and 21.10(4) of this Ordinance.

4. **Standards for Flood Fringe Conditional Uses.**

A. Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the Regulatory Flood Protection Elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: 1) the enclosed area is above-grade on at least one side of the structure; 2) it is designed to internally flood and is constructed with flood resistant materials; and 3) it is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:

(1) **Design and Certification** - The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the Regulatory Flood Protection Elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.

(2) **Specific Standards for Above-grade, Enclosed-Areas** – Above grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:

(a) The minimum area of openings in the walls where internal flooding is to be used as a flood proofing technique. When openings are placed in a structure's walls to provide for entry of flood waters to equalize pressures, the bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

(b) That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

B. Basements, as defined by this Ordinance, shall be subject to the following:

(1) Residential basement construction shall not be allowed below the Regulatory Flood Protection Elevation.

(2) Non-residential basements may be allowed below the Regulatory Flood Protection Elevation provided the basement is structurally dry flood proofed in accordance with Section 21.05(4)(C) of this Ordinance.

C. All areas of non-residential structures including basements to be placed below the Regulatory Flood Protection Elevation shall be flood proofed in accordance with the structurally dry flood proofing classifications in the State Building Code. Structurally dry flood proofing must meet the FP-l or FP-2 flood proofing classification in the State Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood proofed to the FP-3 or FP-4 classification shall not be permitted.

D. When at any one time more than one thousand (1,000) cubic yards of fill or other similar material is located on a parcel for such activities, as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an Erosion/Sedimentation control plan must be submitted unless the community is enforcing a state approved shoreland management ordinance. In the absence of a state approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. The

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

E. **Storage of Materials and Equipment:**

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

(2) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Governing Body.

F. The provisions of Section 21.05(5) of this Ordinance shall also apply.

5. **Standards for All Flood Fringe Uses.**

A. All new principal structures must have vehicular access at or above an elevation not more than two (2) feet below the Regulatory Flood Protection Elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

B. Commercial Uses - use accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the Regulatory Flood Protection Elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth greater than two (2) feet or be subject to flood velocities greater than four (4) feet per second upon occurrence of the regional flood.

C. Manufacturing and Industrial Uses - measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in Section 21.05(5)(B) above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.

E. Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation - FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

F. Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.

G. Standards for travel trailers and travel vehicles are contained in Section 21.09(4).

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

22.06 General Flood Plain District.

1. **Permissible Uses.**

A. The uses listed in Section 21.04(1) of this Ordinance shall be permitted uses.

B. All other uses shall be subject to the floodway/flood fringe evaluation criteria pursuant to Section 21.06(2) below. Section 21.04 shall apply if the proposed use is in the Floodway District and Section 21.05 shall apply if the proposed use is in the Flood Fringe District.

2. **Procedures for Floodway and Flood Fringe Determinations Within the General Flood Plain District.**

A. Upon receipt of an application for a Conditional Use Permit for a use within the General Flood Plain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the

Zoning Administrator for the determination of the Regulatory Flood Protection Elevation and whether the proposed use is within the Floodway or Flood Fringe District.

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

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

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

B. The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the Floodway or Flood Fringe District and to determine the Regulatory Flood Protection Elevation. Procedures consistent with Minnesota Regulations 2183, Parts 6120.5000 - 6120.6200 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:

(1) Estimate the peak discharge of the regional flood.

(2) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.

(3) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 feet. A lesser stage increase than 0.5 feet shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.

C. The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the Governing Body. The Governing Body must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary or deny the permit application. The Governing Body, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, the Department of Natural Resources or the Planning Commission for review and comment. Once the Floodway and Flood Fringe Boundaries have been determined, the Governing Body shall refer the matter back to the Zoning Administrator who shall process the permit application consistent with the applicable provisions of Section 21.04 and 21.05 of this Ordinance.

22.07 Subdivisions.

1. Review Criteria.

No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the flood plain districts shall contain a building site at or above the Regulatory Flood Protection Elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this Ordinance and have road access both to the subdivision and to the individual building sites no lower than two (2) feet below the Regulatory Flood Protection Elevation. For all subdivisions in the flood plain, the Floodway and Flood Fringe boundaries, the Regulatory Flood Protection Elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

2. **Floodway/Flood Fringe Determinations in the General Flood Plain District.**

In the General Flood Plain District, applicants shall provide the information required in Section 21.06(2) of this Ordinance to determine the 100-year flood elevation, the Floodway and Flood Fringe District boundaries and the Regulatory Flood Protection Elevation for the subdivision site.

3. **Removal of Special Flood Hazard Area Designation.**

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

22.08 Public Utilities, Railroads, Roads, and Bridges.

1. **Public Utilities.**

All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the flood plain shall be flood-proofed in accordance with the State Building Code or elevated to above the Regulatory Flood Protection Elevation.

2. **Public Transportation Facilities.**

Railroad tracks, roads, and bridges to be located within, the flood plain shall comply with Sections 21.04 and 21.05 of this Ordinance. Elevation to the Regulatory Flood Protection Elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

3. **On-site Sewage Treatment and Water Supply Systems.**

Where public utilities are not provided: a) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and b) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or

contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section.

22.09 Manufactured Homes and Manufactured Home Parks and Placement of Travel Trailers and Travel Vehicles.

1. New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by Section 21.07 of this Ordinance.

2. The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with Section 21.05 of this Ordinance. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with Section 21.05(5)(A), then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the Governing Body.

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

4. Travel trailers and travel vehicles that do not meet the exemption criteria specified in Section 21.09(4)(A) below shall be subject to the provisions of this Ordinance and as specifically spelled out in Sections 21.09(4)(C) and (D) below.

   A. **Exemption:** Travel trailers and travel vehicles are exempt from the provisions of this Ordinance if they are placed in any of the areas listed in Section 21.09(4)(B) below and further they meet the following criteria:

      (1) Have current licenses required for highway use.

      (2) Are highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks and the travel trailer/travel vehicle has no permanent structural type additions attached to it.

      (3) The travel trailer or travel vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.

B. **Areas Exempted For Placement of Travel/Recreational Vehicles:**

(1) Individual lots or parcels of record.

(2) Existing commercial recreational vehicle parks or campgrounds.

(3) Existing condominium type associations.

C. Travel trailers and travel vehicles exempted in Section 21.09(4)(A) lose this exemption when development occurs on the parcel exceeding $500.00 for a structural addition to the travel trailer/travel vehicle or an accessory structure such as a garage or storage building. The travel trailer/travel vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood proofing requirements and the use of land restrictions specified in Sections 21.04 and 21.05 of this Ordinance.

D. New commercial travel trailer or travel vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:

(1) Any new or replacement travel trailer or travel vehicle will be allowed in the Floodway or Flood Fringe Districts provided said trailer or vehicle and its contents are placed on fill above the Regulatory Flood Protection Elevation and proper elevated road access to the site exists in accordance with Section 21.05(5)(A) of this Ordinance. No fill placed in the floodway to meet the requirements of this Section shall increase flood stages of the 100-year or regional flood.

(2) All new or replacement travel trailers or travel vehicles not meeting the criteria of 21.09(D)(1) above may, as an alternative, be allowed as a Conditional Use if in accordance with the following provisions and the provisions of 21.10(4) of the Ordinance. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100-year flood. Said plan shall be prepared by a registered engineer or other qualified individual and shall demonstrate that adequate time and personnel exist to carry out the evacuation. All attendant sewage and water facilities for new or replacement travel trailers or other recreational vehicles must be protected or constructed so as to not be impaired

or contaminated during times of flooding in accordance with Section 21.08(3) of this Ordinance.

22.10 Administration.

1. **Zoning Administrator.**

A Zoning Administrator or other official designated by the Governing Body shall administer and enforce this Ordinance. If the Zoning Administrator finds a violation of the provisions of this Ordinance the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in Section 21.12 of the Ordinance.

2. **Permit Requirements.**

A. **Permit Required.** A Permit issued by the Zoning Administrator in conformity with the provisions of this Ordinance shall be secured prior to the erection, addition, or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the change or extension of a nonconforming use; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain.

B. **Application for Permit.** Application for a Permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.

C. **State and Federal Permits.** Prior to granting a Permit or processing an application for a Conditional Use Permit or Variance, the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal Permits.

D. **Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use.** It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a Certificate of Zoning Compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Ordinance.

E. **Construction and Use to be as Provided on Applications, Plans, Permits, Variances and Certificates of Zoning Compliance.** Permits, Conditional Use Permits, or Certificates of Zoning Compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance, and punishable as provided by Section 21.12 of this Ordinance.

F. **Certification.** The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this ordinance. Flood-proofing measures shall be certified by a registered professional engineer or registered architect.

G. **Record of First Floor Elevation.** The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the flood plain. The Zoning Administrator shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood-proofed.

3. **Board of Adjustment.**

A. **Rules.** The Board of Adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such Boards by State law.

B. **Administrative Review.** The Board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this Ordinance.

C. **Variances.** The Board may authorize upon appeal in specific cases such relief or variance from the terms of this Ordinance as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in the respective enabling legislation which justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the

Regulatory Flood Protection Elevation for the particular area, or permit standards lower than those required by State law.

D. **Hearings.** Upon filing with the Board of Adjustment of an appeal from a decision of the Zoning Administrator, or an application for a variance, the Board shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The Board shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten (10) days' notice of the hearing.

E. **Decisions.** The Board shall arrive at a decision on such appeal or variance within thirty (30) days. In passing upon an appeal, the Board may, so long as such action is in conformity with the provisions of this Ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Zoning Administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a variance, the Board may prescribe appropriate conditions and safeguards such as those specified in Section 21.10(G) which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance punishable under Section 21.12. A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

F. **Appeals.** Appeals from any decision of the Board may be made, and as specified in this Community's Official Controls and also Minnesota Statutes.

G. **Flood Insurance Notice and Record Keeping.** The Zoning Administrator shall notify the applicant for a variance that: (1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage; and (2) Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

4. **Conditional Uses.**

The Wilkin County Planning Commission shall hear and decide applications for Conditional Uses permissible under this Ordinance. Applications shall be

submitted to the Zoning Administrator who shall forward the application to the Planning Commission for consideration.

A. **Hearings.** Upon filing with the Zoning Administrator, an application for a Conditional Use Permit, the Planning Commission shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed Conditional Use sufficiently in advance so that the Commissioner will receive at least ten (10) days' notice of the hearing.

B. **Decisions.** The Planning Commission shall arrive at a decision on a Conditional Use within thirty (30) days. In granting a Conditional Use Permit, the Planning Commission shall prescribe appropriate conditions and safeguards, in addition to those specified in Section 21.10(4)(F), which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the Conditional Use Permit is granted, shall be deemed a violation of this Ordinance punishable under Section 21.12. A copy of all decisions granting Conditional Use Permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

C. **Procedures to be followed by the Planning Commission in passing on Conditional Use Permit Applications within all Flood Plain Districts.**

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

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

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

(2) Transmit one copy of the information described in subsection (1) above, to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the

seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.

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

D. **Factors Upon Which the Decision of the Planning Commission Shall be Based.** In passing upon Conditional Use applications, the Planning Commission shall consider all relevant factors specified in other sections of this Ordinance, and:

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

(2) The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.

(3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

(4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

(5) The importance of the services provided by the proposed facility to the community.

(6) The requirements of the facility for a waterfront location.

(7) The availability of alternative locations not subject to flooding for the proposed use.

(8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

(9) The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.

(10) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(11) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

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

E. **Time for Action on Application.** The Planning Commission shall act on an application in the manner described above within sixty (60) days from receiving the application, except that where additional information is required pursuant to 21.10 of this Ordinance. The Planning Commission shall render a written decision within sixty (60) days from the receipt of such additional information.

F. **Conditions Attached to Conditional Use Permits.** Upon consideration of the factors listed above and the purpose of this Ordinance, the Planning Commission shall attach such conditions to the granting of Conditional Use Permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:

(1) Modification of waste treatment and water supply facilities.

(2) Limitations on period of use, occupancy, and operation.

(3) Imposition of operational controls, sureties, and deed restrictions.

(4) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.

(5) Flood-proofing measures, in accordance with the State Building Code and this Ordinance. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood-proofing measures are consistent with the Regulatory Flood Protection Elevation and associated flood factors for the particular area.

22.11 Nonconforming Uses.

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance but which is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions:

A. No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.

B. Any alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-l thru FP-4 flood-proofing classifications) allowable in the State Building Code, except as further restricted in 21.11(1)(C) below.

C. The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed fifty (50) percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions constructed since the adoption of the Community's initial flood plain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds fifty (50) percent of the current market value of the structure, then the structure must meet the standards of Section 21.04 or 21.05 of this Ordinance for new structures depending upon whether the structure is in the Floodway or Flood Fringe, respectively.

D. If any nonconforming use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this Ordinance. The assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses which have been discontinued for a period of twelve (12) months.

E. If any nonconforming use or structure is destroyed by any means, including floods, to an extent of fifty (50) percent or more of its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance. The applicable provisions for establishing new uses or new structures in Sections 21.04, 21.05, or 21.06 will apply depending upon whether the use or structure is in the Floodway, Flood Fringe or General Flood Plain District, respectively.

22.12 Penalties for Violation.

1. Violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of Variances or Conditional Uses) shall constitute a misdemeanor and shall be punishable as defined by law.

2. Nothing herein contained shall prevent the County of Wilkin from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:

   A. In responding to a suspected ordinance violation, the Zoning Administrator and Local Government may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The community must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

   B. When an ordinance violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources and Federal Emergency Management Agency Regional Office along with the Community's plan of action to correct the violation to the degree possible.

   C. The Zoning Administrator shall notify the suspected party of the requirements of this Ordinance and all other Official Controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the Community. If the construction or development is already completed, then the Zoning Administrator may either: (1) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or (2) notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed thirty (30) days.

   D. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this Ordinance and shall be prosecuted accordingly. The Zoning Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this Ordinance.

22.13 Amendments.

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

2. All amendments to this Ordinance, including amendments to the Official Zoning Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given ten (10) days written notice of all hearings to consider an amendment to this Ordinance and said notice shall include a draft of the ordinance amendment or technical study under consideration.

SECTION 23 SHORELAND(S) DISTRICT

23.01 Statutory Authorization and Policy

1. Statutory Authorization

This shoreland ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F, Minnesota Regulations, Parts 6120.2500 - 6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 394 (for counties) or Chapter 462 (for municipalities).

2. Policy

The uncontrolled use of shorelands of Wilkin County, Minnesota affects the public health, safety and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety, and welfare to provide for the wise subdivision, use and development of shorelands of public waters. The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by Wilkin County.

23.02 General Provisions

1. Jurisdiction

The provisions of this ordinance shall apply to the shoreland of the public waterbodies as classified in Section 22.04 of this Ordinance. Pursuant to Minnesota Regulations, Parts 6120.2500 - 6120.3900, no lake, pond, or flowage less than ten (10) acres in size in municipalities or twenty-five (25) acres in size in unincorporated areas need be regulated in a local government's shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from this ordinance. Jurisdiction of this ordinance shall apply to all areas of Wilkin County outside the incorporated limits of any municipality.

2. Compliance

The use of any shoreland of public waters; the size and shape of lots; the use, size, type, and location of structures on lots; the installation and maintenance of water supply and waste treatment systems, the grading and filling of any shoreland area; the cutting or shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of this ordinance and other applicable regulations.

3. Enforcement

The Board of County Commissioners are responsible for the administration and enforcement of this ordinance, any violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law. Violation of this ordinance can occur regardless of whether or not a permit is required for the regulated activity pursuant to Section 22.03(1) of this ordinance.

A. In the event of a violation or a threatened violation of this ordinance, the Board of County Commissioners, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations or threatened violations.

B. Any tax payer or tax payers of the County may institute mandamus proceedings in District Court to compel specific performance by the proper official or officials of any duty required by this ordinance.

C. A petition may be filed with the Board of County Commissioners alleging that a land use practice is contributing to excessive erosion.

D. All petitions shall be in writing and signed by two or more riparian landowners. The petition shall state:

(1) The names of the petitioning riparian owners;

(2) The legal descriptions of the petitioning riparian owners' property;

(3) The name and post office address of the offending land owner;

(4) The legal description of the property on which the land use is occurring; and

(5) A concise description of the land use practice, supported by photographs and measurements.

E. Upon receipt of a petition, the Board of County Commissioners shall direct the Zoning Administrator to investigate the allegations

F. Upon completion of the investigation by the Zoning Administrator a hearing shall be held, after due notice to all parties named in the petition, at which each party shall be allowed to present testimony and the results of the investigation shall be presented.

G. After receipt of the testimony and investigation reports, the Board of County Commissioners shall issue Findings of Fact and Conclusions as to the existence of excessive erosion due to the alleged land use practice. The Findings of Fact and Conclusions shall be in writing and completed within sixty (60) days of the hearing.

H. Upon concluding that a land use practice is causing excessive erosion, the Board of County Commissioners may require that conservation or shoreland protection practices be adopted to abate the erosion.

4. **Interpretation**

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

5. **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.

6. **Abrogation and Greater Restrictions**

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

7. **Definitions**

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the same meaning as they have in common usage and as defined in Section 5.01 of the Zoning Ordinance, and so as to give this ordinance its most reasonable application. For the purpose of this ordinance, the words “must” and “shall” are mandatory and not permissive. All distances, unless otherwise specified, shall be measured horizontally.

23.03 Administration

1. **Permits Required**

A. A permit is required for the construction of buildings or building additions as required in the Wilkin County Zoning Ordinance (and including such related activities as construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by Section 22.05(3) of this Ordinance. Application for a permit shall be made to the Zoning Administrator on the forms provided. The application shall include the necessary information so that the Zoning Administrator can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.

B. A permit authorizing an addition to an existing structure shall stipulate that an identified nonconforming sewage treatment system, as defined by Section 22.05(8), shall be reconstructed or replaced in accordance with the provisions of this ordinance.

C. No permit shall be issued by the Zoning Administrator or Board of County Commissioners, or variance granted by the Board of Adjustment authorizing:

1. The construction of or addition to any buildings or related structures; or

2. The installation and/or alteration of any sewage treatment system; or

3. Any grading and/or filling activity

within the conservation district, except upon the applicant's providing the appropriate authority with copies of all necessary permits from the U. S. Army Corps of Engineers, State of Minnesota Department of Natural Resources, the Bois de Sioux Watershed District, Buffalo-Red Watershed District Wilkin County Soil and Water Conservation District, and USDA Natural Resources Conservation Service.

2. **Certificate of Zoning Compliance**

The Zoning Administrator shall issue a certificate of zoning compliance for each activity requiring a permit as specified in Section 22.03(1) of this Ordinance. This certificate will specify that the use of land conforms to the requirements of this ordinance. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this Ordinance and shall be punishable as provided in Section 22.02(3) of this Ordinance.

3. **Variances**

A. Variances may only be granted in accordance with Minnesota Statutes, Chapter 394 (for counties) or 462 (for municipalities), as applicable. A variance may not circumvent the general purposes and intent of this ordinance. No variance may be

granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest. In considering a variance request, the board of adjustment must also consider whether the property owner has reasonable use of the land without the variance, whether the property is used seasonally or year-round, whether the variance is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.

B. The Board of Adjustment shall hear and decide requests for variances in accordance with the rules that it has adopted for the conduct of business. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required in Section 22.03(4)B below shall also include the Board of Adjustment's summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

C. For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system.

4. **Notifications to the Department of Natural Resources**

A. Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked at least ten (10) days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.

B. A copy of approved amendments and subdivisions/plats, and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked within ten (10) days of final action.

5. **Zoning Administrator.**

A. The office of the Zoning Administrator is hereby established, for which the Board of County Commissioners may appoint such employee for an indefinite term which shall terminate at the pleasure of the Board of County Commissioners.

B. The Board of County Commissioners hereby delegates to the Zoning Administrator the duties and responsibilities as follows:

1. Issue building permits and certificates of zoning compliance

2. To administer the terms of this ordinance subject to any required approval of the Board of County Commissioners; and

3. Keep necessary records.

6. **Board of Adjustment.**

A. The Board of Adjustment shall be created and appointment made pursuant to Minnesota Statutes Section 394.27 concurrent with the adoption of this ordinance. The Board of Adjustment shall hear and decide appeals from and review any order, requirements, decisions or determinations made by the Administrative Assistant.

B. An appeal may be taken from the Board of Adjustment to the District Court in and for Wilkin County on questions of law and fact, provided nonetheless, that notice of such appeal shall be served upon the Board of County Commissioners and the Board of Adjustment within thirty days of the determination by the Board of Adjustment, by filing with the Board of Adjustment and the Board of County Commissioners, a notice of appeal specifying the grounds thereof.

23.04 Shoreland Classification System and Land Use Districts

1. **Shoreland Classification System**

The public waters of Wilkin County have been classified below consistent with the criteria found in Minnesota Regulations, Part 6120.3300, and the Protected Waters Inventory Map for Wilkin County, Minnesota.

A. The shoreland area for the waterbodies listed in Sections 22.04(1)(B) and 22.04(1)(C) shall be defined in Section 5.01 of the Zoning Ordinance and as shown on the Official Zoning Map.

B. **Lakes.**

1). Recreational Development Lakes	Protected Waters Inventory I.D. #
Lake Breckenridge	84-23P

2). Natural Environmental Lakes	Protected Waters Inventory I.D.#
Unnamed	84-1P
Unnamed	84-6P
Unnamed	84-5P
Unnamed	84- 28W
Unnamed	84-7W
Unnamed	84- 30P
Unnamed	84-24W
Unnamed	84-29W
Unnamed	84-13W
Unnamed	84-11P
Unnamed	84-12P
Unnamed	84-10W
Unnamed	84-15P
Unnamed	84-9W
Unnamed	84-1048W

C. **Rivers and Streams.**

1) Agricultural Rivers	Legal Description
Red River of the North	From the confluence with Bois de Sioux and Otter Tail Rivers to the border of Wilkin and Clay Counties.
Bois de Sioux	From the border of Wilkin and Traverse Counties to the confluence of the Red River of the North.
Rabbit	From the border of Wilkin and Grant Counties to

	the confluence with the Bois de Sioux.
Otter Tail	From the border of Wilkin and Otter Tail Counties to the confluence with the Red River of the North.
South Branch of the Buffalo River	From the East section line of Section 4 – T135N-R46W to the border of Wilkin and Clay counties.
Lawndale Creek	From the East section line of Section 5 T135N-R45W to the confluence of Deerhorn Creek
Deerhorn Creek	From the East section line of Section 27 T136N-R45W to the confluence of the South branch of the Buffalo River.
Wolverton Creek	From the South section line of Section 26, T136N-R48W to the border of Wilkin and Clay Counties.
Whiskey Creek	From the East section line of Section 13, T133N-R47W to the confluence of the Red River of the North.
Doran Slough	From the South section line of Section 36, T132N-R47W to the

		confluence of the Bois de Sioux.
2)	Tributary Streams	Legal Descriptions
	South Fork of Rabbit River	From the Wilkin and Traverse border to the confluence of the Rabbit.
	Whiskey Creek tributary	From the east section line of Section28, T134N-R47W to the confluence of whiskey Creek and from the South section line of Section 8 to the confluence of Whiskey Creek.

All protected watercourses in Wilkin County shown on the Protected Waters Inventory Map for Wilkin County, a copy of which is hereby adopted by reference, not given a classification in Items C.1 and 2 above shall be considered "Tributary".

2. **Land Use District Descriptions.**

A. **Criteria for Designation.** The land use districts in Section 22.04(2) and the delineation of a land use district's boundaries on the Official Zoning Map, must be consistent with the goals, policies, and objectives of the comprehensive land use plan (when available) and the following criteria, considerations, and objectives:

1) **General Considerations and Criteria for All Land Uses:**

(1) preservation of natural areas;

(2) present ownership and development of shoreland areas;

(3) shoreland soil types and their engineering capabilities;

(4) topographic characteristics;

(5) vegetative cover;

(6) in-water physical characteristics, values, and constraints;

(7) recreational use of the surface water;

(8) road and service center accessibility;

(9) socioeconomic development needs and plans as they involve water and related land resources;

(10) the land requirements of industry which, by its nature, requires location in shoreland areas; and

(11) the necessity to preserve and restore certain areas having significant historical or ecological value.

2) **Factors and Criteria for Planned Unit Developments:**

(1) existing recreational use of surface waters and likely increases in use associated with planned unit developments;

(2) physical and aesthetic impacts of increased density;

(3) suitability of lands for the planned unit development approach;

(4) level of current development in the area; and

(5) amounts and types of ownership of undeveloped lands.

B. **Land Use District Descriptions.** The land use district provided below, and the allowable land uses there in for the given classifications of water bodies shall be properly delineated on the shoreland management map for the shorelands of this community. These land use districts are in conformance with the criteria specified in Minnesota Regulation, Part 6120.3200 Subp.3:

1. Land Use Districts For Lakes
P = Permitted; C = Conditional

	General Development	Natural Development
-Agricultural: cropland and pasture	P	P
- -Commercial	C	C
-Commercial planned unit development	C	C
-Surface water-oriented commercial	C	C

-Parks and historic sites	C	C
-Single residential	P	P
-Duplex, triplex and quad residential	C	C
-Shoreland Alterations	C	C
-Churches	C	C
-Controlled Accesses	C	C

2. Land Use Districts for Rivers and Streams

	Agricultural	Tributary
-Agricultural: cropland and pasture	P	P
-Commercial	C	C
-Commercial planned unit development	C	C
-Surface water-orientated commercial	C	C
- -Parks and historic sites	C	C
-Single residential	P	P
-Duplex, triplex and quad residential	C	C
-Shoreland Alterations	C	C
-Churches	C	C
-Controlled Accesses	C	C

C. **Use and Adoption of Inconsistent Land Use Districts.**

1) Any land use districts adopted in the Wilkin County Zoning and Floodplain Ordinance as they apply to shoreland areas, in their delineated boundaries on the Official Zoning Map, shall be consistent with the land use district designation criteria specified in Section 22.04(2) herein.

2) If a subsequent county zoning ordinance is proposed, the following criteria and procedures shall apply:

(1) **For Lakes.** If a subsequent county zoning ordinance proposes land use district designations on a lake, the land use district boundaries and use provisions therein for all the shoreland areas within the jurisdiction of this ordinance on said lake, shall be substantially compatible with the framework in Sections 22.04(2) of this ordinance.

(2) **For Rivers and Streams.** If a subsequent county zoning ordinance proposes land use district designations on a river or stream, the land use district boundaries and the use provisions therein for all shoreland on both sides of the river or stream within the same classification within the jurisdiction of this ordinance, shall be substantially compatible with the framework in Section 22.04(2) of this ordinance.

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

4) When a revision is proposed to an inconsistent land use district provision by an individual party or landowner, this individual party or landowner will only be responsible to provide the supporting and/or substantiating information for the specific parcel in question. The Board of County Commissioners will direct the Zoning Administrator to provide such additional information for this waterbody as is necessary to satisfy Items 22.04(2)(C)(1) and 22.04(2)(C)(2).

5) If a subsequent county zoning ordinance is adopted, the Board of County Commissioners shall make a detailed finding of fact and conclusions that the land use district designations in said ordinance as they affect shorelands are consistent with the enumerated criteria and use provisions of Section 22.04(2).

23.05 Zoning and Water Supply/Sanitary Provisions

1. Lot Area and Width Standards.

The lot area (in square feet) and lot width standards (in feet) at the Ordinary High Water Level (OHWL) for single, duplex, triplex, and quad residential lots created after the date of enactment of this ordinance for the lake and river/stream classifications are the following:

A. **Lakes**

1) Recreational Development:

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

2) Natural Environment

	Riparian Lots		Nonriparian Lots	
	Area	Width	Area	Width
Single	80,000	200	80,000	200
Duplex	120,000	300	160,000	400

Triplex	160,000	400	240,000	600
Quad	200,000	500	320,000	800

B. **River/Stream Lot Width Standards.**

There is no minimum lot size requirements for rivers and streams. The lot width standards for single, duplex, triplex and quad residential developments for the river/stream classifications are:

	Agricultural	Tributary
Single	150	150
Duplex	225	225
Triplex	300	300
Quad	375	375

C. **Additional Special Provisions.**

1) Residential subdivisions with dwelling unit densities exceeding those in the tables in Section 22.05(1)(B) and 22.05(1)(C) can only be allowed if designed and approved as residential planned unit developments under Section 22.08 of this Ordinance. Only land above the ordinary high water level of public waters can be used to meet lot area standards, and lot width standards must be met at both the ordinary high water level and at the building line. The sewer lot area dimensions in Section 22.05(1)(B) can only be used if publicly owned sewer system service is available to the property.

2) Subdivisions of duplexes, triplexes, and quads on Natural Environment Lakes must also meet the following standards:

(1) Each building must be set back at least two hundred (200) feet from the ordinary high water level;

(2) Each building must have common sewage treatment and water systems in one location and serve all dwelling units in the building;

(3) Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building; and

(4) No more than twenty-five (25) percent of a lake's shoreline can be in duplex, triplex, or quad developments.

3) One (1) guest cottage may be allowed on lots meeting or exceeding the duplex lot area and width dimensions presented in Sections 22.05(1)(A) - 22.05(1)(C) provided the following standards are met:

   (1) For lots exceeding the minimum lot dimensions of duplex lots, the guest cottage must be located within the smallest duplex-sized lot that could be created including the principal dwelling unit;

   (2) A guest cottage must not cover more than seven hundred (700) square feet of land surface and must not exceed fifteen (15) feet in height; and

   (3) A guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.

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

   (1) They must meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots.

   (2) If docking, mooring, or over-water storage of more than six (6) watercraft is to be allowed at controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by the percent of the requirements for riparian residential lots for each watercraft beyond six (6), consistent with the following table;

Controlled Access Lot Frontage Requirements:

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

(3) They must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot; and

(4) Protective covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the nonsignificant conflict activities include swimming, sunbathing, or picnicking. The protective covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They must also require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

2. **Placement, Design, and Height of Structures.**

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

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

Setbacks

Classes of Public Water	Structure	Sewage Treatment System
Lakes		
Recreational Development	100*	75
Natural Environment	150	150

<u>Rivers</u>		
Agriculture and Tributary	100*	75

2) **Additional Structure Setbacks.** The following additional structure setbacks apply, regardless of the classification of the waterbody:
Setback From:

		Setback (in feet)
(1)	top of bluff;	30*
(2)	unplatted cemetery;	50
(3)	side and rear lot setbacks at 10% of lot width or 10 feet on larger than 100’	10

*Where structures exists on the adjoining lots on both sides of proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks provided the proposed building site is not located in a shore or bluff impact zone.

3) **Bluff Impact Zones.** Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

4) **Uses Without Water-oriented Needs.** Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

B. **Design Criteria for Structures.**

1) **High Water Elevations.** Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:

(1) For lakes, by placing the lowest floor at a level at least three (3) feet above the highest known water level, or three (3) feet above the ordinary high water level, whichever is higher;

(2) For rivers and streams, by placing the lowest floor at least three (3) feet above the flood of record, if data are available. If data are not available, by placing the lowest floor at least three (3) feet above the ordinary high water level, or by conducting a technical evaluation to determine effect of proposed construction upon flood

stages and flood flows and to establish a flood protection elevation. Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with parts 6120.5000 to 6120.6200 governing the management of flood plain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities; and

(3) Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation, and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

2) **Water-oriented Accessory Structures.** Each lot may have one (1) water-oriented accessory structure not meeting the normal structure setback in Section 22.05(2)(A) of this Ordinance if this water-oriented accessory structure is located outside of the conservation district and, also complies with the following provisions:

(1) The structure or facility must not exceed ten (10) feet in height, exclusive of safety rails, and cannot occupy an area greater than two hundred fifty (250) square feet. Detached decks must not exceed eight (8) feet above grade at any point;

(2) The setback of the structure or facility from the ordinary high water level must be at least ten (10) feet;

(3) The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color assuming summer, leaf-on conditions;

(4) The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;

(5) The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and

3) **Stairways, Lifts, and Landings.** Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:

(1) Stairways and lifts must not exceed four (4) feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments;

(2) Landings for stairways and lifts on residential lots must not exceed thirty-two (32) square feet in area. Landings larger than thirty-two (32) square feet may be used for commercial properties, public open-space recreational properties, and planned unit developments;

(3) Canopies or roofs are not allowed on stairways, lifts, or landings;

(4) Stairways, lifts, and landings may be either constructed above the ground on posts of pilings, or placed into the ground provided they are designed and built in a manner that ensures control of soil erosion;

(5) Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and

(6) Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of subitems (1) to (5) are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.

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

5) **Steep Slopes.** The Administrative Assistant 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.

6) **Height of Structures.** All structures in residential districts, except churches and nonresidential agricultural structures, must not exceed twenty-five (25) feet in height.

3. Shoreland Alterations

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

A. **Vegetation Alterations.**

1) Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by Section 22.05(4) of this Ordinance are exempt from the vegetation alteration standards that follow.

2) Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in Sections 22.05(6)(B) and 22.05(6)(C) respectfully, is allowed subject to the following standards:

(1) Intensive vegetation clearing within the conservation district, shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.

(2) In the conservation district, shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:

(a) The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;

(b) Along rivers, existing shading of water surfaces is preserved; and

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

B. **Topographical Alterations/Grading and Filling.**

1) Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this Section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.

2) Public roads and parking areas are regulated by Section 22.05(4) of this Ordinance.

3) Notwithstanding Items 1 and 2 above, a conditional use permit shall be required for grading and filling within the conservation district.

4) Notwithstanding Items 1 and 2 above, a grading and filling permit will be required for:

   (1) the movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and

   (2) the movement of more than fifty (50) cubic yards of material outside of steep slopes and shore and bluff impact zones.

5) The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:

   (1) Grading or filling in any type wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland*:

      (a) sediment and pollutant trapping and retention;

      (b) storage of surface runoff to prevent or reduce flood damage;

      (c) fish and wildlife habitat;

      (d) recreational use;

      (e) shoreland or bank stabilization; and

(f) noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or other.

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

(2) Any alteration must be designed and conducted in accordance with the Wilkin County Floodplain Management Ordinance.

(3) Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;

(4) Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible;

(5) Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;

(6) Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Natural Resources Conservation Service;

(7) Fill or excavated material must not be placed in a manner that creates an unstable slope;

(8) Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of thirty (30) percent or greater;

(9) Fill or excavated material must not be placed in bluff impact zones;

(10) Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under Minnesota Statutes, Section 103G.005;

(11) Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and

(12) Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three (3) feet horizontal to one (1) foot vertical, the landward extent of the riprap is within ten (10) feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three (3) feet.

6) **Connections to public waters.** Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, must be controlled by local shoreland controls. Permission for excavations may be given only after the commissioner has approved the proposed connection to public waters.

4. **Placement and Design of Roads, Driveways, Parking, and Access Paths.**

A. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

B. Roads, driveways, and parking areas must meet structure setbacks and must not be placed within the conservation district, bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.

C. Public and private watercraft access ramps, approach roads, and access related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provisions of Section 22.05(3)(B) of this Ordinance must be met.

D. Single residential lots with public waters frontage, shall be allowed one vegetative access path to the public water. The width of the access shall not exceed twenty-five percent (25%) of the lot width or thirty feet (30'), whichever is less.

E. Duplex, triplex, quad, residential PUD, and surface water-oriented commercial lots with public waters frontage, shall be allowed access paths to the public waters

at a rate of two, twenty foot (20') wide paths for every three hundred feet (300') of public waters frontage.

5. **Stormwater Management.**

The following general and specific standards shall apply:

A. **General Standards:**

1) 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) 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) 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 on constructed facilities such as diversions, settling basins, skimming devises, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

B. **Specific Standards:**

1) Impervious surface coverage of lots must not exceed twenty (25) percent of the lot area.

2) When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.

3) New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

6. **Special Provisions for Commercial, Industrial, Public/Semipublic, Agricultural, Forestry and Extractive Uses and Mining of Metallic Minerals and Peat.**

A. **Standards for Commercial, Industrial, Public and Semipublic Uses.**

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

(1) In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this ordinance, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;

(2) Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and

(3) Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:

(a) No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff.

(b) Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten (10) feet above the ground, and must not exceed thirty-two (32) square feet in size. If illuminated by artificial lights, the light must be shielded or directed to prevent illumination out across public waters; and

(c) Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across

public waters. This does not preclude use of navigational lights.

2) Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

B. **Agriculture Use Standards.**

1) General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local soil and water conservation districts or the United States Natural Resources Conservation Service, as provided by a qualified individual or agency or other approved management plan utilizing emerging technology and practices . The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and fifty (50) feet from the ordinary high water level.

2) Animal feedlots must meet the following standards:

(1) New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of three hundred (300) feet from the ordinary high water level of all public waters basins; and

(2) Modifications or expansions to existing feedlots that are located within 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.

C. **Extractive Use Standards.**

1) **Site Development and Restoration Plan.** An extractive use site development and restoration plan must be developed, approved, and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours, and duration of operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.

2) **Setbacks for Processing Machinery.** Processing machinery must be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.

D. **Mining of Metallic Minerals and Peat.** Mining of metallic minerals and peat, as defined in Minnesota Statutes, Sections 93.44 to 93.51, shall be a permitted use provided the provisions of Minnesota Statutes, Sections 93.44 to 93.51, are satisfied.

7. **Conditional Uses**

Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established community wide as described in Section 14.00 of this ordinance.. The following additional evaluation criteria and conditions apply within shoreland areas:

A. The applicant for a conditional use permit shall file his application in the office of the Zoning Administrator and pay a fee determined by the county when the application is filed.

B. The applicant or his representative shall appear before the Board of County Commissioners and answer any questions concerning the proposed conditional use.

C. The Board of County Commissioners shall take action on the application within sixty (60) days of application. A copy of all granted conditional use permits shall be forwarded to the Commissioner of Natural Resources within fifteen days of such action.

E. **Evaluation criteria.**

1. The Board of County Commissioners shall consider possible adverse effects of the proposed conditional use and what additional requirements may be necessary to prevent such adverse effects. No permit shall be issued by the Zoning Administrator nor the Board of County Commissioners nor shall a conditional use

permit be issued where the land is unsuitable for the proposed use by reason of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities or any other feature likely to be harmful to the health, safety or welfare of the future residents of the district.

2. A thorough evaluation of the waterbody and the topographic, vegetation, and soils' conditions on the site must be made to insure:
   a) The prevention of soil erosion or other possible pollution of public waters, both during and after construction;

   b) The visibility of structures and other facilities as viewed from public waters is limited;

   c) The site is adequate for water supply and on-site sewage treatment; and

   d) The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.

F. **Conditions attached to conditional use permits.** The Board of Commissioners, upon consideration of the criteria listed above and the purposes of this ordinance, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the following:

   1) Increased setbacks from the ordinary high water level;

   2) Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and

   3) Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

8. **Water Supply and Sewage Treatment**

A. **Water Supply.** Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.

B. **Sewage Treatment.** Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:
   1) Publicly-owned sewer systems must be used where available.

2) All private sewage treatment systems must meet or exceed the Minnesota Pollution Control Agency's standards for individual sewage treatment systems contained in the document titled, "Individual Sewage Treatment Systems Standards, Chapter 7080", a copy of which is hereby adopted by reference and declared to be a part of this ordinance.

3) On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in Section 22.05(2)(A) of this Ordinance.

4) All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in subitems (a)-(d) below. If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on-site field investigations.

Evaluation criteria:

a) depth to the highest known or calculated ground water table or bedrock;

b) soil conditions, properties, and permeability;

c) slope;

d) the existence of lowlands, local surface depressions, and rock outcrops;

5) Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with Section 22.06(3) of this Ordinance.

6) A structure with a failed sewage system must cease discharging sewage into it. The structure shall be evacuated until the owner of the structure repairs or replaces the sewage system in accordance with the requirements of this ordinance.

23.06 Nonconformities

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

1. **Construction on Nonconforming Lots of Records.**

   A. Lots of record in the office of the county recorder on the date of enactment of local shoreland controls that do not meet the requirements of Section 22.05(1) of this Ordinance may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this ordinance are met.

   B. A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the board of adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.

   C. If, in a group of two (2) or more contiguous lots under the same ownership, any individual lot does not meet the requirements of Section 22.05(1) of this Ordinance the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one (1) or more contiguous lots so they equal one (1) or more parcels of land, each meeting the requirements of Section 22.05(1) of this Ordinance as much as possible.

2. **Additions/Expansions to Nonconforming Structures.**

   A. All additions of expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of Section 22.05 of this Ordinance. Any deviation from these requirements must be authorized by a variance pursuant to Section 22.03(3).

   B. Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met:

      1) The structure existed on the date the structure setbacks were established;

      2) A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;

      3) The deck encroachment toward the ordinary high water level does not exceed fifteen (15) percent of the existing setback of the structure from the

ordinary high water level or does not encroach closer than thirty (30) feet, whichever is more restrictive;

4) The deck is constructed primarily of wood, and is not roofed or screened;

5) The deck encroachment will not be located in the conservation district or a shore impact zone.

C. Within the conservation district, or any shore and bluff impact area: (1) no nonconforming structure or use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity; and (2) the cost of all structural alterations or additions both inside and outside of a structure to any nonconforming structure over the life of the structure shall not exceed fifty percent (50%) of the market value of the structure unless the conditions of Section 22.05 of this Ordinance are satisfied. The cost of all structural alterations and additions constructed since the addition of the community's initial shoreland controls must be calculated into today's current cost, which will include all costs such as construction materials and a reasonable cost placed on all man power or labor. If the current cost of all previous and proposed alterations and additions exceeds fifty percent (50%) of the current market value of the structure, then the structure must meet the standards of Section 22.05 of this ordinance for new structures.

D. If any nonconforming use of a structure or land or nonconforming structure is destroyed by any means, including floods, to an extent of fifty percent (50%) or more of its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance.

3. **Nonconforming Sewage Treatment Systems.**

A. A sewage treatment system not meeting the requirements of Section 22.05(8) of this ordinance must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if : (1) the sewage treatment system is located in the agricultural district; and (2) the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.

B. The governing body of Wilkin County has by formal resolution notified the commissioner of its program to identify nonconforming sewage treatment systems. Wilkin County will require upgrading or replacement of any nonconforming system identified by this program within a reasonable period of time which will not exceed one (1) year. Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, Section 105.485, in effect at the time of installation may be considered

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

23.06 Subdivision/platting Provisions

1. Land Suitability.

Each lot created through subdivision, including planned unit developments authorized under Section 22.08 of this Ordinance, must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the local unit of government shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for the development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

2. Consistency with Other Controls.

Subdivisions must conform to all official controls of this community. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with Sections 22.05(2) and 22.05(8) can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of Section 22.05(1), including at least a minimum contiguous lawn area, which is free of limiting factors sufficient for the construction of two (2) standard soil treatment systems. Lots that would require use of holding tanks must not be approved.

3. Information Requirements.

Sufficient information must be submitted by the applicant for the community to make a determination of land suitability. The information shall include at least the following:

A. Topographic contours at ten (10) foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics;

B. The surface water features required in Minnesota Statutes, Section 505.02, subdivision 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;

C. Adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;

D. Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;

E. Location of 100-year flood plain areas and floodway districts from existing adopted maps or data;

F. Location of areas within the conservation district; and

G. A line or contour representing the ordinary high water level, the "toe" and the "top" of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

4. **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.

5. **Platting.**

All subdivisions that create five (5) or more lots or parcels that are two and one-half (2 ½) acres or less in size shall be processed as a plat in accordance with Minnesota Statutes, Chapter 505. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after these official controls were enacted unless the lot was approved as part of a formal subdivision.

6. **Controlled Access or Recreational Lots.**

Lots intended as controlled accesses to public waters or for recreational use areas for use by nonriparian lots within a subdivision must meet or exceed the sizing criteria in Section 22.05(1)(D) of this Ordinance.

SECTION 24 SUBDIVISIONS

24.00 SUBDIVISIONS

24.01 Metes and Bounds Descriptions.

After the effective date of this Ordinance, no deed containing a metes and bounds description shall be recorded unless first the County Recorder is furnished with an accurate sketch or drawing of the land to be conveyed, containing a legal description prepared and signed by a surveyor covering the land described in the deed. At the same time, a copy shall also be furnished to the County Assessor.

24.02 Recording.

This Ordinance shall regulate recording all deeds for land within the County of Wilkin.

24.03 Deeds Already of Record.

This Ordinance shall not apply to deeds already of record.

24.04 Previous Metes and Bounds Descriptions.

In the event that the deed to be recorded contains part or all of a metes and bounds description contained in a prior deed, then the new deed shall contain a reference to the Book and Page number and recording date of the previous deed.

24.05 Design Standards

1. Blocks

   A. Block lengths shall not exceed thirteen hundred-twenty (1,320) feet and, if possible shall not be less than three hundred (300) feet in length. In blocks longer than eight hundred (800) feet, a pedestrian crossway with a minimum right-of-way of ten (10) feet shall be required at the center of the block. The use of additional access ways to schools, parks, and other designations may also be required. Blocks for business or industrial use should normally not exceed six hundred (600) feet in length.

   B. A block shall be so designed as to provide two (2) tiers of residential lots of appropriate depth. Blocks intended for business or industrial use shall be of such width as to be considered most suitable for their respective use, including adequate space for off-street parking and deliveries.

2. Lots

   A. The minimum lot area, lot width, and lot depth shall conform to the requirements of the Zoning District in which the plat is situated as required by the Wilkin County Zoning Ordinance.

   B. Corner lots for residential use shall have additional width to permit appropriate building setback from both roads as required by the Wilkin County Zoning Ordinance.

   C. Side lines of lots shall be approximately at right angles to road or street lines or radial to curved road or street lines.

   D. Double frontage lots shall be avoided except where lots back on a highway or other arterial road, or where topographic or other conditions render subdividing otherwise unreasonable. Such double frontage lots shall have an additional depth of at least ten (10) feet in order to allow space for screen planting along the back lot line.

   E. Every lot must have the minimum frontage on a public dedicated road or street other than an alley.

   F. Setback or building lines shall be shown on all lots intended for residential use and shall not be less than the setback required by the Wilkin County Zoning Ordinance. On those lots, which are intended for business or industrial use, the setback shall not be less than the setback required by the Wilkin County Zoning Ordinance.

3. Roads, Highways, Streets and Alleys

   A. The arrangement of all roads shall conform as nearly as possible to the Wilkin County Thoroughfare Plan. Except for cul-de-sacs, roads and streets normally shall connect with roads and streets already dedicated in adjoining or adjacent subdivisions, or provide for future connections to adjoining unsubdivided tracts, or shall be a reasonable projection of roads in the nearest subdivided tracts. The arrangement of highways shall be considered in their relation to the reasonable circulation of traffic, to topographic conditions, to runoff storm water, to public convenience and safety, and in their appropriate relation to the proposed uses of the area to be served.

   B. Local roads and streets should be so planned as to discourage their use by non-local traffic. Dead-end streets and roads shall be prohibited, but cul-de-sacs will be permitted where topography or other conditions justify their use. Cul-de-sacs shall normally not be longer than five hundred (500) feet, including a terminal

turn-around, which shall be provided at the closed end, with an outside curb radius of at least forty (40) feet and a right-of-way radius of not less than fifty (50) feet.

C. Where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider, a tentative plan of a proposed future street and road system for the unsubdivided portion shall be prepared and submitted by the subdivider.

D. When a tract is subdivided into larger than normal building lots or parcels, such lots or parcels shall be so arranged as to permit the logical location and openings of future roads and appropriate resubdivision, with provision for adequate utility connections for such resubdivision.

E. Under normal conditions, roads shall be designed so as to intersect as nearly as possible at right angles, except where topography or other conditions justify variations. Under normal conditions the minimum angle of intersection of roads shall be seventy (70) degrees. Road intersection jogs with an offset of less than one hundred twenty-five (125) feet shall be avoided.

F. Wherever the proposed subdivision contains or is adjacent to the right-of-way of a State or Federal highway, provision shall be made for a marginal access street or road approximately parallel and adjacent to the boundary of such right-of-way, or for a road at a distance suitable for the appropriate use of land between such road and right-of-way. Such distance shall be determined with due consideration for the minimum distance required for approach connections to future grade separations, or for lot depths.

G. Alleys shall be provided in commercial and industrial districts, except that this requirement may be waived where other definite and assured provision is made for service access, such as on-site loading, unloading and parking consistent with and adequate for the uses proposed. Except where justified by special conditions, such as the continuation of an existing alley in the same block, alleys will not be approved in residential districts. Alleys, where provided, shall not be less than twenty (20) feet wide. Dead-end alleys shall be avoided wherever possible, but if unavoidable, such dead-end alleys may be approved if adequate turn-around facilities are provided at the closed end.

H. Dedication of half streets or roads will not be approved, except where it is essential to the reasonable development of the subdivision and in conformity with the other requirements of these regulations, where it is found that it will be practical to require the dedication of the other half when the adjoining property is subdivided, or where it becomes necessary to acquire the remaining half by condemnation so that it may be improved in the public interest.

I. For all public ways hereafter dedicated and accepted, the minimum right-of-way widths for streets, roads and highways shall be as shown in the Wilkin County Thoroughfare Plan, and where not shown therein, the minimum right-of-way width for streets, roads, highways, alleys, or pedestrian ways included in any subdivision shall not be less than the minimum dimensions for each classification as follows:

Major Intercity and Regional Highways

Major Intercity Highway	150 feet

Arterial Highways

Major Arterial Highway	100 feet
Minor Arterial Highway	66 feet
Local Streets and Roads	60 feet
Marginal Service Access Roads	50 feet
Alley	20 feet
Pedestrian Way	10 feet

Where the existing or anticipated traffic or major and minor arterial highways warrants greater widths of rights-of-way, these shall be required. Right-of-way widths for major intercity highways shall also meet standards established by the Minnesota State Highway Department.

Road and Highway Grades

The grades in all streets, roads, highways and alleys in any subdivision shall not be greater than the maximum grades for each classification as follows:

Major Intercity Highways

Major Intercity Expressway Major Intercity Highway	(As required by the Minnesota State Highway Department)

Arterial Highways

Arterial high	
Major Arterial Highways	5 percent
Secondary Arterial Highways	8 percent
Local Streets and Roads	8 percent
Alley	8 percent

In addition, there shall be a minimum grade on all roads and highways of not less than five-

tenths (5/10) of one (1) percent.

Road and Highway Alignments

The horizontal and vertical alignment standards on all roads, highways and streets shall be as follows:

Horizontal - radii of center line;

Major Intercity Expressways and Major Intercity Highways (As required by the Minnesota State Highway Department)

Arterial Highways

Major Arterial Highways	500 feet
Minor Arterial Highways	300 feet
Local Streets and Roads	100 feet

There shall be a tangent between all reversed curves of a length in relation to the radii of the curves so as to provide for a smooth flow of traffic.

Vertical

All changes in streets grades shall be connected by vertical parabolic curves of such length as follows:

Major Intercity Highways (As required by the Minnesota State Highway Department)

Arterial Highways	150 foot minimum
Local Streets and Roads	50 foot minimum

J. All proposed streets or roads shall be offered for dedication as public rights-of-way. No private streets or roads shall be permitted.

4. Easements

A. An easement for utilities at least six (6) feet wide shall be provided along the side line of lots and/or the rear line of lots where necessary to form a continuous right-of-way, at least twelve (12) feet in width. if necessary for the extension of main water or sewer lines or similar utilities, easements of greater width may be required along lot lines or across lots.

B. Utility easements shall connect with easements established in adjoining properties. These easements, when approved, shall not thereafter be changed

without the approval of the County Board, by ordinance, upon the recommendation of the Planning Commission.

C. Additional easements for pole guys should be provided at the outside of turns. Where possible, lot lines shall be arranged to bisect the exterior angle so that pole guys will fall alongside lot lines.

D. Where a subdivision contains or is traversed by a water course, drainage way, channel, lake or stream, a storm water easement, drainage right-of-way or park dedication, whichever the Planning Commission may deem the most adequate, conforming substantially with the lines of such water courses, shall be provided, together with such further width or construction, or both, as will be adequate for the storm water drainage of the area. The width of such easements shall be determined by the County Engineer.

24.06 Platting Procedures

The following procedures shall be followed in the administration of this ordinance and no real property within the jurisdiction of this Ordinance shall be subdivided and offered for sale or a plat recorded until a pre-application meeting has been held, a preliminary plat has been reviewed and approved and until a final plat has been reviewed and approved as set for in the procedures provided herein.

1. Pre-Application Meeting

Prior to the submission of any plat for consideration by the Planning Commission under the provisions of this ordinance, the subdivider may meet with the Zoning Administrator to introduce himself as a potential subdivider and learn the relevant requirements of Wilkin County Ordinances.

2. Preliminary Plat

A. Submission of Plat

Subdivider shall submit five (5) copies of the preliminary plat to the County Planning Commission at least ten (10) days prior to a Planning Commission meeting at which consideration is requested. Subdivider shall submit one (1) copy of the preliminary plat to the Minnesota Commissioner of Transportation where any land of the proposed plat abuts upon any existing or established trunk highway or proposed highway. Subdivider shall submit one (1) copy of the preliminary plat to the Minnesota Commissioner of Natural Resources where any land of the proposed plat is located within the Shoreland District. The County Planning Commission shall hold a public hearing on said preliminary plat.

B. Notice Procedure:

Notice of public hearing shall be published in a paper of general circulation and sent to property owners within three hundred (300) feet of the property to be subdivided and the township in which the subdivision is located at least ten (10) days prior to the hearing date. Public notice shall consist of a general description of the proposal, the time, date and place of hearing. For the purpose of notification, ownership of property within three hundred (300) feet shall be determined by the tax record for the previous year. The Planning Commission shall act on each plat submitted within sixty (60) days of date of submission; failure to act shall be deemed as approval. In case the plat is disapproved, the subdivider shall be notified of the reason for such action and what requirements will be necessary to meet the approval of the Planning Commission.

C. Planning Commission Action and County Board Approval

1) After the public hearing, the Planning Commission shall either recommend approval, conditional approval or denial of the preliminary plat. The action of the Planning Commission shall be stated in writing setting forth the conditions of approval, reasons for approval or the reasons for denial. The Planning Commission's recommendation shall then be submitted to the Wilkin County Board of Commissions for consideration.

2) The County Board shall act on each plat forwarded by the Planning Commission within sixty (60) days after submission to the County Board. Approval or disapproval of the preliminary plat shall be conveyed to the subdivider in writing within ten (10) days after the meeting of the County Board at which such plat was considered. In case the plat is disapproved, the subdivider shall be notified of the reason for such action and what requirements will be necessary to meet the approval of the County Board. The approval of the preliminary plat does not constitute an acceptance of the subdivision, but is deemed to be an authorization to proceed with the final plat. This approval of the preliminary plat shall be effective for a period of one (1) year, unless an extension is granted by the County Board. The subdivider may file a final plat limited to such portion of the preliminary plat, which he proposes to record and develop at the time, provided that such portion must conform to all requirements of this Ordinance. If some portion of the final plat has not been submitted for approval within this period, a preliminary plat must again be submitted to the Planning Commission and the County Board for approval.

3. Final Plat

A. Approval of the County Planning Commission:

Five (5) copies of the final plat shall be submitted to the County Planning Commission not more than one (1) year of the date of the approval of the preliminary plat, and at least ten (10) days prior to a Planning Commission meeting at which consideration is requested. The Planning Commission shall act on each plat submitted within sixty (60) days of submission; failure to act shall be deemed as approval. In case the plat is disapproved, the subdivider shall be notified of the reason for such action and what requirements shall be necessary to meet the approval of the Planning Commission.

B. County Board Action:

After review and approval of the final plat by the Planning Commission, such final plat, together with the recommendations of the Planning Commission, shall be submitted to the County Board for action. The County Board shall act on each plat, recommended by the Planning Commission, within sixty (60) days after submission to the County Board. If accepted, the final plat shall be approved by resolution, which resolution shall provide for the acceptance of all streets, roads, alleys, easements, or other public ways, and parks, or other open spaces dedicated to public purposes. If disapproved, the grounds for any refusal to approve a plat shall be set forth in the proceedings of the Board and reported to the subdivider applying for such approval.

Any approval of the final plat by the County Board shall be null and void if the plat is not recorded with the County Recorder within ninety (90) days after the date of approval unless application for an extension of time is made, in writing, during said ninety (90) day period, to the County Board and for good cause granted by the Board.

24.07. Platting Presentation Requirements

All subdivisions with 5 lots or lots less than 2.5 acres is size must be platted. Subdivisions must not be approved that are designed so variances from one or more standards in official controls would be needed to use the lots for their intended purpose. Publicly owned sewer systems must be used where available. In areas not served by publicly owned sewer and water systems, subdivisions must not be approved unless domestic water supply is available and soil absorption sewage treatment can be provided for every lot. All private sewage treatment systems must meet or exceed the Minnesota Pollution Control Agency's standards for Individual Sewage Treatment Systems (ISTS's) Standards, Chapter 7080.

Each lot created through subdivision must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the local unit of government shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations

for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water based recreation, important fish and wildlife habitat, presence of significant historic sites or any other feature of the natural land likely to be harmful to the health, safety or welfare of future residents of the proposed subdivision or of the community.

1. Preliminary Plat

   A. Preliminary plat must be prepared by a Minnesota Registered Land Surveyor.

   B. Scale: One inch equals 100 feet, if possible, but not smaller than one inch equals 200 feet.

   C. Identification and Description

      1) Proposed name of subdivision; names shall not duplicate or too closely resemble names of existing subdivision.

      2) Location of boundary lines in relation to a known section, quarter section or quarter-quarter section lines comprising a legal description of the property.

      3) Names and Addresses of the owner, subdivider, surveyor, and the designer making the plat.

      4) Graphic scale.

      5) North-Point.

      6) Date of Preparation.

   D. Existing conditions in the tract and in the surrounding area to a distance of tree hundred (300) feet.

      1) Boundary line of proposed subdivision, clearly indicated.

      2) Total approximately acreage.

      3) Platted streets, road or other public way, railroad, and utility easements.

      4) Sewers, water mains, gas mains, culverts, power or communication cables or other underground installations.

5) Permanent buildings and structures.

6) Boundary lines and ownership of adjoining unsubdivided land.

7) Topography, showing lakes, water courses, wetlands and contours at vertical intervals of not more than two (2) feet, unless the grade is greater than fifteen (15) percent. All elevation data shall be mean sea level datum.

E. Proposed Development

1) Location and width of proposed streets, roads, alleys, pedestrian ways and easements.

2) Location and character of all proposed public utility lines, including sewers (storm and sanitary), water, gas, and power lines.

3) Layout, numbers and approximate dimensions of lots and the number or letter of each block.

4) Location and size of proposed parks, playgrounds, churches, school sites, or other special uses of land to be considered for dedication to public use, or to be reserved by deed of covenant for the use of all property owners in the subdivision and any conditions of such dedication or reservation.

5) Building setback lines with dimensions.

6) Indication of any lots on which a use other than residential is proposed by the subdivider.

7) Current zoning district(s), proposed zoning classification and adjacent and adjacent land zoning classification.

8) Two (2) copies of profiles for each proposed street and road, showing existing grades and proposed approximate grades and gradients on the center line. The location of proposed culverts and bridges shall also be shown.

9) Indication of outlet for and means of disposal of surface waters from the platted area.

10) Identify locations of ingress and egress to the proposed platted area.

11) Soil tests and reports, if requested by the Planning Commission.

F. Preliminary Title Opinion:

The subdivider shall provide a Preliminary Title Opinion, prepared by an attorney of the subdivider's choosing.

2. Final Plat

A. Presentation Requirements

The final plat, prepared for recording purposes, shall be prepared in accordance with provisions of Minnesota State Statutes and as required below:

1) Names of the subdivision, which shall not duplicate or too closely approximate the name of any existing subdivision.

2) Location by section, township, range, county and state, and including descriptive boundaries of the subdivision, based on an accurate traverse, giving angular and linear dimensions which must mathematically close. The allowable error of closure on any portion of a final plat shall be one (1) foot in seventy-five hundred (7,500).

3) The location of monuments shall be shown and described on the final plat. Locations of such monuments shall be shown in reference to existing official monuments or the nearest established road lined, in true angles and distances to such reference points or monuments. Permanent markers shall be placed at each corner of every block or portion of a block, points of curvature and points of tangency or road lines, and at each angle point on the boundary of the subdivision. A permanent marker shall be deemed to be a steel rod or pipe, hone-half (1/2) inch or larger in diameter extending at least three (3) feet below the finished grade. In situations where conditions prohibit the placing of markers in the locations prescribed above, offset markers will be permitted. The exact location of all markers shall be shown on the final plat, together with accurate interior angles, bearings and distances. Permanent monuments shall be placed at all quarter section points within the subdivision or on its perimeter.

4) Location of lots, streets, roads, highways, alleys, parks and other features, with accurate dimensions in feet and decimals of feet, with the length of radii and/or arcs of all curves, and with all other information necessary to reproduce the plat on the ground shall be shown. Dimensions shall be shown from all angle points of curve to lot lines.

5) Lots shall be numbered clearly. If blocks are to be numbered or lettered, these shall be shown clearly in the center of the block.

6) The exact locations, widths, and names of all roads to be dedicated.

7) Location and width of al easements to be dedicated.

8) Building setback lines on front and side road with dimensions.

9) Name and address of subdivider and surveyor making the plat.

10) Scale of plat (the scale to be shown graphically and in feet per inch), date, and north point.

11) Statement dedicating all easements as follows. Easements for installation and maintenance of utilities and drainage facilities are reserved over, under and along the strips marked "utility easements".

12) Statement dedicating all highways, streets, roads, alleys, and other public areas not previously dedicated as follows: Roads, alleys, and other public areas shown on this plat and not heretofore dedicated to public use are hereby so dedicated.

13) Statement establishing building setback lines as follows: Building setback lines are hereby established as shown on the accompanying plat and no building or portion thereof shall be built between this line and the road line.

B. Filing Fee

The final plat shall be accompanied by a fee as established by the County Board. Such fees to be used for the expense of the County in connection with the review, inspection, approval and disapproval of said plat, which may thereafter be submitted.

C. Final Title Opinion

The subdivider shall provide the Auditor's Office with a Final Title Opinion prepared by the attorney who prepared the Preliminary Title Opinion, within fourteen (14) days of the final plat being recorded. The attorney shall also sign the following statement on the face of the plat prior to filing:

> "I hereby certify that proper evidence of title has been presented to and examined by me, and I hereby approve this plat as to form and execution."

D. Certifications Required

1) Notarized certification by owner, and by any mortgage holder or record, of the adoption of the plat and the dedication of streets, roads, and other public areas.

2) Notarized certification by a registered land surveyor, to the effect that the plat represents a survey made by him and that monuments and markers shown therein exists as located and that all dimensional and geodetic details are correct.

3) Certification showing that all taxes and special assessments due on the property have been paid in full, if requested by the County Board.

4) Space for certificates of approval to be filled in by the signatures of the chairperson of the Township Board of Supervisors from the township in which the subdivision is located, the chairperson of the County Planning Commission and the chairperson of the County Board. The following forms of approval shall be used:

Approved by the_____Township Board of Supervisors this day of 20___
Signed: Chairperson
Attest: Clerk

Approved by the Wilkin County Planning Commission this day of 20___
Signed: Chairperson
Attest: Secretary

Approved by Wilkin County, Minnesota, this day of 20___
Signed: Chairperson, Board of County Commissioners
Attest: County Auditor

E. Supplementary Documents and Information may be required as follows:

1) A complete set of street profiles showing grade lines as constructed.

2) Copies of any private restrictions affecting the subdivision or any part thereof.

3) Signatures of municipal or township officials approving the plat, when such approval is required by State Law.

24.08 Required Improvements

1. General Information

   A. Before a final plat is approved by the County Board, the subdivider of the land covered by the said plat shall execute and submit to the County Board an agreement, which shall be binding on his/her or their heirs, personal representatives and assigns, that he/she will cause no private construction to be mad eon said plat or file or cause to be filed any application for building permits for such construction until all improvements required under this Ordinance have been made or arranged for in the manner following as respects the highways, roads, or streets to which the lots ought to be constructed have access.

   B. No final plat shall be approved by the County Board without first receiving a report from the County Engineer, Commissioner of Transportation and the Commissioner of Natural Resources certifying that the required improvements together with the agreements and documents required herein, meet the minimum requirements of all applicable ordinances and state laws. Drawings showing all improvements as built shall be filed with the County Engineer.

   C. No final plat shall be approved by the County Board on land subject to flooding or containing poor drainage facilities and on land, which would make adequate drainage of the streets or roads and lots impossible. However, if the subdivider agrees to make improvements, which will, in the opinion of the County Engineer, make the area suitable for use without interfering with the flow of water under flood conditions, the final plat of the subdivision may be approved.

   D. All of the required improvements to be installed under the provisions of this Ordinance shall be inspected during the course of their construction by the County Engineer. All of the inspection costs pursuant thereto shall be paid by the subdivider.

2. Road and Highway Improvements

   A. The full width of the right-of-way shall be graded, including the subgrade of the areas to be paved, in accordance with standards and specifications for road construction as approved by the County Board.

   B. All roads shall be improved with pavement in accordance with the standards and specifications for road construction as approved by the County Board.

   C. All roads to be paved shall be of an overall width in accordance with the standards and specifications for road construction as approved by the County

Board.

D. Curb and gutter shall be constructed as required by the standards and specifications for road construction as approved by the County Board.

E. Storm sewers, culverts, storm water inlets, and other drainage facilities will be required where they are necessary to insure adequate storm water drainage for the subdivision. Where required, such drainage facilities shall be constructed in accordance with the standards and specifications for road construction as approved by the County Board.

F. Road signs of the standard design approved by the County Board shall be installed at each street or road intersection.

3. Sanitary Sewer

Sanitary sewage disposal shall be by a central system serving the subdivision or by individual systems. In all cases, sewage disposal systems shall be provided in accordance with the Wilkin County Sewage Treatment Ordinance. The flood prone area's new and replacement sanitary sewers shall be designed to minimize or eliminate infiltration of the flood waters into the system into flood waters and on-site water disposal systems shall be located to avoid impairment or contamination during flooding.

4. Water Supply

Safe and palatable 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 floodplain areas water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

5. Public Utilities

All utility lines for telephone and electric service shall be placed in rear line easements when carried on overhead poles.

Where telephone, electric and/or gas service lines are to be placed underground entirely, conduits or cables shall be placed within easements or dedicated public ways, in such a manner so as not to conflict with other underground services. All drainage and other underground utility installations, which traverse privately owned property, shall be protected by easements.

24.09 Variances

The Planning Commission may recommend a variance from the provisions of this Ordinance when, in its opinion, undue hardship may result from strict compliance. In granting any variance, the Commission shall prescribe any conditions that it deems necessary to or desirable for the protection of the public interest, in making its findings, as required herein below, the Planning Commission shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons who reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be granted unless the Planning Commission finds:

1. That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of his land.

2. That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.

3. That the granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which the property is situated.

24.10 Registered Land Surveys and Conveyance by Metes and Bounds

Registered Land Surveys

It is the intention of this Ordinance that all registered land surveys in Wilkin County shall be presented to the Planning Commission in the form of a preliminary plat in accordance with the standards set forth in this Ordinance for preliminary plats and that the Planning Commission shall first approve the arrangement, sizes, and relationship of proposed in such registered land surveys, and that tracts to be used as easements or roads should be so dedicated. Unless such approvals have been obtained from the Planning Commission and County Board in accordance with the standards set forth in this Ordinance, building permits will be withheld for buildings on tracts which have been so subdivided by registered land surveys and the County may refuse to take over tracts as streets or roads, or to improve, repair or maintaining such tracts unless so approved.

24.11 Violations and Penalty

1. Sale of Lots from Unrecorded Plats

   It shall be unlawful to sell, trade, or offer to sell, trade, or otherwise convey any lot or parcel of land as a part of, or in conformity with any plan, plat or replat of any subdivision or area located within the jurisdiction of this Ordinance unless said plan, plat or replat shall have first been recorded in the Office of the Register of Deeds of Wilkin

County.

2. Receiving and Recording Unapproved Plats

It shall be unlawful to receive or record in any public office any plans, plats or replats of land laid out in building lots and highways, streets, roads, alleys or other portions of the same intended to be dedicated to public or private use, for the use of purchasers or owners of lots fronting on or adjacent thereto, and located within the jurisdiction of this Ordinance, unless the same shall bear thereon, by endorsement or otherwise, the approval of the Planning Commission and the County Board.

3. Misrepresentations as to Construction, Supervision, or Inspection of Improvements

It shall be unlawful for any subdivider, person, firm or corporation owning an addition or subdivision of land within the County to represent that any improvement upon any of the highways, roads, streets or alleys of said addition or subdivision or any sewer in said addition or subdivision has been constructed according to the plans and specifications approved by the County Board, or has been supervised or inspected by the County, when such improvements have not been so constructed, supervised, or inspected.

4. Penalty

Anyone violating any of the provisions of this Ordinance shall be guilty of an offense punishable by a fine of not more than seven hundred dollars ($1,000) or by a commitment to jail for a period of not to exceed ninety (90) days. Each day during which compliance is delayed shall constitute a separate offense.