

Zoning Ordinance Of Becker County



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October 20, 2015
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CHAPTER 1 INTRODUCTORY PROVISIONS

Section 1 Purposes

This Ordinance is enacted for the following purposes:

- A. To promote and protect the health, safety, and general welfare throughout Becker County.
- B. To lessen congestion in public rights-of-way, secure safety from fire, panic, and other dangers.
- C. To provide adequate light and air, facilitating the adequate provisions of water, sewerage, and other public requirements.
- D. To conserve the value of properties and encourage the most appropriate use of land.
- E. To preserve and enhance the economic values and use of agricultural land.
- F. To preserve and enhance the quality of surface waters.
- G. To conserve the economic and natural environmental values of shorelands.
- H. To provide for the wise use of water and related land resources of the County.
- I. To accommodate the communication needs of residents and businesses while protecting the public health, safety, and general welfare.
- J. To assist the subdivider in harmonizing his interest with those of the County at large, as well as with those of the local municipalities located within the County.
- K. To prevent piecemeal planning of subdivision, undesirable, disconnected patchwork of pattern, and poor circulation of traffic.
- L. To correlate land subdivision with the County Comprehensive Plan.
- M. To secure the rights of the public, with respect to public lands and waters.
- N. To improve land records by establishing standards for surveys and plats
- O. To discourage inferior development that might adversely affect property values.
- P. To establish subdivision development at standards compatible with affected municipalities with the County.
- Q. To provide clear, reliable, and cost-effective technical standards and criteria for individual subsurface sewage treatment systems.
- R. To provide a framework for a local individual subsurface sewage treatment system permitting and inspection program.
- S. To describe the responsibilities, licensing, and enforcement requirements for individual subsurface sewage treatment system professionals.

Section 2 Statutory Authorization

This Ordinance is enacted pursuant to the following statutes and rules:

- A. Minnesota Statutes Chapter 394, as amended, authorizing county planning and zoning activities;
- B. Minnesota Rules, Parts 6120.2500 - 6120.3900, as may be amended, establishing minimum standards for regulation of shoreland areas;
- C. Minnesota Statutes, Chapter 103G, as may be amended, containing water law of the State;
- D. Minnesota Statutes, Chapters 115 and 116, as may be amended, containing state-wide pollution prevention policies;
- E. Minnesota Statutes Chapter 505 and 515C, as may be amended, governing the platting of land and common interest communities; and
- F. Minnesota Statutes, Chapters 103F, 103G, 115, and 116, and Minnesota Rules Section 7080-7083, as may be amended, establishing the minimum standards and criteria for individual subsurface sewage treatment systems to protect the surface and ground waters of the state.

Section 3 Title

This Ordinance incorporates and updates the previous Becker County zoning ordinance, subdivision ordinance, and individual subsurface sewage treatment ordinance. This unified ordinance shall be known, and may be cited and referred to, as the "Becker County Zoning Ordinance"; when referred to in this Ordinance, it shall be known as "This Ordinance."

Section 4 Jurisdiction

The jurisdiction of this Ordinance shall apply to all areas of Becker County outside the incorporated limits of municipalities, except for the following:

- A. Municipal extraterritorial jurisdiction for subdivision approval. Applications for development within Becker County where the development parcel lies within the extraterritorial jurisdiction area of a municipality that has exercised extraterritorial jurisdiction shall be subject to the subdivision review of such municipality, which may vary from county subdivision provisions. However, the zoning regulations of Becker County as contained in this Ordinance shall remain in effect within any municipal extraterritorial jurisdiction area.
- B. Township zoning adopted. Land within Becker County may be subject to zoning and subdivision regulations adopted by the township where the land is located. Where townships have adopted regulations that conflict with the provisions of this Ordinance, the most restrictive provisions shall apply. Where Townships have adopted an ordinance pursuant to applicable statutes, it shall be the responsibility of the property owner to secure necessary permits from the township zoning official or township board. Becker County is not responsible for the administration of township regulations.

Section 5 Scope

After the effective date of this Ordinance the following activities in Becker County shall conform to this Ordinance:

- A. The use of all property and every structure or portion of a structure erected, altered, added to or relocated;
- B. The platting or subdivision of any lot, tract, or parcel of land; and
- C. The location, design, installation, use, and maintenance of individual subsurface sewage treatment systems.

Any existing building or structure and any existing use of property that does not conform to this Ordinance may be continued, extended, or changed only as provided by the provisions of this Ordinance relating to nonconforming uses and Minnesota Statutes Chapter 394.

Section 6 Interpretation and Greater Restrictions

The provisions of this Ordinance are the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare. If the provisions of this Ordinance impose greater restrictions than those of any statute, other ordinance or regulation, the provisions of this Ordinance shall be controlling. If the provisions of any statute, other ordinance or regulation impose greater restrictions than this Ordinance, the provisions of the statute, other ordinance or regulation shall be controlling.

Section 7 Headings

Section and paragraph headings used in this ordinance are for convenience only and do not define, limit, or construe the contents of the ordinance.

Section 8 Rules

For the purpose of this Ordinance the following general rules shall apply:

- A. Words used in the present tense shall include the future.
- B. Words in the singular shall include the plural, and the plural the singular.
- C. The word "shall" is mandatory and not discretionary.
- D. All distances, unless otherwise specified, shall be measured horizontally.

Section 9 Severability/Validity

If any section, subdivision, clause, or portion of this Ordinance is ruled unconstitutional or invalid, the remainder of this Ordinance shall remain in effect.

Section 10 Abrogation

The enactment of this Ordinance does not repeal, abrogate, or impair any existing easements, covenants, or deed restrictions but if this Ordinance imposes greater restrictions, this Ordinance shall prevail.

Section 11 Date of Effect

This Ordinance incorporates and updates the previous Becker County zoning ordinance, subdivision ordinance, and individual subsurface sewage treatment ordinance, each of which was in effect at the time of adoption of this Ordinance. The provisions of this Ordinance have been adopted and amended upon resolution of the Becker County Board and shall be in full force and effect from the effective date of first adoption or amendment. The effective dates of adoption and amendment are maintained by and available from the Zoning Administrator.

CHAPTER 2 ADMINISTRATION

Section 1 Zoning Administrator

- A. **Office established; Term.** The office of Zoning Administrator is hereby established. The Board of County Commissioners may appoint one or more persons to this office. The term of office of the Zoning Administrator shall be indefinite and shall terminate at the pleasure of the Board of County Commissioners.
- B. **Duties.** The duties of the Zoning Administrator shall include the following:
1. Enforce and administer this Ordinance;
 2. Issue site permits and sewer permits and maintain records thereof;
 3. Receive and forward to the Board of County Commissioners and the County Planning Commission all applications for amendments to this Ordinance;
 4. Receive and forward all applications and petitions for matters to come before the Board of Adjustment;
 5. Receive and forward to the Board of County Commissioners and the County Planning Commission all applications for plats, subdivisions or conditional use permits;
 6. Inspect construction and development to insure that the standards of this Ordinance are being complied with;
 7. Provide and maintain a public information bureau relative to matters arising out of this Ordinance; and
 8. Maintain the Official County Zoning Map.

Section 2 Planning Commission

- A. **Creation and membership.** A Planning Commission is established. The Commission is vested with the authority as provided by this Ordinance and by Minnesota Statutes, Chapter 394 as amended. The Commission shall be composed of not more than eleven (11) members. Each Commissioner shall appoint two Becker County residents and the Board of Adjustments shall appoint one member. The Becker County Board may appoint one or more Commissioners to the Planning Commission as a liaison. A term shall be for a period of not more than four (4) years with one third of the members appointed each year. Each member shall be entitled to one (1) vote. No voting member of the 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. An appointment to fill a vacancy shall be only for the unexpired portion of the term.
- B. **Quorum.** A quorum of the Planning Commission members shall be required to conduct office business. A quorum shall consist of fifty percent of the members.
- C. **Officers.** The Planning Commission shall elect a chair and secretary from among its members. **Conduct.** The Commission may call for the removal of any member for non-performance of duty or misconduct in office. Upon a second meeting absence in a Twelve (12) month period, the Secretary may notify the member of such absence via letter. If a member has three (3) absences in any twelve (12) month period, the Secretary may certify this fact to the Commission and the Commission may notify the County Board.
- D. **Duties and responsibilities.** The Planning Commission shall review and make recommendations to the Board of County Commissioners on their findings on the following applications:
1. Zone change amendments to the Official Zoning Map.
 2. Conditional use permits;
 3. Applications for plats or the subdivision of land;
 4. Planned unit developments: residential or commercial;
 5. Non-shoreland multi-unit developments and shoreland conservation subdivision developments;
 6. Comprehensive plan; or

7. Text amendments to the zoning ordinance.

Section 3 Board of Adjustment

- A. **Creation and membership.** A Board of Adjustment is established. The Board is vested with the authority as provided by this ordinance and by Minnesota Statutes, Chapter 394, as amended. The Board shall consist of seven (7) members. A quorum shall consist of four (4) members. Four (4) of the board members shall be from the unincorporated area of the County and one (1) shall be a member of the County Planning Commission. No elected officer of the County or employee of the Board of County Commissioners shall serve as a member of the Board of Adjustment. The Board members shall be appointed by the Board of County Commissioners.
- B. **Officers.** The Board of Adjustment shall elect a chair and vice chair from among its members and shall appoint a secretary who need not be a member of the board.
- C. **Rules and record keeping.** The Board of Adjustment shall adopt rules for the transaction of its business and shall keep a public record of its transactions, findings, and determinations.
- D. **Meetings.** The meetings of the Board of Adjustment shall be held at the call of the chairman and at such other times as the Board in its rules or procedure may specify.
- E. **Conflict of interest.** Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a regular board member from voting shall be decided by majority vote of all regular board members except the member who is being challenged.
- F. **Powers.** The Board of Adjustment shall have the following powers:
 1. To grant variances from the strict application of any of the provisions of this Ordinance.
 2. To hear and decide appeals from and review any order, requirement, decision, or determination made by any administrative official charged with enforcing this ordinance.
 3. To permit the extension of a zoning district where the boundary line divides a lot in one ownership at the time of the passage of this Ordinance, but the extension of any district shall not exceed one hundred (100) feet.
 4. Consideration of Townships. In exercising its powers the Board of Adjustment shall consider the town board's recommendation when the Board of Adjustment's decision directly affects land within the township.
- G. **Board Conduct.** The Board may call for the removal of any member for non-performance of duty or misconduct in office. Upon a second meeting absence in a twelve (12) month period, the Secretary may notify the member of such absence via letter. If a member has three (3) absences in any twelve (12) month period, the Secretary may certify this face to the Board and the Board may notify the County Board.

CHAPTER 3 NONCONFORMITIES

Section 1 Non-Conforming Structures and Uses Allowed to Continue

Non-conforming uses and non-conforming structures are uses and structures lawfully in existence prior to the adoption of this Ordinance that do not meet the requirements of this Ordinance for the zoning district in which they are located. Non-conforming uses and structures shall be allowed to continue if they comply with the provisions in this Chapter.

- A. **Exemption.** Structures found to be non-conforming only because of height, yard or area requirements shall be exempt from the provisions of this Chapter.
- B. **Conformity encouraged.** All non-conforming uses and non-conforming structures are encouraged to convert to conformity whenever possible.
- C. **Change of title no effect.** Change of title or change of right to possession shall not affect the allowed continuation of a non-conforming use.

Section 2 Discontinuance

- A. **Non-conforming use.** If a non-conforming use of any building or premises is discontinued or its normal operation stopped for one (1) year, the use shall thereafter conform to the regulations of the district in which it is located.
- B. **Non-conforming sign.** If the use of a non-conforming advertising sign structure is discontinued or its normal operation stopped for six (6) months, the structure shall be moved by the owner or lessor.

Section 3 Change of Use

If no structural alterations are made, a non-conforming use of a building may be changed to another non-conforming use of the same or more restricted classification. The foregoing provisions also shall apply to non-conforming uses in districts hereafter changed. Whenever a non-conforming use has been changed to a more restricted use or to a conforming use, such use shall not later be changed to a less restricted use.

Section 4 Residential Alterations

Alterations may be made to a residential building containing non-conforming residential units if they will improve the livability of the units and if they do not increase the number of dwelling units in the building.

Section 5 Restoration

Restoration of a non-conformity shall adhere to MN Statute § 394.36 Subd. 4.

Section 6 Normal Maintenance

Routine upkeep of a structure that does not involve the replacement of the main structural frame or walls, or changes in exterior dimensions of a structure is permitted. Routine upkeep includes, but is not limited to: work performed on the interior of the structure; painting; replacement of siding, windows, doors, soffit, fascia, shingles, additional doors or windows; new floorboards to decks. Under no conditions shall repairs and maintenance constitute replacement of the main structural frame, walls, or changes in the exterior dimensions. Removal of the structure or any part of a structure, and rebuilding on an existing slab or foundation constitutes new construction. Replacement of an existing slab, foundation, or floor constitutes new construction, whether done by removal or raising of the structure

Section 7 Additions and expansion of a nonconforming principal structure.

Additions and expansions of a nonconforming principal structure may be allowed one time without a variance provided all of the following criteria will be met. However, the Zoning administrator may refer to the Board of Adjustment for variance consideration any application presenting extraordinary circumstances.

1. The property does not have a previously approved variance and there have been no prior additions to the existing structure.
2. The addition/expansion will not decrease the setback of the existing structure from the ordinary high water level.
3. The addition/expansion will not exceed fifty (50) percent of the total living area of the existing structure and the completed structure cannot be larger than 1500 square feet in lot area coverage.
4. The existing structure may be expanded vertically, but limited to twenty-four (24) feet total structure height and limited to 1500 square feet in total structure living space and no increase in the lot area coverage.
5. The existing structure must be located outside the shore impact zone.
6. The completed project is subject to the protection zone criteria specified in Chapter 6, Section 10, Paragraph E,
7. Impervious surface coverage of the parcel or lot shall not exceed 25 percent.
8. The existing structure and proposed addition/expansion must meet all other setback distance requirements of this Ordinance.

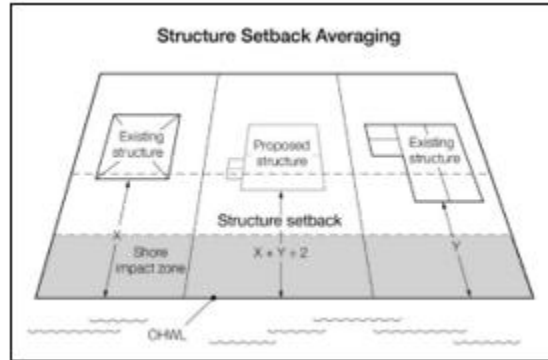
Section 8 Lots of Record

A lot that was a buildable lot before the enactment of this ordinance is a lot of record. A lot of record is a buildable lot though it does not meet the requirements of this Ordinance but is subject to the requirements in paragraphs A through C, immediately below. Any legal access established prior to 1971 and which has continuously existed shall constitute legal access for the purposes of this section. The use of a lot of record shall conform to the requirements of this Ordinance.

- A. **Side yards.** Side yard requirements on a lot of record shall conform as nearly as possible to the requirements of this Ordinance. If compliance is not possible the side yard shall not be less than five (5) feet or ten percent (10%) of the lot width at the building line whichever is larger. The eave of the structure cannot encroach more than two (2) feet toward the side property line.
- B. **Setback averaging.** Setback averaging is the horizontal distance of a proposed structure obtained by adding the horizontal distance, as measured from the ordinary high water mark of the lake, of the like structures on the adjacent lots and dividing that sum by two (2).
 1. If structures exist on the adjoining lots on both sides of a proposed building site, the required setbacks shall be that of the average horizontal distance of the like structures, not to exceed the required lake setback. (Example: deck to deck, house to house)
 2. If a building on one side of a lot does not comply with the setback requirements of this ordinance and if the lot on the other side is vacant, or if the structure exceeds the required setback, the setback for the lot shall be equal to one half (1/2) the sum of the horizontal distance as measured from the ordinary high water mark of the lake to the like structure and the setback required by this ordinance, not to exceed the required lake setback
 3. Notwithstanding the above, a building site shall not be located in whole or in part within a shore impact zone or a bluff impact zone.
 4. Whenever the setback averaging method is allowed to establish a lakeside structure setback and the property is a substandard size property, as provided for in subsections B1 and B 2, above, the deficiency

area between the setback determined by the setback averaging and the setback required by this Ordinance must be mitigated by a shoreline vegetative buffer, a shoreline berm, or other on-site stormwater management systems. If mitigated by a shoreline vegetative buffer, the buffer must be certified annually.

5. If a dwelling unit is used for the lakeshore averaging, the dwelling must be of average livable condition.



C. Existing nonconforming lots in shoreland areas. This subdivision applies to shoreland lots of record in the office of the county recorder on the date of adoption of local shoreland controls that do not meet the requirements for lot size or lot width. The county shall regulate the use of nonconforming lots of record and the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in shoreland areas according to this subdivision.

1. A nonconforming single lot of record located within a shoreland area may be allowed as a building site without variances from lot size requirements, provided that:
 - a. all structure and septic system setback distance requirements can be met;
 - b. a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, or successor rules, can be installed or the lot is connected to a public sewer; and
 - c. the impervious surface coverage does not exceed 25 percent of the lot.
2. In a group of two or more contiguous lots of record under a common ownership, an individual lot must be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements:
 - a. the lot must be at least 66 percent of the dimensional standard for lot width and lot size for the shoreland classification;
 - b. the lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, or successor rules, and local government controls;
 - c. impervious surface coverage must not exceed 25 percent of each lot; and
 - d. development of the lot must be consistent with an adopted comprehensive plan.
3. A lot subject to paragraph (c) not meeting the requirements of paragraph (c) must be combined with the one or more contiguous lots so they equal one or more conforming lots as much as possible.
4. Notwithstanding paragraph (c), contiguous nonconforming lots of record in shoreland areas under a common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a sewage treatment system consistent with the requirements of section 115.55, or successor rules, and Minnesota Rules, chapter 7080, or successor rules, or connected to a public sewer.
5. In evaluating all variances, zoning, and building permit applications, or conditional use requests, the County zoning authority shall require the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands,

vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.

6. A portion of a conforming lot may be separated from an existing parcel as long as the remainder of the existing parcel meets the lot size and sewage system requirements of the zoning district for a new lot and the newly created parcel is combined with an adjacent parcel.
7. Natural environment lots subdivided prior to 2016 shall be deemed conforming lots with verification of a dated survey, allowing them to be sold separately.

Section 9 Non-Conforming Signs

- A. **Continuation of non-conforming signs.** Business signs on the premises of a non-conforming building or use may be continued, but shall not be increased in number, area, height, or illumination.
- B. **New signs may be allowed.** New signs may be erected only upon the complete removal of all other signs existing on the effective date of this Ordinance. These signs may be illuminated, but no flashing, rotating, or moving signs shall be permitted.
- C. **Change requires compliance.** No sign erected before the passage of this Ordinance shall be rebuilt, altered, or moved to a new location without being brought into compliance with the requirements of this Ordinance.

Section 10 Non-Conforming Junk Yards

- A. **Discontinuance required; Exception.** No junk yard may continue as a non-conforming use after the effective date of this Ordinance, except that a junk yard may continue as a non-conforming use in the General Agriculture (GA), Commercial (C) or Industry District (I), if it is completely enclosed within a building, fence, screen planting or other device that completely screens the operations of the junk yard.
- B. **Screening requirements.** Screening required in paragraph A, immediately above, shall meet the following provisions:
 1. **Approval.** Plans for the screening device shall be approved by the County Planning Commission and the Board of County Commissioners before it is erected or put into place.
 2. **Conditional use.** Upon installation of such approved plans and device, the junk yard shall be considered a legal conditional use and shall be subject to conditions, reviews, and all procedures in Chapter 8 Section 11, for conditional use permits.

Section 11 Mitigation Requirements for Nonconformities in Shoreland Areas

This Section establishes procedures for the placement of structures on nonconforming lots that do not meet the minimum lot size standards in Chapter 5, Section 2. The development or redevelopment of nonconforming lots, including but not limited to nonconforming setback regulations, shall require mitigation actions such as restoring shoreline vegetative buffers, reestablishing shoreline berms, management of roof drainage on-site, and removal of impervious surface in the shore impact zone.

- A. **Development worksheet required.** On forms supplied by the Zoning Administrator, applications for the placement of structures or other impervious surfaces on nonconforming lots in shoreland areas shall include a completed development worksheet calculating the number of mitigation units required as specified in subsection B, below. The application shall also include the applicant's planned mitigation actions meeting the requirements in subsection C, below.
- B. **Calculation of mitigation requirement units.** The calculation of required mitigation units shall be based on the following provisions:
 1. **Nonconforming lake setback.** The minimum requirement that must be met for structure setbacks from lake shoreline is determined by a setback average plus twenty (20) feet measurement or the most restrictive adjacent property building setback. The structure setback applies to all structures, including but not limited to: decks,

patios, landings, and stairs. In all cases, structures must be outside the shore impact zone. Setback deficiency from the minimum setback is allowed with offsetting mitigation. Each foot of setback deficiency represents one (1) mitigation requirement unit.

2. **Nonconforming impervious surface.** Impervious surface is not allowed to exceed twenty-five percent (25%) coverage. Impervious surfaces include, but are not limited to: streets, roofs, sidewalks, driveways, parking lots, and similar facilities and areas covered with gravel, concrete, bituminous, compacted sand, lime rock, clay or other surfaces that substantially reduce or prevent the infiltration of water. Surface coverage between fifteen percent (15%) and twenty-five percent (25%) is allowed with offsetting mitigation. Each percentage point of impervious surface greater than fifteen percent (15%) represents five (5) mitigation requirement units.

- a. **Pervious decks.** Decks shall be considered pervious if all of the following conditions are met:

- (1) Maximum material (board) width is eight inches (8");
- (2) Minimum spacing between material (boards) is one-quarter inch (1/4"); and
- (3) The area under the deck is pervious material.

Decks not meeting these requirements shall be considered as impervious.

3. **Nonconformities within the shore impact zone.** Structures and other impervious surfaces are not allowed in the shore impact zone, with the exception of landings, stairs and other uses meeting the requirements of Chapter 6, Sections 3 and 4, and limited to a total of thirty-two (32) square feet. Existing structures and existing impervious surfaces may be removed and mitigation credits are allowed for shore impact zone removals.

C. **Options for meeting mitigation requirements.** The following options are available to the applicant in order to satisfy the required mitigation units for nonconformities in shoreland areas.

1. **Mitigation options for nonconforming lake setback.** Deficiencies in lake setback requirements must be mitigated by the following options:

- a. **Increasing structure setback from the lake.** One (1) mitigation unit credit is allowed for each one foot (1') closer structures are located to the standard setback line.

- b. **Approved vegetative buffer.** Establishing an approved vegetative buffer adjacent to the ordinary high water level and parallel to the shoreline is a mitigation option for deficiencies in lake setbacks. The minimum vegetative buffer required to earn mitigation units is a twenty feet (20') linear by fifteen feet (15') deep buffer. Ten (10) mitigation unit credits are allowed for establishing the minimum vegetative buffer. An additional ten (10) mitigation unit credits is provided for each ten feet (10') linear by fifteen feet (15') deep shoreline buffer increment. An additional ten (10) mitigation unit credits are also allowed for each ten-foot (10') linear segment of the buffer that is expanded to twenty-five feet (25') deep.

- c. **Removal of nonconformities in shore impact zone.** Five (5) mitigation unit credits are allowed for the removal of each fifty (50) square feet of structures or other impervious surfaces from the shore impact zone.

2. **Mitigation options for nonconforming impervious surface.** Nonconforming impervious surface deficiencies must be mitigated by the following options:

- a. **Reduction of impervious surface.** Reducing impervious surface that exceeds the fifteen percent (15%) threshold in subsection B.2, above. Five (5) mitigation unit credits are allowed for each percentage point reduction between twenty-five percent (25%) and fifteen percent (15%).

- b. **On-site stormwater management.** Divert water runoff from structures or other impervious surfaces to an approved stormwater management system. Ten (10) mitigation unit credits are allowed for each three hundred and fifty (350) square feet of surface area from which runoff will be contained on the property through discharge to the stormwater system.

- c. **Shoreline protection berm.** Establish a berm not less than twelve inches (12") above grade and parallel to the shoreline to contain or control stormwater runoff. Ten (10) mitigation unit credits are allowed for each twenty-five feet (25') of protected shoreline. This mitigation option is only available to properties with less than eight percent (8%) grade to the lake.

- d. **Removal of nonconformities in shore impact zone.** Five (5) mitigation unit credits are allowed for the removal of each fifty (50) square feet of structures or other impervious surfaces from the shore impact zone.
- D. **Approval of site plan and storm water plan required.** The applicant's planned mitigation activities meeting the requirements of this Section shall be documented by a site plan and storm water plan approved by the Zoning Administrator and filed with the approved development permit.
- E. **Installation and maintenance required.** The mitigation activities satisfying the requirements of this Section that are approved as part of a development permit shall be installed and maintained as a condition of occupancy. The property shall be subject to inspection as necessary by the governing authority of Becker County.
- F. **Recorded on deed.** Mitigation requirements approved under this Section shall be recorded with the deed of the permitted property and shall remain with the property deed through subsequent ownerships.

CHAPTER 4 GENERAL PROVISIONS APPLYING TO LAND USE DISTRICTS

Section 1 Purposes of Zoning Districts

The land use districts shall be shown on the Official Zoning Map for Becker County. These land use districts are in conformance with the criteria specified in Minnesota Rules, Part 6120.3200, and are based on consideration of:

- A. The management of areas unsuitable for development due to wet soils, steep slopes, flooding, inadequate drainage, severe erosion potential, presence of significant historic sites, or any other feature likely to be harmful to the health, safety, or welfare of the residents of the community.
- B. The reservation of areas suitable for residential development from encroachment by commercial and industrial uses.
- C. The centralization of service facilities for residential areas and enhancement of economic growth for those areas suitable for limited commercial development.
- D. The management of areas for commercial or industrial uses that, by their nature, require location in shoreland areas.
- E. The protection of valuable agricultural lands from conversion to other uses.
- F. The preservation and enhancement of the quality of water based recreational use of public waters including provisions for public accesses.

Section 2 Land Use District Descriptions

- A. **Special Protection District.** The Special Protection (SP) District is intended to be used for two basic purposes. The first purpose is to limit and properly manage development in areas that are unsuitable for development or uses due to flooding, erosion, limiting soil conditions, steep slopes, or other major physical constraints. A second purpose is to manage and preserve areas with special historical, natural, or biological characteristics.
- B. **Residential District.** The Residential (RES) District is primarily intended to allow low to medium density seasonal and year-round residential uses on lands suitable for such uses. It is also intended to prevent establishment of various commercial, industrial, and other uses in these areas that cause conflicts or problems for residential uses. Some nonresidential uses with minimal impacts on residential uses are allowed if properly managed under conditional use procedures.
- C. **High Density Residential District.** The High Density Residential (HDR) District is intended for use on lands with heterogeneous mixes of soils, vegetation, and topography that are not well suited to residential development using standard, lot-block subdivisions. This approach enables these areas to be developed, often with higher lot-block densities, while also avoiding and preserving unsuitable terrain and soils.
- D. **Water Oriented Commercial District.** The Water Oriented Commercial (WOC) District is intended to be used only to provide for existing or future commercial uses adjacent to water resources that are functionally dependent on such close proximity.
- E. **Commercial District.** The Commercial (C) District is intended to be used only for lands already developed or suitable for development with concentrated urban, particularly commercial, land uses. It should not be used on natural environment lakes or remote river classes. Other intensive urban uses such as commercial planned unit developments are allowed in this district if handled by conditional use permits.
- F. **General Agriculture District.** The General Agriculture (GA) District is intended to provide a district that will allow suitable areas of Becker County to be retained in agricultural use and prevent scattered non-farm development; secure economy in governmental expenditures for public services, utilities and schools, and permit the use and enjoyment of lakes, rivers and streams by non-farm land uses based on a reasonable attempt to recognize the general purpose of this district.

- G. **Industry District.** The Industry (I) District is intended to provide areas for various industrial uses near highways and existing urban areas. It is recognized that industrial uses are an important part of the County's land use pattern. The regulations for this district are intended to encourage industrial development that is compatible with surrounding or abutting districts.

Section 3 Official Zoning Map

The location and boundaries of the districts established by this Ordinance are set forth on the zoning maps. These maps shall be known as the "Official Zoning Map". These maps, consisting of sheets and all notations, references and data shown on them are incorporated by reference into this Ordinance and shall be as much a part of it as if all were fully described in this Ordinance. It shall be the responsibility of the Zoning Administrator to maintain these maps, and amendments shall be recorded on the Official Zoning Maps within thirty (30) days after official publication of amendments. The Official Zoning Maps shall be kept on file in the Zoning Administrator's office. The original and copies of the Official Zoning Map may be kept and distributed in electronic format.

Section 4 District Boundaries

- A. **Boundaries defined.** The boundaries between districts are, unless otherwise indicated, the center lines of highways, roads, streets, alleys or railroad rights-of-way or such lines extended or 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 Official Zoning Map between a road and a district boundary line, they indicate that the district boundary line runs parallel to the road centerline a distance from to the number of feet indicated, unless otherwise indicated.
- B. **Process for interpreting boundaries.** If interpretation is needed as to the exact location of the boundaries of a district as shown on the Official Zoning Map, the Board of Adjustment shall make the necessary interpretation. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Board and submit his own technical evidence if he so desires.

Section 5 Reclassification of Districts

The Zoning Districts previously established shall remain in effect until modified by amendment of the Official Zoning Map through a rezoning process, but they shall be reclassified as follows:

Table 4-1 Reclassification of zoning districts

Zoning District	Reclassified Zoning District
Agriculture and Conservation (A-1)	General Agriculture (GA)
General Agriculture (A-2)	General Agriculture (GA)
General Residential (R-1)	Residential District (RES)
Suburban Residential (R-2)	Residential District (RES)
Lakeshore Residential (R-3)	Residential District (RES)
Commercial Recreation (C-1) – which is riparian	Water Oriented Commercial District (WOC)
Highway Commercial (C-2) – which is riparian	Water Oriented Commercial District (WOC)
General Commercial (C-1) – which is riparian	Water Oriented Commercial District (WOC)
Commercial Recreation (C-1) – which is not riparian	Commercial District (C)
Highway Commercial (C-2) – which is not riparian	Commercial District (C)
General Commercial (C-1) – which is not riparian	Commercial District (C)
Limited Industrial (I-1)	Industry (I)
General Industrial (I-2)	Industry (I)

Section 6 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 General Agriculture (GA) District until placed in another district by action of the Board of County Commissioners after recommendation of the County Planning Commission.

Section 7 Descriptions of Lake, River, and Stream Classes

A. **DNR Shoreland Classification System.** The public waters of the County have been classified by the Department of Natural Resources as shown in the tables in Appendix A to this Ordinance consistent with the criteria found in Minnesota Rules part 6120.3000, and the Public Waters Inventory Map for the County. The criteria used by the Department of Natural Resources for classification include the following:

1. Preservation of natural areas;
2. Present ownership and development of shoreland areas;
3. Shoreland soil types and their engineering capabilities;
4. Topographic characteristics;
5. Vegetative cover;
6. In-water physical characteristics, values, and constraints;
7. Recreational use of the surface water;
8. Road and service center accessibility;
9. Socioeconomic development needs and plans as they involve water and related land resources;
10. The land requirements of industry which, by its nature, requires location in shoreland areas; and
11. The necessity to preserve and restore certain areas having significant historical or ecological value.

B. **Relationship of public water classes to land use districts.** Public waters are classified as described in this Section. Each classified public water has a mapped shoreland zone as described in Section 7 of this Chapter. Each mapped shoreland zone is regulated by a land use district that establishes permitted and conditional uses, density, lot size, dimensional standards, and other provisions. The land use district designation for each mapped shoreland zone

surrounding a classified public water is listed in Appendix A. Generally, mapped shoreland zones that surround Natural Environment Lakes are regulated as SP-Special Protection Districts; and mapped shoreland zones that surround Recreational Development Lakes are regulated as RD Residential Development Districts. In addition to the zoning district provisions, other performance standards and provisions of this Ordinance shall apply to shoreland districts.

C. **Public water classes in Becker County.** The classes of public waters are: natural environment lakes; recreational development lakes; general development lakes; remote river segments; forested river segments; transition river segments; agricultural river segments; and tributary river segments. All the river classes except tributary consist of watercourses that have been identified as being recreationally significant on a statewide basis. The tributary class consists of all other watercourses identified in the Protected Waters Inventory. General descriptions of each class follow:

1. **Natural environment lakes.** Natural environment lakes are small, often shallow lakes with limited capacities for assimilating the impacts of development and recreational use. They often have adjacent lands with substantial constraints for development such as high water tables, exposed bedrock, and unsuitable soils. These lakes, particularly in rural areas, usually do not have much existing development or recreational use.
2. **Recreational development lakes.** Recreational development lakes are medium-sized lakes of varying depths and shapes with a variety of landform, soil, and groundwater situations on the lands around them. They often are characterized by moderate levels of recreational use and existing development. Development consists mainly of seasonal and year-round residences and recreationally oriented commercial uses. Many of these lakes have capacities for accommodating additional development and use.
3. **General development lakes.** General development lakes are large, deep lakes or lakes of varying sizes and depths with high levels and mixes of existing development. These lakes are extensively used for recreation and, except for the very large lakes, are heavily developed around the shore. Second and third tiers of development are common. The larger examples in this class can accommodate additional development and use.
4. **Remote river segments.** Remote river segments are located in roadless, forested, sparsely populated areas. Common land uses include multiple-use forestry, some recreation facilities, and occasional seasonal or year-round residential. Low intensity recreational uses of these river segments and adjacent lands are common. This class has limited potential for additional development and recreational use due to land suitability and road access constraints.
5. **Forested river segments.** Forested river segments are located in forested, sparsely to moderately populated areas. Predominant land uses include multiple-use forestry, some recreation facilities, seasonal residential, and, within commuting distances of several cities, some year-round residential. Low-intensity recreational uses of these rivers and adjacent lands are common. This class has substantial potential for additional development and recreational use.
6. **Transition river segments.** Transition river segments are located within the middle reaches of rivers. Common land uses include forested within riparian strips and mixtures of cultivated, pasture, and forested beyond. Some seasonal and year-round residential development exists.
7. **Agricultural river segments.** Agricultural river segments are located in well-road, intensively cultivated areas. Cultivated crops are the predominant land use, with some pasture and occasional feedlots, small municipalities, and small forested areas. Residential development is not common, but some year-round residential use is occurring within commuting distances of cities. Overall recreational use of these waters and adjacent lands is low. Although potential exists for additional development and recreation, water quality constraints and competing land uses, particularly agriculture, will inhibit expansions.
8. **Tributary river segments.** Tributary river segments consist of watercourses mapped in the Protected Waters Inventory that have not been assigned one of the river classes in paragraphs 4 through 7, immediately above. These segments have a wide variety of existing land and recreational use characteristics. The segments have considerable potential for additional development and recreational use, particularly those located near roads and cities.

Section 8 Shoreland Areas

Mapped shoreland areas. The extent of the shoreland areas for the public water bodies listed in Section 7, above, shall be as shown on the Official Zoning Map and shall include all land within the following distances from public waters:

- A. One thousand feet (1,000') from the ordinary high water level or a lake, pond, or flowage; and
- B. Three hundred feet (300') from the ordinary high water level of a river or stream.
- C. The limits of shoreland districts may be reduced whenever the waters involved are bounded by natural topographic divides which extend landward for a lesser distance and when approved by the Commissioner of the Department of Natural Resources.

Section 9 Water Systems

- A. **Public water facilities.** Public water facilities, including pipe fittings, hydrants, etc., shall be installed and maintained as required by standards and specifications as established by the Board of County Commissioners, and the Minnesota Department of Health.
- B. **Community water systems.** If public water facilities are not available, the Board of County Commissioners may grant a franchise for water facilities, to serve all properties within the area where a complete and adequate community water distribution system is designed, and complete plans for the system are submitted to and approved by the Board of County Commissioners and the Minnesota State Department of Health.
- C. **Individual wells.** Individual wells shall be constructed and maintained according to standards and regulations approved by the Board of County Commissioners and the Water Well Construction Code of the Minnesota Department of Health.

Section 10 Individual subsurface sewage treatment Systems (ISTS)

This is an ordinance authorizing and providing for sewage treatment and soil dispersal in unsewered areas of the county. It establishes:

- 1) Minimum standards for and regulation of individual sewage treatment systems (ISTS) and mid-sized Subsurface Sewage Treatment Systems (MSTS) (collectively referred to as SSTS) in unsewered incorporated and unincorporated areas of Becker County, incorporating by reference minimum standards established by Minnesota statutes and administrative rules of the Minnesota Pollution Control Agency,
- 2) Requirements for issuing permits for installation, alteration, repair, or expansion of SSTS,
- 3) Requirements for all SSTS permitted under the revised Minnesota Rules, Chapters 7080 and 7081 to be operated under an approved management plan,
- 4) Standards for upgrade, repair, replacement, or abandonment of SSTS,
- 5) Penalties for failure to comply with these provisions,
- 6) Provisions for enforcement of these requirements, and
- 7) Standards which promote the health, safety and welfare of the public as reflected in Minnesota Statutes sections 115.55, 145A.05, 375.51, 394.21-394.37, and 471.82, the County Comprehensive Plan and the County Zoning and Shoreland Ordinance.

A. PURPOSE, INTENT AND AUTHORITY

- 1. **Purpose.** The purpose of this ordinance is to establish minimum requirements for regulation of ISTS and MSTS 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. **Intent.** It is intended by the County that this Ordinance will promote the following:
 - A. The protection of lakes, rivers and streams, wetlands, and groundwater in Becker County essential to the promotion of public health, safety, welfare, socioeconomic growth, and development of the County.

- B. The regulation of proper SSTS construction, reconstruction, repair, and maintenance to prevent the entry and migration of contaminants, thereby protecting the degradation of surface water and groundwater quality.
 - C. The establishment of minimum standards for SSTS placement, design, construction, reconstruction, repair, and maintenance to prevent contamination and, if contamination is discovered, the identification and control of its consequences and the abatement of its source and migration.
 - D. The appropriate utilization of privy vaults and other non-water carried sewage collection and storage facilities.
 - E. The provision of technical assistance and education, plan review, inspections, SSTS surveys and complaint investigations to prevent and control water-borne diseases, lake degradation, groundwater related hazards, and public nuisance conditions.
3. **Authority.** This Ordinance is adopted pursuant to Minnesota Statutes, Section 115.55; Minnesota Statutes, Sections 145A.01 through 145A.08; Minnesota Statutes, Section 375.51; or successor statutes, and Minnesota Rules, Chapter 7080, Chapter 7081, Chapter 7082; or successor rules.

B. GENERAL PROVISIONS

- 1. **SCOPE.** This Ordinance regulates the siting, design, installation, alterations, operation, maintenance, monitoring, and management of all SSTS within the County's applicable jurisdiction including, but not necessarily limited to individual SSTS and cluster or community SSTS, privy vaults, and other non-water carried SSTS. All sewage generated in unsewered areas of the County shall be treated and dispersed by an approved SSTS that is sited, designed, installed, operated, and maintained in accordance with the provisions of this Ordinance or by a system that has been permitted by the MPCA.
- 2. **JURISDICTION.** The jurisdiction of this Ordinance shall include all lands of the County except for incorporated areas that administer a Subsurface Sewage Treatment System (SSTS) program by Ordinance within their incorporated jurisdiction, which is at least as strict as this Ordinance and has been approved by the County. The County Planning and Zoning Department shall keep a current list of local jurisdictions within the County administering a SSTS program.
- 3. **ADMINISTRATION**
 - a. **COUNTY ADMINISTRATION.** The County Planning and Zoning Department shall administer the SSTS program and all provisions of this Ordinance. At appropriate times, the County shall review this and revise and update this Ordinance as necessary. The County shall employ or retain under contract qualified and appropriately licensed professionals to administer and operate the SSTS program.
 - b. **STATE OF MINNESOTA.** Where a single SSTS or group of SSTS under single ownership within one-half mile of each other, have a design flow greater than 10,000 gallons per day, the owner or owners shall make application for and obtain a State Disposal System permit from MPCA. For any SSTS that has a measured daily flow for a consecutive seven-day period, which equals or exceeds 10,000 gallons per day, a State Disposal System permit is required. SSTS serving establishments or facilities licensed or otherwise regulated by the State shall conform to the requirements of this Ordinance.
 - c. **CITIES AND TOWNSHIPS.** Any jurisdiction within the County that regulates SSTS must comply with the standards and requirements of this Ordinance. The standards and ordinance of the jurisdiction may be administratively and technically more restrictive than this Ordinance.
- 4. **VALIDITY.** The validity of any part of this Ordinance shall not be affected by the invalidity of any other parts of this Ordinance where the part can be given effect irrespective of any invalid part or parts.
- 5. **LIABILITY.** Any liability or responsibility shall not be imposed upon the department or agency or any of its officials, employees, or other contract agent, its employees, agents, or servants thereof for damage resulting from the defective construction, operation, or abandonment of any onsite or cluster treatment system regulated under this rule by reason of standards, requirements, or inspections authorized hereunder.

C. GENERAL REQUIREMENTS

- 1. **RETROACTIVITY**
 - a. **All SSTS.** Except as explicitly set forth in Article IV, Section 1.02, all provisions of this Ordinance shall apply to any SSTS regardless of the date it was originally permitted.
 - b. **Existing Permits.** Unexpired permits, which were issued prior to the effective date, shall remain valid under the terms and conditions of the original permit until the original expiration date or until a change in system ownership whichever is earlier.

- c. **SSTS on Lots Created 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.
- d. **Existing SSTS without Permits.** Existing SSTS with no permits of record shall require a permit and be brought into compliance with the requirements of this Ordinance regardless of the date they were originally constructed.

2. UPGRADE, REPAIR, REPLACEMENT, AND ABANDONMENT

- a. **SSTS Capacity Expansions.** Expansion of an existing SSTS must include any system upgrades that are necessary to bring the entire system into compliance with the prevailing provisions of this Ordinance at the time of the expansion.
- b. **Bedroom Additions.** The owner is allowed five (5) years from the date of issuance of a bedroom addition permit to upgrade, repair, replace or abandon an existing system if the following conditions apply:
 - (1) The Planning and Zoning Department issues a permit to add a bedroom;
 - (2) A SSTS inspection is triggered by a bedroom addition permit request;
 - (3) The existing system was installed between May 27, 1989 and January 3, 1996;
 - (4) The SSTS does not comply with Minnesota Rules, Chapter 7080.1500, Subp. 4.B.;
 - (5) 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.
- c. **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 ten (10) months of receipt of a Notice of Noncompliance.
- d. **Imminent Threat to Public Health or Safety.** An SSTS that is determined to be an imminent threat to public health or safety in accordance with 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 thirty (30) days of receipt of a Notice of Noncompliance.

An SSTS posing an imminent threat to public health or safety shall be pumped within 24 hours of the determination that the SSTS is an imminent threat and managed as a holding tank until an SSTS upgrade is completed.
- e. **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.

3. SSTS IN FLOODPLAINS. SSTS shall not be located in a floodway and wherever possible, location within any part of a floodplain shall 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.

4. 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.

5. 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.

6. 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.

D. SSTS STANDARDS

1. **STANDARDS ADOPTED BY REFERENCE.** The County hereby adopts by reference 2012 Minnesota Rules, Chapters 7080 and 7081 for SSTS and MSTs systems larger than 2500 gallons per day and 2006 Minnesota Rules, Chapter 7080 for Type I, II, and III SSTS under 2500 gallons per day with residential strength and SSTS that serve any food, beverage, and lodging establishments under 2500 gallons per day provided the effluent discharge does not exceed standards in MN Rule 7080.2150, Subp. 3(K) 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.

2. AMENDMENTS TO THE ADOPTED STANDARDS

a. List of Adopted Standards

- (1) 2006 Rule 7080.0130 (Sewage Tanks), except for 7080.0130 subp 3A shall be replaced with 2012 Rule 7080.1900 - .1920 and .1950 -.2020. Residential tank sizing may be from 2006 Rule 7080.0130 subp 3A. (2006 Rule parts included parts on aerobic tanks, which have been superseded by registered products).
- (2) 2006 Rule 7080.0170 subp 2 B(2), (3), and (4); C 2 b (2) and (3); D (1) (a), (b) and (c); D (3), (8), (12), and (13) and subp 5 B (1) shall be replaced by 2012 Rule 7080.2150 except for subpart 3E, the soil sizing charts. (2006 Rule parts included standards for rock, gravel less pipe and chambers that were superseded by registered products).
- (3) Fifteen percent (15%) flexibility on soil separation shall be allowed as defined in 2012 Rule 7080.1500 subp 4 D.
- (4) Homeowners are prohibited from installing SSTS that have been designed for pressure distribution or contain a pump and/or a lift station.
- (5) All dwellings will be sized for a Classification I Dwelling with a minimum of 300 gallons per day.
- (6) A pump tank must either include an alternating two-pump system or have a minimum total capacity of 500 gallons for design flow values of 600 gallons per day or less or 100 percent of the design flow for design flow values of greater than 600 gallons per day.
- (7) Operating Permits and Management Permits will be required for systems designed under 2006 Rule 7080.0178 and 7080.0179.
- (8) Operating Permits and Management Permits will be required for MSTs or any other system deemed by the Department in accordance to 2012 Rule 7082.0600 and herein adopted by reference.

b. Determination of Hydraulic Loading Rate and SSTS Sizing

Table V entitled "Soil Sizing Factors for Determining bottom Area for Trenches and Seepage Beds Using Percolation Tests" and Table Va entitled "Soil Sizing Factors for Determining Bottom Area for Trenches and Seepage Beds Using Detailed Soil Descriptions and Absorption Ratios for Determining Mound Absorption Areas Using Detailed Soil Descriptions" from 2006 Minnesota Rules, Chapter 7080.0170, Subp. 2 and herein adopted by reference shall both be used to size SSTS infiltration areas using the larger sizing factor of the two for SSTS design for Type I, Type II and Type III SSTS with flows under 2500 gallons per day

Table IX entitled "Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas Using Detail Soil Descriptions" and Table IXa 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" from 2012 Minnesota Rules, Chapter 7080.2150, Subp. 3(E) and herein adopted by reference shall both be used to size SSTS infiltration areas using the larger sizing factor of the two for SSTS design for Type IV and Type V SSTS and SSTS with flows over 2500 gallons per day.

c. Compliance Criteria for Existing SSTS. SSTS built after March 31, 1996 or SSTS located in a Shoreland area, wellhead Protection area, or serving a food, beverage, or lodging establishment as defined under 7080.1100, Subp. 84 shall have a three-foot vertical separation between the bottom soil infiltrative surface and the periodically saturated soil and/or bedrock. Existing systems that have no more than a 15 percent reduction in this separation distance (a separation distance no less than 30.6 inches) to account for settling of sand or soil, normal variation of separation distance measurements and interpretation of limiting layer characteristics may be considered compliant under this Ordinance. The vertical separation measurement shall be made outside the area of system influence but in an area of similar soil. 7080.1500, Subp.4

d. Holding Tanks. Holding tanks may be allowed if the following criteria is met:

Holding tanks meeting the above-mentioned criteria may be used for structures with limited water use as determined by the Department under the following conditions:

- (1) The owner shall install a holding tank in accordance with Minnesota Rules Chapter 7080.2290.
- (2) An alarm device shall be installed that identifies when the holding tank is at seventy-five (75) percent capacity per Minnesota Rules, Chapter 7080.2290 Subp.F.
- (3) The owner shall maintain a valid contract with a licensed maintainer to pump and haul the holding tank contents to a licensed treatment facility or an MPCA approved land application site. This requirement is waived if the owner is a farmer who is exempt from licensing under Minnesota Statute 115.56, subd. 2, paragraph (b), clause (3).

Failure to meet these requirements shall constitute a violation of this Ordinance and will result in enforcement actions being taken by the County.

3. VARIANCES

a. Variance From Standards. An affected property owner or designated representative may request a variance from the standards as specified in this ordinance pursuant to this Section. The Department shall have the authority to grant administrative variances when the purposes and intent of the variance are consistent with this Section, the County's Zoning Ordinance, and the County's Water Management Plan. The Department may approve variance from standards and criteria not specifically listed on a case-by-case basis. No variance shall be granted except under the following circumstances:

- (1) There are unique conditions affecting the property as a result of lot size, layout, shape, topography, soil conditions or other circumstances which the current landowners did not cause or have any control over; and
- (2) Variance approval will not adversely affect the health or safety of persons residing or working in the area adjacent to the property and will not be materially detrimental to the public welfare or damaging to the property or improvements in the area adjacent to the property of the applicant and that granting of the variance will not adversely impact water quality.

b. Variances Pertaining to Other Affected Agencies. Variances that pertain to the standards and requirement of the State of Minnesota must be approved by the affected State Agency pursuant to the requirements of that State Agency.

- (1) Variances pertaining to well setbacks are governed by Minn. Rules Chapters 4720 and 4725 and shall only be approved by the Minnesota Department of Health through their variance procedure.
- (2) Variance request to deviate from the design flow determination procedures in Minnesota Rules, Chapter 7081.0110 if the deviation reduces the average daily estimated flow from greater than 10,000 gallons per day to less than 10,000 gallons per day, or to provisions in 7080.2150, Subp. 2 and 7081.0080, Subp. 2 through 5 regarding the vertical separation required beneath the treatment and soil dispersal system and seasonally saturated soil or bedrock from the required three feet of unsaturated soil material (except as provided in 7082.1700, Subp. 4D) must be approved by MPCA. Variances to wells and water supply lines must be approved by the MPCA.

c. Conditions of Administrative Variances. Administrative variances granted will require the following:

1. Side property line variances require a written, signed, and notarized property line agreement signed by the adjoining property owner and must be submitted with the construction permit application.
2. Road right of way variance require written authorization from the road authority must be submitted with the construction permit application.

3. Administrative variances granted shall automatically expire if the system is not installed within one year of the grant of the variance.
4. Property owners may appeal the Department's decision to deny the variance in accordance with the County's established policies and appeal procedures.

E. SSTS PERMITTING

1. **PERMIT REQUIRED.** It is unlawful for any person to construct, install, modify, replace, or operate a SSTS without the appropriate permit from the Planning and Zoning Department, Becker 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.
2. **CONSTRUCTION PERMIT.** A construction permit shall be obtained by the property owner or an agent of the property owner from the County prior to the installation, construction, replacement, modification, alteration, repair, or capacity expansion of a SSTS. The purpose of this permit is to ensure that the proposed construction activity is sited, designed, and constructed in accordance with the provisions of this Ordinance by appropriately certified and/or licensed practitioner(s).
 - a. **Activities Requiring a Construction Permit.** A construction permit is required for installation of a new SSTS, for replacement of an existing SSTS, or for any repair or replacement of components that will alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function.
 - b. **Activities Not Requiring a Permit.** A construction permit is not required for minor repairs or replacements of system components that do not alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function.
 - c. **Construction Permit Required to Obtain Site Permit.** For any property on which a SSTS permit is required, approval and issuance of a valid SSTS Construction Permit must be obtained before a site or land use permit may be issued by the Department.
 - d. **Conformance to Prevailing Requirements.** Any activity involving an existing system that requires a Construction Permit shall require that the entire system be brought into compliance with this Ordinance.
 - e. **Permit Application Requirements.** Construction Permit applications shall be made on forms provided by the Planning and Zoning Department 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.
 - (1) Name, mailing address, telephone number, and email address.
 - (2) Property Identification Number and address or other description of property location.
 - (3) Site Evaluation Report as described in Minnesota Rules, Chapter 7080.1730
 - (4) Design Report as described in Minnesota Rules, Chapter 7080.2430.
 - (5) Management Plan as described in Minnesota Rules, Chapter 7082.0600.
 - f. **Application Review and Response.** The Department shall review a permit application and supporting documents. Upon satisfaction that the proposed work will conform to the provisions of this Ordinance, the Department shall issue a written permit authorizing construction of the SSTS as designed. In the event the applicant makes a significant change to the approved application, the applicant must file an amended application detailing the changed conditions for approval prior to initiating or continuing construction, modification, or operation for approval or denial. The Department shall complete the review of the amended application within ten (10) working days of receipt of the amended application. If the permit application is incomplete or does not meet the requirements of this ordinance the Department shall deny the application. A notice of denial shall be provided to the applicant, which must state the reason for the denial.
 - g. **Appeal.** The applicant may appeal the Departments decision to deny the Construction Permit in accordance with the County's established policies and appeal procedures.
 - h. **Permit Expiration.** The Construction Permit is valid for a period of no more than one year from its date of issue. Satisfactory completion of construction shall be determined by receipt of final record drawings and a signed certification that the construction or installation of the system was completed in reasonable conformance with the approved design documents by a qualified employee of the Department or a

licensed inspection business, which is authorized by the Department and independent of the owner and the SSTS installer.

- i. Extensions and Renewals.** The Department may grant an extension of the Construction Permit if the construction has commenced prior to the original expiration date of the permit. (The permit may be extended for a period of no more than six (6) months.
- j. Transferability.** A Construction Permit shall not be transferred to a new owner. The new owner must apply for a new Construction Permit in accordance with this section.
- k. Suspension or Revocation.** The Department may suspend or revoke a Construction Permit issued under this section for any false statements, misrepresentations of facts on which the Construction Permit was issued, or unauthorized changes to the system design that alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function. A notice of suspension or revocation and the reasons for the suspension or revocation shall be conveyed in writing to the permit holder. If suspended or revoked, installation or modification of a treatment system may not commence or continue until a valid Construction Permit is obtained.
- l. Posting.** The Construction Permit shall be posted on the property in such a location and manner so that the permit is visible and available for inspection until construction is completed and certified.

3. ABANDONMENT CERTIFICATION

- a. Purpose.** The purpose of the System Abandonment Certification is to ensure that a treatment system no longer in service is abandoned within a reasonable time following decommissioning and in a manner that protects public health, safety, and water quality. It also terminates all permits associated with the system.
- b. Abandonment Requirements**
 - (1) Whenever the use of a SSTS or any system component is discontinued as the result of a system repair, modification, replacement or decommissioning following connection to a municipal or private sanitary sewer, or condemnation or demolition of a building served by the system, further use of the system or any system component for any purpose under this Ordinance shall be prohibited.
 - (2) Continued use of a treatment tank where the tank is to become an integral part of a replacement system or a sanitary sewer system requires the prior written approval of the Department.
 - (3) An owner of an SSTS must retain a licensed installation business to abandon all components of the treatment system within sixty (60) calendar days of a system. Abandonment shall be completed in accordance with Minnesota Rules, Chapter 7080.2500. No prior notification of the Department of an owner's intent to abandon a system is necessary.
 - (4) A report of abandonment certified by the licensed installation business shall be submitted to the Department. The report shall include:
 - (1) Owner's name and contact information
 - (2) Property address
 - (3) System construction permit and operating permit
 - (4) The reason(s) for abandonment
 - (5) A brief description of the abandonment methods used, description of the system components removed or abandoned in place, and disposition of any materials or residuals.
- c. Abandonment Certificate.** Upon receipt of an abandonment report and its determination that the SSTS has been abandoned according to the requirements of this Ordinance, the Department shall issue an abandonment certificate. If the abandonment is not completed according the requirements of this ordinance the County shall notify the owner of the SSTS of the deficiencies, which shall be corrected within thirty (30) calendar days of the notice.

F. COMPLIANCE MANAGEMENT

- 1. PUBLIC EDUCATION OUTREACH.** Programs shall be provided by the Department and/or others to increase public awareness and knowledge of SSTS. Programs may include distribution of educational materials through various forms of media and SSTS workshops focusing on SSTS planning, construction, operation, maintenance, and management.
- 2. COMPLIANCE INSPECTION PROGRAM**

- a. Department Responsibility.** It is the responsibility of the Department, or its agent, to perform various SSTS compliance inspections periodically to assure that the requirements of this Ordinance are met.
- (1) SSTS compliance inspections must be performed:
 - (a) To ensure compliance with applicable requirements;
 - (b) To ensure system compliance before issuance of a permit for addition of a bedroom unless the permit application is made during the period of November 1 to April 30, provided a compliance inspection is performed before the following June 1 and the applicant submits a certificate of compliance by the following September 30;
 - (c) For all new SSTS construction or replacement;
 - (d) For an evaluation, investigation, inspection, recommendation, or other process used to prepare a disclosure statement if conducted by a party who is not the SSTS owner. Such an inspection constitutes a compliance inspection and shall be conducted in accordance with Minnesota Rules, Chapter 7082.0700 using the SSTS inspection report forms provided by MPCA.
 - (2) All compliance inspections must be performed and signed by licensed inspection businesses or qualified employees certified as inspectors.
 - (3) The Department shall be given access to enter a property at any reasonable time to inspect and/or monitor the SSTS system. As used in this paragraph, “property” does not include a residence or private building. The Department shall notify the owner of the Department’s intent to inspect the SSTS least two (2) days in advance of the intended inspection.
 - (4) No person shall hinder or otherwise interfere with the Department’s employees in the performance of their duties and responsibilities pursuant to this ordinance. Refusal to allow reasonable access to the property by the Department shall be deemed a separate and distinct offense.
- b. New Construction or Replacement**
- (1) Compliance inspections must be performed on new or replacement SSTS to determine compliance with Minnesota Rules, Chapters 7080 or 7081. SSTS found not to be in compliance with 7080.1500, Subp. 4A or 7081.0080, Subp. 3 must be repaired or replaced within ten (10) months or as directed under Minnesota Statutes, Chapter 145A. SSTS that are determined to have operation or monitoring deficiencies must immediately be maintained, monitored, or otherwise managed according to the operating permit. SSTS found to be noncompliant with other applicable requirements must be repaired or replaced according to the Department’s requirements.
 - (2) It is the responsibility of the SSTS owner or the owner’s agent to notify the Department two (2) calendar days prior to any permitted work on the SSTS.
 - (3) A Certificate of Compliance for new SSTS construction or replacement, which shall be valid for five (5) years, shall be issued by the Department if the Department has reasonable assurance that the system was built in accordance with the applicable requirements as specified in the construction permit.
 - (4) The certificate of compliance must include a certified statement by the certified inspector or qualified employee who conducted the inspection that the SSTS is or is not in compliance with the ordinance requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must be issued to the owner, which includes a statement specifying those ordinance provisions with which the SSTS does not comply.
 - (5) The certificate of compliance or notice of noncompliance must be submitted to the Department no later than fifteen (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 fifteen (15) calendar days of receipt from the certified inspector. No SSTS shall be placed into operation until a valid certificated of compliance has been issued.
 - (6) Certificates of compliance for new construction or replacement shall remain valid for five (5) years from the date of issue unless the Department finds evidence of noncompliance.
- c. Existing Systems**
- (1) Compliance inspections shall be required when any of the following conditions occur:
 - (a) When a construction permit is required to repair, modify, or upgrade an existing system;
 - (b) Any time there is an expansion of use of the building being served by an existing SSTS which may impact the performance of the system;

- (c) Any time there is a change in use of the property being served by an existing SSTS which may impact the performance of the system;
 - (d) 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.
- (2) Compliance inspections of existing SSTS shall be reported on the inspection report forms provided by MPCA. The following conditions, must be assessed, or verified:
- (a) Watertightness assessment of all treatment tanks including a leakage report;
 - (b) Vertical separation distance between the bottom of the soil treatment and dispersal system and the periodically saturated soil or bedrock including a vertical separation verification report; Chapter 7082.0700, Subp. 3(2) requires that a vertical separation report include verifications by two independent parties, which may be licensed inspection businesses and/or a qualified employee inspector with jurisdiction. If there is a dispute between the two verifying inspectors, the disputing parties must follow the local dispute resolution procedures. If no local dispute resolution procedures exist, the dispute resolution procedure described in 7080.0700, Subp. 5 must be followed.
 - (c) Sewage backup, surface seepage, or surface discharge including a hydraulic function report.
- (3) The certificate of compliance must include a certified statement by a Qualified Employee or licensed inspection business, indicating whether the SSTS is in compliance with the ordinance requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must include a statement specifying those ordinance provisions with which the SSTS does not comply. A construction permit application must be submitted to the Department if the required corrective action is not a minor repair.
- (4) The certificate of compliance or notice of noncompliance must be submitted to the Department no later than fifteen (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 fifteen (15) calendar days of receipt from the licensed inspection business.
- (5) Certificates of compliance for existing SSTS shall remain valid for three (3) years from the date of issue unless the Department finds evidence of noncompliance.

G. ENFORCEMENT

1. VIOLATIONS

- a. Cause to Issue a Notice of Violation.** Any person, firm, agent, or corporation who violates any of the provisions of this Ordinance, or who fails, neglects, or refuses to comply with the provisions of this Ordinance, including violations of conditions and safeguards, or who knowingly makes any material false statement or knowing omission in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable as defined by Minnesota State Statutes. Each day that a violation exists shall constitute a separate offense.
- b. Notice of Violation.** The Department shall serve, in person or by mail, a notice of violation to any person determined to be violating provisions of this Ordinance. The notice of violation shall contain:
 - (1) A statement documenting the findings of fact determined through observations, inspections, or investigations;
 - (2) A list of specific violation(s) of this Ordinance;
 - (3) Specific requirements for correction or removal of the specified violation(s); and
 - (4) A mandatory time schedule for correction, removal, and compliance with this ordinance.
- c. Cease and Desist Orders.** Cease and desist orders may be issued when the Department has probable cause that an activity regulated by this or any other County Ordinance is being or has been conducted without a permit or in violation of a permit. When work has been stopped by a cease and desist order, the work shall not resume until the reason for the work stoppage has been completely satisfied, any administrative fees paid, and the cease and desist order lifted.

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

- 3. **STATE NOTIFICATION OF VIOLATION.** In accordance with state law, the Department shall notify the MPCA of any inspection, installation, design, construction, alteration, or repair of an SSTS by a licensed/certified person or any septage removal by a licensed pumper that is performed in violation of the provisions of this Ordinance.
 - 4. **COSTS AND REIMBURSEMENTS.** If the Department is required to remove or abate an imminent threat to public health or safety, the Department may recover all costs incurred in removal or abatement in a civil action, including legal fees; at the discretion of the County Board, the cost of an enforcement action under this ordinance may be assessed and charged against the real property on which the public health nuisance was located. The County Auditor shall extend the cost as assessed and charged on the tax roll against said real property.
- H. RECORD KEEPING.** The County shall maintain a current record of all permitted systems. The record shall contain all permit applications, issued permits, fees assessed, variance requests, certificates of compliance, notices of noncompliance, enforcement proceedings, site evaluation reports, design reports, record drawings, management plans, maintenance reports, an annual list of all sewage tanks installed in the county sorted by licensed installation businesses, and other records relevant to each system.
- I. ANNUAL REPORT.** The department shall provide an annual report of SSTS permitting activities to MPCA no later than February 1 for the previous calendar year.
- J. FEES.** From time to time, the County Board shall establish fees for activities undertaken by the Department pursuant to this Ordinance. Fees shall be due and payable at a time and in a manner to be determined by the department.
- K. 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 County and shall not be deemed a limitation or repeal of any other powers granted by Minnesota Statutes.
- M. SEVERABILITY.** If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of law, the remainder of this Ordinance shall not be affected and shall remain in full force.
- N. ABROGATION AND GREATER RESTRICTIONS.** It is not intended by this Ordinance to repeal, abrogate, or impair any other existing County ordinance, easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. All other Ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

Section 11 Essential Services

The following provisions govern permits and information filing requirements for local and non-local essential services.

- A. **Permit required.** Since essential and transmission services as defined by this Ordinance may have an effect upon urbanized areas of the County, County land uses, highway location, park and recreation areas, ecology, and preservation of natural environment a permit is required before starting any condemnation action or construction of proposed local or through-County transmission services in any zoning district.
- B. **Procedure for through County, non-local services.** In addition to the requirements for a conditional use permit in Chapter 8, Section 11, transmission services, i.e. utility service such as high voltage (35 KV or greater) electrical power or bulk gas or fuel being transferred from station to station or micro-wave relay transmission and not intended for enroute consumption shall follow the following procedure:
 - 1. **Submission to Planning Commission.** The application for the conditional use permit, all maps and accompanying data submitted to the Zoning Administrator shall be forwarded to the Becker County Planning Commission along with the Administrator's and Engineer's reports for review and recommendation regarding the relationship to urban growth, land uses, highway, environment, recreation, and park areas.
 - 2. **Timely review required.** Recognizing a need for timely and adequate service by owners of essential services, the County shall act upon all information filing within ninety (90) days of receipt by the Zoning Administrator and Engineer.

3. **Additional information.** In the process of deliberation, the County can call upon such sources of information public or private as they deem necessary to clarify problems and otherwise provide information necessary to their decision.
- C. **Procedure for local services.** Any application for a permit for essential services for immediate local distribution to the general public within the County and further located within or adjacent to any county highway or county state aid highway right-of-way shall follow the following procedure:
1. **Application and information.** The applicant shall file with the County Engineer, on forms supplied by the County, an application for such permit accompanied with maps showing the locations, alignment and type of service proposed.
 2. **Review process.** The application and accompanying data shall be reviewed by the County Engineer and the County Engineer may issue the permit after determining that the application is acceptable and in the best interest of the County.
 3. **Additional requirements of approval.** The County Engineer may require in conjunction with the issuance of the permit that:
 - a. The applicant submits as-built drawings of the essential service after construction.
 - b. The applicant constructs the essential service to take into consideration contemplated widening, regrading or relocation of a county highway or state aid highway.
 4. **Timely review required.** Recognizing the need for adequate and timely service by owners of essential services, the County Engineer shall act upon all information filings or permit applications at the earliest opportunity.
 5. **Additional information.** In the process of deliberation, the County can call upon such sources of information public or private as they deem necessary to clarify problems and otherwise provide information necessary to their decision.
 6. **Temporary distribution services.** Temporary distribution services to residences and similar structures may be made prior to application for an issuance of a permit for local essential services as described above, however, if the services are to be made permanent, or if permanent service is to be installed, application for such services shall be made to the County Engineer within five (5) working days from the date of the installation of the temporary services and shall become subject to issuance of said permit.

CHAPTER 5 LAND USE DISTRICT ALLOWED USES AND DIMENSIONAL REQUIREMENTS

Section 1 Table of Permitted, Conditional and Not Permitted Uses by District

The following table, Table 5-1, establishes the allowed uses in zoning districts within Becker County. The following rules shall apply to the use table:

- A. **Permitted uses.** Uses specified with a “P” are permitted uses in the district designated provided that the use complies with all other applicable provisions of this Ordinance.
- B. **Conditional uses.** Uses specified with a “C” are allowed as conditional uses in the district designated if granted through the conditional use process and provided that the use complies with all other applicable provisions of this Ordinance.
- C. **Uses specifically not permitted.** Uses specified with an “N” are not permitted in the district designated.
- D. **Use interpretation.** If a use is not listed or does not have a designated type of use, the use may be allowed if it is of the same general character as those listed as Permitted (P), or Conditional (C) uses in the use table, provided the use is deemed fitting and compatible to the district by the Becker County Planning Commission, and is not listed as a Not Permitted (N) Use.
- E. **Industrial land use classes.** All allowable industrial uses will be categorized in one or more of the following general classifications:
 - 1. **Manufacturing** - Any manufacturing use or process including repairing, assembling, fabricating, altering, converting, finishing, processing, treating, testing, packaging, crop drying, or bottling of the itemized materials.
 - 2. **Warehousing, Storage, Wholesaling** - The storage, handling, assembly and distribution of goods and materials for wholesaling or on-site use of the itemized materials; or
 - 3. **Administrative offices** for the conduct of the allowable manufacturing, warehousing, storage, and wholesaling operations.
 - 4. **Determination of use type.** The products or materials involved, and the type of operation will determine whether the use is permitted or conditional and in which zoning district the use is allowed.

Table 5-1 Permitted, conditional and not permitted uses by land use district on following pages.

Use Type	Table 5-1 Land Use Districts																
	General Agriculture		Special Protection		Residential			High Density Residential		Water Oriented Commercial			Commercial			Industry	
	All Lakes Rivers	Non Shore land	All Lakes Rivers	Non Shore land	GD & RD Lakes	NE Lakes & Rivers	Non Shore land	All Lakes Rivers	Non Shore land	GD & RD Lakes Rivers	NE Lakes	Non Shore land	GD & RD Lakes Rivers	NE Lakes	Non Shore land	Mfg	Adm. & Whsg
A. Agricultural Uses																	
Agricultural building	P	P	P	P	C	C	C										
Cropland and pasture	P	P	P	P	C	C	C										
Feedlots, under 1,500 animal units	P	P	C	C													
Feedlots, over 1,500 animal units	C	C	C	C													
Forestry	P	P	P	P	P	P	P			P	P		P	P	P		
B. Residential Uses																	
Single-family residence-one per lot	P*	P*	C	C	P	P	P	P	P								
Duplex residential, twin homes					P	N-NE P-Rivers	P	P	P								
Home occupation ¹	C	C			C	C	C	C	C								
Group care facility	C	C			C	C	C	C	C								

*One temporary single family residential unit may be permitted in an agricultural zone if one of the following apply: the residential unit is occupied by persons who are engaged in the care of an elder, engaged in the occupation of farming on the premises or a family member. Once this use ceases, the residential unit must be removed from the property within one year.

¹ When home occupation use does not exceed one-third (1/3) the floor area of the dwelling or an accessory building not exceeding the floor area of the building.

Use Type	Table 5-1 Land Use Districts																
	General Agriculture		Special Protection		Residential			High Density Residential		Water Oriented Commercial			Commercial			Industry	
	All Lakes Rivers	Non Shore land	All Lakes Rivers	Non Shore land	GD & RD Lakes	NE Lakes & Rivers	Non Shore land	All Lakes Rivers	Non Shore land	GD & RD Lakes Rivers	NE Lakes	Non Shore land	GD & RD Lakes Rivers	NE Lakes	Non Shore land	Mfg	Adm. & Whsg
Conservation subdivision development	C		C		C	C		C	C								
C. Recreational Uses																	
Parks and historic sites	C	C	C	C	C	C	C	C	C	C	C		C	C	C		
Public										C	C		P	C	C		
Semipublic					C	C	C	C	C	C	C		P	C	C		
Single recreational vehicle ²	P	P			P	P	P										
D. Institutional Uses																	
Cemetery	C	C	C	C													
Church ³	P	P	P	P	P	P	P	P	P	P	P		P	P	P		
School ⁴	C	C			C	C	C	C	C								
Nursing home	C	C															
E. Commercial and Industrial Uses																	
Airports, helicopters																C	C

² Limited to a one (1) year renewable permit.

³ A church must not be located closer than fifty feet (50') to any agricultural or residential lot line.

⁴ A school must not be located closer than fifty feet (50') to any agricultural or residential lot line.

Use Type	Table 5-1 Land Use Districts																
	General Agriculture		Special Protection		Residential			High Density Residential		Water Oriented Commercial			Commercial			Indu	stry
	All Lakes Rivers	Non Shore land	All Lakes Rivers	Non Shore land	GD & RD Lakes	NE Lakes & Rivers	Non Shore land	All Lakes Rivers	Non Shore land	GD & RD Lakes Rivers	NE Lakes	Non Shore land	GD & RD Lakes Rivers	NE Lakes	Non Shore land	Mfg	A d m . & W h s g
Apparel manufacturing																C	P
Chemicals and allied products																C	C
Commercial, general	C	C	C	C						C	C		P	P	P		
Commercial, surface water oriented								C	C	P	C						
Commercial, planned unit development (PUD)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Extractive use	C	C	C	C	C	C	C						C	C	C		
Fabricated metal products																C	P
Food and kindred products																C	P
Furniture and fixtures																C	P
Junk or salvage yard	N	C											N	N	C	C	C
Lumber yard																C	P
Paper and allied products																C	P
Petroleum refining																C	C
Printing																C	P

Use Type	Table 5-1 Land Use Districts																	
	General Agriculture		Special Protection		Residential			High Density Residential		Water Oriented Commercial			Commercial			Industry		
	All Lakes Rivers	Non Shore land	All Lakes Rivers	Non Shore land	GD & RD Lakes	NE Lakes & Rivers	Non Shore land	All Lakes Rivers	Non Shore land	GD & RD Lakes Rivers	NE Lakes	Non Shore land	GD & RD Lakes Rivers	NE Lakes	Non Shore land	Mfg	Adm. & Whsg	
Professional, scientific instruments, photographic, optical, watches, clocks, etc.																	C	P
Rentals: Long/short term vacation rental	P	P	C	C	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Retail sales of manufactured or warehoused products																	C	P
Rubber and plastic products																	C	P
Saw mills	C	C											C	C	C	C	P	
Saw mills, portable	P	P	P	P									P	P	P			
Stone, clay, and glass products																	C	P
Textile mill																	C	P
Truck terminal, shop, and yard																	C	P
Wholesaling																	C	P

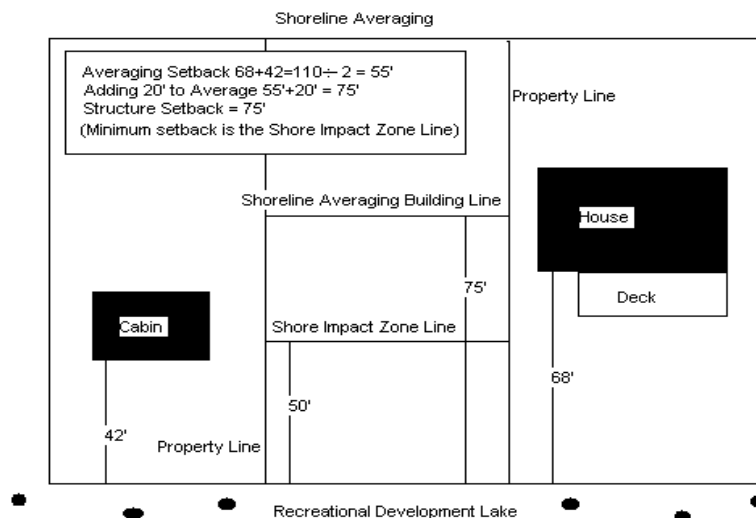
Use Type	Table 5-1 Land Use Districts																
	General Agriculture		Special Protection		Residential			High Density Residential		Water Oriented Commercial			Commercial			Industry	
	All Lakes Rivers	Non Shore land	All Lakes Rivers	Non Shore land	GD & RD Lakes	NE Lakes & Rivers	Non Shore land	All Lakes Rivers	Non Shore land	GD & RD Lakes Rivers	NE Lakes	Non Shore land	GD & RD Lakes Rivers	NE Lakes	Non Shore land	Mfg	Adm. & Whsg
F. Essential Services and Towers																	
Essential services ⁵ - Water supply buildings, reservoirs, elevated tanks, sewage treatment facilities, gas regulator stations, electric substations, microwave relay towers, radio or television transmission towers and stations and service buildings, or transmission lines over 100,000 volts	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P
Essential services – all others	P	P	P	P	P	P	P	P	P	P	P		P	P	P	P	P
Tower facilities	N	C	N	C	N	N	C	N	C	N	N	C	N	N	C		
G. Other Uses																	
Mass gathering	C	C											C	C	C	C	C
Storage Structure	P	P	C	C	P	P	P	C	C	P	P	P	P	P	P	P	P

⁵ Essential services of this type must not be located closer than fifty feet (50') to any agricultural or residential lot line.

Section 2 Height, Yard, Setback, Area and Lot Width and Depth Requirements

The following provisions regarding height, yard, setback, area, lot width and lot depth shall be met for structures, buildings, and individual subsurface sewage treatment systems in Becker County.

- A. **Multiple setbacks.** If more than one setback applies to a site all setbacks shall be observed.
- B. **Lot width measurement.** Lot width standards shall be met at both the ordinary high-water level and at the building setback line.
- C. **Setback averaging.** Setback averaging is the horizontal distance of a proposed structure obtained by adding the horizontal distance, as measured from the ordinary high-water mark of the lake, of the like structures on the adjacent lots and dividing that sum by two (2).
 1. If structures exist on the adjoining lots on both sides of a proposed building site, the required setbacks shall be that of the average horizontal distance of the like structures plus twenty (20) feet, not to exceed the required lake setback (Example: deck to deck, house to house).
 2. If a building on one side of a lot does not comply with the setback requirements of this ordinance and if the lot on the other side is vacant, or if the structure on the lot exceeds the required setback, the setback for the lot shall be equal to one half (1/2) the sum of the horizontal distance as measured from the ordinary high water mark of the lake to the like structure and the setback required by this ordinance plus twenty (20) feet, not to exceed the required lake setback.
 3. Notwithstanding the above, a building site shall not be located in whole or in part within a shore impact zone or a bluff impact zone.
 4. Whenever the setback averaging method is allowed to establish a lakeside structure setback and the property is a substandard size property, as provided for in subsections C.1 and C.2, above, the deficiency area between the setback determined by the setback averaging and the setback required by this Ordinance must be mitigated by the installation of a shoreline vegetative buffer. The criteria and provisions for the shoreline vegetative buffer contained in Chapter 3, Section 11, Mitigation Requirements for Nonconformities in Shoreland Areas, are applicable.
 5. If a dwelling unit is used for the lakeshore averaging, the dwelling must be of average livable condition.
 6. Adjacent like structures used for the setback averaging must be located within the width and area of a standard size lot.



- D. **Structure and sewage treatment system setbacks in shoreland areas.** In addition to all other setback requirements, structures and sewage treatment systems shall be setback a minimum of the following distances from the ordinary high water level in shoreland areas. Setbacks are indicated in feet.

Table 5-2 Minimum setbacks for structures and sewage treatment systems in shoreland areas

	Public Water Classification – See Appendix A						
	Lakes			Rivers and Streams			
	Natural Environment	Recreational Development	General Development	Remote	Forested & Transition	Agriculture & Tributary	Protected Waters
Structure setback lake lots	150	100	75	200	150	100	50
Sewage treatment system setback	150	75	50	150	100	75	50

- E. **Protected Waters.** Protected waters that are not currently classified as natural environment lakes shall have a fifty (50) foot buffer of natural vegetation between the protected water and any structure, septic system, or use.
- F. **Bluff impact zones.** Structures and accessory facilities, except stairways and landings, shall not be placed within bluff impact zones.
- G. **Bluff, cemetery, historic site setbacks.** In shoreland areas, the following additional structure setbacks apply, regardless of the classification of the waterbody:

Table 5-3 Minimum setbacks for bluffs, cemeteries, and historic sites in shoreland areas

Setback from	Setback
Top of bluff	30 feet
Unplatted cemetery	50 feet
Significant historic site	50 feet

- H. **Setbacks for commercial uses without water-oriented needs.** A commercial use that has no need to be located on the water but is located on a lot or parcel with public water frontage, shall either:
1. **Double setback.** Be set back double the normal ordinary high water level setback or;
 2. **Screening.** Be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.
- I. **Docks and piers.** Docks and piers shall be exempt from the setbacks for shoreland areas except that any projection into the water shall maintain a minimum side yard setback equal to that required in the applicable zoning district and shall be parallel with an extension into the water of the side yard lot line.
- J. **Residential planned unit developments.** Residential subdivisions with lot sizes smaller than or dwelling unit densities exceeding those in Table 5-5, below, shall be designed and approved as a Conservation Subdivision Development under Chapter 8, Section 7.

1. **Limit on multi-family development.** No more than twenty-five percent (25%) of a lake's shoreline can be in duplex, triplex, or quad developments.
- K. **Additional setbacks requirements for specific uses.** The following setbacks are required for the specified uses.
1. Churches shall not be located closer than fifty feet (50') to any lot line of an adjoining parcel that is used for agricultural or residential use.
 2. Essential services shall not be located closer than fifty feet (50') to any lot line of an adjoining parcel that is used for agricultural or residential use.
 3. Schools shall not be located closer than fifty feet (50') to any lot line of an adjoining parcel that is used for agricultural or residential use.
 4. A twin home shall be exempt from the side yard requirements of this Ordinance on the common boundary between the dwellings.
- L. **Nonconforming Deck Additions.** A deck addition not meeting the required setback from the ordinary high water level may be allowed without a variance if all of the following criteria and standards are met:
1. The structure existed on the date the Becker County Zoning Ordinance shoreland 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 twelve (12) feet of the current structure setback or required setback for new construction.
 4. The deck is no more than 240 square feet in size.
 5. The deck addition cannot extend into the shore impact zone.
 6. The deck is constructed in a pervious manner, and is not roofed, enclosed or screened; and
 7. Notwithstanding any existing impervious areas below a second story deck, the ground underneath a deck must remain pervious.
- M. **Guest cottages.** One guest cottage may be located on a lot, which meets or exceeds the duplex lot area and width dimensions presented in Table 5-5, below, provided the following standards are met:
1. **Cottage located with smallest duplex building envelope possible.** If the lot exceeds the minimum lot dimensions for duplex lot, the guest cottage shall be located within the smallest duplex-sized lot that could be created including the principal dwelling unit;
 2. **Size and height limits.** A guest cottage shall not cover more than seven hundred (700) square feet of land surface and shall not exceed fifteen feet (15') in height; and
 3. **Screening.** A guest cottage shall be located or designed to reduce its visibility from public waters and adjacent shorelands by use of vegetation, topography, increased setbacks, or color, assuming summer leaf-on conditions.
 4. **Storage structures are not a guest cabin.** A storage structure, such as a garage, shall not be used as a guest cabin capable of providing independent human habitation.
- N. **Temporary guest cottage.** One (1) recreational vehicle may be occupied temporarily as a guest cottage on a lot, which meets or exceeds single lot area and width dimensions if occupied for less than seven (7) days in any thirty (30) day period. A recreational vehicle occupied as a guest cottage shall meet all setback requirements.

- O. **Number of stories.** Table 5-4 establishes the maximum number of stories allowed by district. If the average slope of a lot is greater than one (1) foot rise or fall in seven feet (7') of horizontal distance from the established street elevation at the property line, one (1) story in addition to the number permitted in the district in which the lot is situated shall be permitted on the downhill side of any building.
- P. **Double frontage lots.** On double frontage lots, the required front yard setback shall be provided on both streets.
- Q. **Table 5-4,** on the following page, establishes the minimum height, yard, setback, area, lot width and lot depth requirements for the land use districts.
- R. **Front yard setback averaging.** Is the horizontal distance of a proposed structure obtained by adding the horizontal distances, as measured from the right-of-way or centerline of a public road, of the structures on the adjacent lots and dividing that sum by (2). If either adjacent lot is vacant then the standard setback shall apply to the average calculation. The average shall not exceed the appropriate measurement required by table 5-4 and in no case may a structure be placed in the right-of-way.
- S. **Table 5-5,** establishes the minimum lot area and lot width requirements for shoreland areas in any land use district.
1. Riparian lots are any lot with shoreline.
 2. Non-riparian lots are lots within shoreland areas with no shoreline.

Table 5-4: Height, yard, setback, area, lot width and lot depth requirements for land use districts

Minimum Requirements	Land Use District						
	General Agriculture	Special Protection	Residential	High Density Residential	Water Oriented Commercial	Commercial	Industry
Minimum lot area (in acres or square feet)							
On-lot sewer and water	2.5 acres	5 acres	1 acre	1/2 acre	3 acres	1 acre	1 acre
Public or community sewer and water	NA	NA	10,000 sq. ft.	10,000 sq. ft.	3 acres	1 acre	30,000 sq. ft.
Minimum side yard ⁶ setback	10	20	10	10	15/30 ⁷	15/30 ⁷	15/50 ⁸
Minimum Buildable Area	8500n sq. ft.	8500 sq. ft.	8500 sq. ft.	8500 sq. ft.	8500 sq. ft.	8500 sq. ft.	8500 sq. ft.

⁶ A twin home is exempt from the side yard requirements on the common boundary.

⁷ Minimum side yard setbacks is 15 feet when adjacent property is the same district but 30 feet when adjacent property is a different district.

⁸ Minimum side yard setbacks is 15 feet when adjacent property is the same district but 50 feet when adjacent property is a different district.

Minimum rear yard setbacks (in feet)	40/20 ¹⁵	40/20 ¹⁵	40/20 ¹⁵	40/20 ¹⁵	50	40/20 ¹⁵	NA/50
Maximum building height (stories/feet)	2.5/30	2.5/35	2.5/30	2.5/30	45	45	45
Maximum impervious surface coverage for Land Use Districts	Land Use District						
	General Agriculture	Special Protection	Residential	High Density Residential	Water Oriented Commercial	Commercial	Industry
Maximum floor area coverage	NA	NA	NA	35%	35%	40%	50%
Maximum impervious surface coverage in the shoreland	25%	20%	25%	25%	25%	%	%
Maximum impervious surface coverage outside the shoreland	50%/65%*	20%	40%	65%	NA	65%/75%*	65%/75%*

*Building area may not exceed the first percentage listed in the table and all other impervious surfaces may not exceed the second number listed.

Table 5-4.5 Minimum Front yard setbacks for shoreland and non-shoreland areas in any land use district.

Minimum Requirements	All Measurements are From the Right-of-Way	
	Shoreland	Non-Shoreland
Township	20/45 ¹⁶	20 ¹⁷ /30
County Road	45	30
U.S. and State Highways	50	30
Expressways & 4-Lane Highways	50	30

¹⁵ Setback for primary structure is 40 feet and setback for a detached storage structure is 20 feet.

¹⁶ For primary structures on non-riparian lots.

¹⁷ For detached storage structures.

Table 5-5: Minimum lot area and minimum width standards for shoreland areas in any land use district

Minimum area in square feet and minimum lot width in feet

Minimum lot area and minimum lot width standards for Lakes - Lake lots	Lake Classification – See Appendix A									
	RD Recreational Development					GD General Development				
	Riparian lots		Non-riparian lots behind conforming riparian lots			Riparian lots		Non-riparian lots behind conforming riparian lots		
	Area	Width	Area	Width	Area	Width	Area	Width	Area	Width
Single	40,000	150	40,000	150	20,000	100	40,000	150		
Duplex	80,000	225	80,000	265	40,000	180	80,000	265		
Special Protection	100,000	250	100,000	250	100,000	250	100,000	250		
Minimum lot area and minimum lot width standards for Lakes - Lake lots	Lake Classification – See Appendix A									
	RD Recreational Development					GD General Development				
	Riparian lots		Non-riparian lots behind nonconforming riparian lots			Riparian lots		Non-riparian lots behind nonconforming riparian lots		
	Area	Width	Area	Width	Area	Width	Area	Width	Area	Width
Single	40,000	150	60,000	225	20,000	100	40,000	150		
Duplex	80,000	225	80,000	265	40,000	180	80,000	265		
Special Protection	100,000	250	100,000	250	100,000	250	100,000	250		
Minimum lot area and minimum lot width standards for Lakes – Lake lots	Lake Classification – See Appendix A									
	NE Natural Environment Lakes									
	Riparian lots				Non-riparian lots 400 ft and greater from OHW					
	Area		Width		Area		Width			
Protection Tier 1	100,000		250		2.5 acres		200			
Protection Tier 2	120,000		300		2.5 acres		200			
Protection Tier 3	140,000		350		2.5 acres		200			
Minimum lot area and minimum lot width standards for Rivers and Streams	River or Stream Classification – See Appendix A									
	Remote River		Forested River		Transition River		Agriculture River		Tributary River	
	Area	Width	Area	Width	Area	Width	Area	Width	Area	Width
	Single	80,000	300	80,000	200	40,000	250	40,000	150	40,000
Duplex	80,000	450	80,000	300	40,000	375	40,000	225	40,000	150

Natural environment lots subdivided prior to 2016 shall be deemed conforming lots with verification of a dated survey.

CHAPTER 6 ADDITIONAL STANDARDS APPLYING TO SHORELAND AREAS AND PUBLIC WATERS

Section 1 Intent

The intent of this Chapter is to establish controls over lakeshore, river, and stream development independent of the other provisions in this Ordinance. The standards in this section shall apply to all shoreland areas within the County and shall supersede the requirements of the rest of this Ordinance. Other provisions of this Ordinance shall apply to shoreland areas in addition to provisions in this Chapter.

Section 2 Floodplain Requirements

Structures shall be placed according to any floodplain regulations applicable to the site. If these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:

- A. **For lakes.** The elevation for structures near lakes shall be achieved by placing the lowest floor at a level above the highest known water level, or three feet (3') above the ordinary high water level, whichever is higher. The high water level has been established for some lakes in Becker County.
- B. **For rivers and streams.** The elevation for structures near rivers and streams shall be achieved by placing the lowest floor at least three feet (3') above the flood of record if data is available. If data is not available, by placing the lowest floor at least three feet (3') above the ordinary high water level, or by conducting a technical evaluation to determine effects of the proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with Minnesota Rules parts 6120.5000 to 6120.6200 governing the management of flood plain areas. If more than one approach is used, the highest flood protection elevation determined shall be used for placing structures and other facilities.
- C. **Exception for accessory structures.** Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this Section if the structure is constructed of flood-resistant materials to the elevation required for structures in A and B, 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.

Section 3 Water-Oriented Accessory Structures

- A. **When allowed.** A lot may have one (1) water-oriented accessory structure not meeting the normal structure setback in Chapter 5, Section 2, Table 5-2 of this Ordinance if the following design requirements are met.
- B. **Design requirements.** The water oriented accessory structure shall comply with the following provisions:
 - 1. **Height and size.** The structure exclusive of safety rails, must not exceed in height the elevation of the lot measured at the building setback line from the ordinary high water level, must not be more than twelve feet (12') above grade in height and cannot occupy an area greater than one hundred twenty (120) square feet. The elevation of the lot must be measured perpendicular to the location of the structure. Detached decks must not exceed eight feet (8') above grade at any point and must be pervious;

2. **Setback.** The structure must be placed at the toe of a steep slope or bluff, but no closer than ten (10) feet from the ordinary high water level or ice ridge, whichever is greater. On lots where the elevation permits a water oriented structure but the elevation is not a steep slope or bluff, the minimum setback shall be twenty (20) feet from the ordinary high water level or the ice ridge, whichever is greater;
3. **Visibility.** The structure shall 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. **Roof.** The roof may be used as a deck with safety rails not exceeding three feet (3'), but shall not be enclosed or used as a storage area;
5. **Not for habitation.** The structure shall not be designed or used for human habitation and shall not contain a potable water supply or sewage disposal facilities.
6. **Location.** The structure shall be placed within the center one-third (1/3) of the lot unless a steep slope or bluff interferes with the placement of the structure, then the structure may be placed in the most suitable location on the lot meeting the side yard setbacks.

Section 4 Stairways, Lifts, and Landings

Stairways and lifts are the preferred alternative to land alterations for achieving access up and down bluffs and steep slopes to the lakeshore. Stairways and lifts shall meet the following design requirements:

- A. **Maximum width.** Stairways and lifts shall not exceed four feet (4') in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments;
- B. **Landings.** Landings for stairways and lifts on residential lots shall 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. A landing at the bottom of a steep slope or bluff may have an area up to forty-eight (48) square feet if the staircase exceeds ten feet (10) in height;
- C. **Canopies and roofs.** Canopies or roofs are not allowed on stairways, lifts, or landings;
- D. **Construction must limit disturbance.** Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion, limits vegetation and soil disturbance and prevents increased water runoff to the water body;
- E. **Visibility.** Stairways, lifts, and landings shall be located, whenever practical, in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
- F. **Facilities for the disabled.** Facilities such as ramps, lifts, or paths for physically handicapped persons are allowed for access to shore areas.

Section 5 Steep Slopes

The Zoning Administrator shall evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of driveways, structures, or other improvements on steep slopes. When determined necessary, conditions shall 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.

Section 6 Fertilizer and Pesticide Use

Use of fertilizers and pesticides in all districts shall minimize runoff into public waters by use of earth, vegetation, or both. Fertilizer containing phosphorus may not be applied in shore impact zones, in bluff impact zones or on steep slopes.

Section 7 Vegetation Alterations

The removal and alteration of vegetation on lots or parcels in shoreland areas is allowed subject to the standards in this Section.

- A. **Exemptions.** Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads, driveways and parking areas regulated by Chapter 6, Section 9; agricultural uses as regulated by Chapter 6, Section 12; and forest management as regulated by Chapter 6, Section 13; are exempt from the vegetation alteration standards in this Section.
- B. **Shore impact zone.** Removal of trees more than two inches (2") in diameter at the height of four feet (4') from the ground is not allowed within a shore impact zone except during construction pursuant to a building permit for a Water Oriented Structure. Removal of other natural vegetation within a shore impact zone is allowed only if it is done in a manner that will prevent increased erosion.
- C. **Bluff impact zone and steep slopes.** Removal of natural vegetation within bluff impact zones and on steep slopes that drain toward a lake or river is not allowed.
- D. **Forest land conversion.** Removal of natural vegetation for forest land conversion to another use outside the shore or bluff impact zones or steep slopes is allowable as a conditional use if forestry best management practices are followed as established by the Minnesota Department of Natural Resources and an erosion control and sedimentation plan is developed and approved by the Becker County Soil and Water Conservation District.
- E. **Creation of view area.** In shore and bluff impact zones and on steep slopes, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and for access paths, provided that:
 - 1. **Best management practices used.** Pruning and trimming procedures follow best management practices recommended by the Minnesota Extension Service;
 - 2. **Screening.** The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced; and
 - 3. **Shading of water.** Existing shading of water surfaces is preserved.
- F. **Safety hazards.** The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.
- G. **Access path.** One access path is allowed from the residence to the shore provided that it is no wider than ten feet (10') and does not promote erosion or drainage to the water body.

Section 8 Retaining Walls

A. **Pre-application Meeting.** In order to avoid costly revisions of retaining wall plans, the property owner and/or contractor may have a preliminary on-site meeting with the Environmental Review Technical Panel. The preliminary meeting is to insure that the applicant is informed of the procedural requirements or limitations imposed by the ordinances. The property owner and/or contractor may present a conceptual plan to the Zoning Office to have a meeting scheduled with the Environmental Review Technical Panel.

B. Conditional Use Permit. A conditional use permit is required to place a retaining wall structure in a shore impact zone or a bluff impact zone or replace an existing failing retaining wall and will not be issued unless;

1. The retaining wall is designed to correct an established shoreland erosion problem;
2. The retaining wall is suitable given the demonstrated shoreland usage needs;
3. The retaining wall may be required to be designed by a registered professional engineer or landscape architect, depending on the scope of the project; and
4. The dimensions of the retaining wall are the minimum necessary to control the shoreland erosion problem.

Retaining walls located in the Pelican River Watershed District or Cormorant Lakes Watershed District do not require a permit from Becker County and will be reviewed and considered by the Watershed District in which it is located.

Section 9 Placement and Design of Roads, Driveways, and Parking Areas

The following design standards shall be met in the placement and design of roads, driveways, and parking areas in shoreland areas.

- A. **Maximum screening.** Roads, driveways, and parking areas shall be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters.
- B. **Minimize erosion.** Roads, driveways, and parking areas shall be designed and constructed to minimize and control erosion consistent with the field office technical guides of the Becker County Soil and Water Conservation District, or other applicable technical materials.
- C. **Location.** Roads, driveways, and parking areas shall meet structure setbacks and shall not be placed within bluff and shore impact zones when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas but they shall be designed to minimize adverse impacts.
- D. **Watercraft access.** Public and commercial 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 Section are met. Commercial facilities shall comply with the topographical change provisions of Chapter 8, Section 14, Land Alteration Permit.

Section 10 Storm Water Management Standards

Development activities in shoreland areas shall conform to the following stormwater management standards.

- A. **Use of existing natural features preferred.** Existing natural drainageways, wetlands, and vegetated soil surfaces shall be used to convey, store, filter, and retain stormwater runoff before discharge to public waters, if possible.
- B. **Performance standards.** Development shall 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 shall be stabilized and protected as soon as possible and sediment shall be retained on the site.
- C. **Standards for constructed facilities.** When development density, topographic features, and soil and vegetation conditions are not sufficient to handle stormwater runoff adequately using natural features

and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used.

1. Preference shall be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.
2. When constructed facilities are used for stormwater management, the application for a building permit shall contain a certification by a registered professional engineer that they will be designed and installed consistent with the field office technical guide of the Becker Soil and Water Conservation District.
3. New constructed stormwater outfalls to public waters shall provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

D. Impervious Surface Coverage for Zoning Districts. Impervious surface coverage of lots shall conform to the following limits:

1. Impervious surface coverage shall not exceed twenty-five percent (25%) of the lot area for lots in residential, agricultural, high density and water oriented commercial districts.
2. Impervious surface coverage shall not exceed thirty percent (30%) of the lot area for lots in commercial districts.
3. Impervious surface coverage shall not exceed thirty-five percent (35%) of the lot area for lots in industry districts.
4. Impervious surface coverage shall not exceed twenty percent (20%) of the lot area for lots in special protection districts.
5. If a lot is segregated by a public easement road, the lot area on one side of the public easement road shall not be used to calculate the amount of impervious lot coverage on the opposite side of the public easement road.

E. Impervious Surface Coverage for Riparian Shoreland Lots:

1. A protective zone shall be established on each lot. The protective zone will be calculated by using the total lot area within 150 feet of the lake.
2. Impervious surface coverage may not exceed fifteen percent (15%) of the protection zone area without mitigation as outlined in Chapter 3 Section 11 of this ordinance.
3. Impervious surface coverage exceeding fifteen percent (15%) of the protection zone area without mitigation as outlined in Chapter 3 Section 11 must be located outside the protection zone area.
4. Notwithstanding the above, impervious surface coverage for a shoreland lot shall not exceed twenty-five (25%) percent.
5. If a lot is segregated by a public easement road, the lot area on one side of the public easement road shall not be used to calculate the amount of impervious lot coverage on the opposite side of the public easement road.

Section 11 Standards for Commercial, Industrial, Public, and Semipublic Uses

Surface water-oriented commercial uses and industrial, public, or semipublic 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 shall meet the following standards:

- A. **Screening of parking.** In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this Ordinance, the uses shall be designed to incorporate topographic and vegetative screening of parking areas and structures;
- B. **Watercraft facility design.** Uses that require short-term watercraft mooring for patrons shall centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and
- C. **Signs and lighting standards.** Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:
 - 1. No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff;
 - 2. 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 shall only convey the location and name of the establishment and the general types of goods or services available. The signs shall not contain other detailed information such as product brands and prices, shall not be located higher than ten feet (10') above the ground, and shall not exceed thirty-two (32) square feet in size. If illuminated by artificial lights, the lights shall be shielded or directed to prevent illumination out across public waters; and
 - 3. 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.

Section 12 Agricultural Use Standards

Agricultural uses in shoreland areas shall conform to the following standards.

- A. **Steep slopes, shore, and bluff impact zones.** Where general cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are allowed steep slopes and shore and bluff impact zones shall be maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the Becker County Soil and Water Conservation District or the United States Soil Conservation Service, as provided by a qualified individual or agency.
- B. **Feedlots.** Animal feedlots shall meet the following standards:
 - 1. New feedlots with less than 1,500 animal units shall not be located in the shore impact zone of watercourses or in bluff impact zones and shall be at least three hundred feet (300') from the ordinary high-water level of all public waters' basins. New feedlots with more than 1,500 animal units shall not be located in the shore impact zone of watercourses or in bluff impact zones and shall be at least five hundred (500) feet from the ordinary high-water level of all public waters' basins.
 - 2. Modifications may be made to existing feedlots that are located within three hundred feet (300') of the ordinary high-water level or within a bluff impact zone if the modifications do not extend the feedlot closer to the ordinary high water level setback or further into the bluff impact zone.
 - 3. A certificate of compliance, interim permit, or animal feedlot permit, when required by Minnesota Regulations, parts 7020.0100 to 7020.1900, shall be obtained by the owner or operator of an animal feedlot.

4. Water Well Monitoring. New feedlots as of January 1st, 2025, with over 1500 animal units shall be required to submit an annual well water sample to Becker County. A baseline for monitoring shall be established when operations of the feedlot begin. The monitoring well shall be classified as a deep well and located between 50 feet and 200 feet from the feedlot. The sample shall be analyzed by the Department of Agriculture, MPCA, Becker Soil & Water and the DNR. If any contaminants meet the threshold of concern, the group shall make a recommendation to the Becker County Board of Commissioners on how to alleviate the concerns.
5. Manure Management. New feedlots as of January 1st, 2025, are recommended to utilize manure management guidelines from the University of Minnesota for best management practices.
6. Road agreement should be considered for new feedlots established after January 1st, 2025, if located on a Township Road.

Section 13 Forest Management Standards

The harvesting of timber and associated reforestation within shoreland areas, but outside shore impact zones, shall be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment-Forestry and the provisions of Water Quality in Forest Management "Best Management Practices in Minnesota." Within shore impact zones, these activities require a conditional use permit.

Section 14 Alterations within Public Waters

Any alteration to the bed of public waters, including construction of channels, ditches, lagoons dredging of bottom, muck or weeds or filling in a lake or riverbed, including marshlands shall receive approval by the State Commissioner of Natural Resources, the County Planning Commission and Board of County Commissioners before the start of operations

CHAPTER 7 ADDITIONAL REQUIREMENTS APPLYING TO SPECIFIC LAND USES

Section 1 Intent

The standards in this Chapter are established to provide supplemental regulations to address the unique characteristics of certain land uses.

Section 2 Applicability

The standards in this Chapter apply to specific land uses within any zoning districts in which they are allowed, whether the uses are permitted or conditional. The standards in this chapter shall apply in addition to the general criteria for conditional uses in Chapter 8, Section 11, and all other applicable regulations.

Section 3 Adult Uses and Sexually Oriented Businesses

A. **Purposes.** In the development and adoption of the provisions in this Ordinance regulating adult use and sexually oriented businesses in Becker County, it is recognized that:

1. **Community impacts.** Adult uses and sexually oriented businesses have an impact on the community including:
 - a. There are some adult business uses, which have serious objectionable operational characteristics, particularly when located in close proximity to residential neighborhoods.
 - b. These business uses have a deleterious impact upon property values.
 - c. These business uses frequently become places of criminality.
2. **Protection of youth.** It is the further purpose of this ordinance to protect the wellbeing of the youth of the community from objectionable operational characteristics of these uses by regulating and restricting their close proximity to established facilities such as, but not limited to, churches, parks, schools, and residential areas.
3. **Criminal behavior.** It is the belief of the County that, just as advertising is designed to stimulate one's appetite for desired goods and services, an overabundance or preoccupation with sexual displays or materials arouses the appetites of those so preoccupied and encourages criminal sexual behavior.
4. **Balancing of legitimate interests.** In recognition of the protections afforded to the citizens of the United States under the First and Fourteenth Amendments to the Constitution of the United States, it is neither the intent nor effect of this ordinance to inhibit the freedom of speech or the press. The provisions herein have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by distributors and exhibitors of sexually oriented entertainment to their intended market. This ordinance represents a balancing of the legitimate ends of the County by imposing an incidental, content-neutral place, time, and manner of regulation of sexually oriented entertainment to sexually oriented businesses without limiting alternative avenues of communication, and at the same time, requiring the business to carry its financial share of law enforcement activities. The special

regulations deemed necessary to control the undesirable effects arising from these enterprises are set forth in this ordinance.

B. Findings. The Becker County Board of Commissioners makes the following findings about the effect adult uses and sexually oriented businesses have on the character of the County's neighborhoods. In making the findings, the County Commissioners accept the recommendations of staff that have studied the experiences of other areas about such businesses: City of St. Cloud, MN, the Minnesota Attorney General, the City of Los Angeles, CA, the City of St. Paul, MN, the City of Austin, TX, Adams County, CO, St. Croix County, WI, the City of New York, NY, and various other cities throughout the country that have studied the impact of adult uses and sexually oriented businesses. These studies have concluded that adult uses and sexually oriented businesses have adverse impacts on the surrounding neighborhoods. Based on these studies, the County Commissioners conclude:

1. **Burden on law enforcement.** Adult uses and sexually oriented businesses can contribute to an increase in crime in the area where such businesses are located. This can be a burden to the County crime prevention programs and law enforcement services.
2. **Effect on residential neighborhoods.** Adult uses and sexually oriented businesses can significantly contribute to the deterioration of the residential neighborhoods and can increase neighborhood blight. These businesses also can impair the character and quality of the residential housing in the area where such businesses are located. This situation can lessen the amount of desirable housing for residents.
3. **Effect of concentration.** The concentration of adult uses and sexually oriented businesses in one area can greatly affect the area where such businesses are concentrated and on the quality of life. A cycle of decay can result from the influx and concentration of adult uses and sexually oriented businesses. Others may perceive the presence of such businesses as an indication that the area is deteriorating and the results can be devastating. That is, other businesses move out of the vicinity and residents flee from the area. Lower property values that can result from the concentration of such businesses erode the County's tax base and contribute to the blight.
4. **Secondary impacts.** Adult uses and sexually oriented businesses have adverse secondary impacts of the type discussed above.
5. **Protection of health, safety, and general welfare.** It is necessary to provide for the special and express regulations of businesses, establishments or commercial enterprises that operate as adult body painting, adult studios, adult bookstores, adult cabarets, adult car washes, adult companionship establishments, adult hotels or motels, adult massage parlors or health clubs, adult motion picture arcades or theaters, adult modeling studios, adult novelty businesses, adult saunas, and similar adult oriented services operating under various names to protect the public health, safety and welfare, and to guard against inception and transmission of disease.
6. **Inspection, permitting and regulation necessary.** The commercial enterprises such as the types described in paragraph 5 above and all other similar establishments whose services include sessions offered to adults conducted in private by members of the same or opposite sex, and the employing of personnel with no specialized training are susceptible to operations, contravening, subverting, or endangering with the morals of the County by being the site of acts of prostitution, illicit sex, and occasions of violent crimes, thus requiring close inspection, permitting and regulations.
7. **Demand on public services.** Control and regulation of commercial establishments of these types, in view of the abuses often perpetrated, require intensive efforts by the Sheriff's department and other departments of the County. It is necessary for the County to provide services to all Becker County without concentrating the public services in one area. The concentrated use of County services detracts from and reduces the level of services available to

the rest of Becker County. Thus, these types of establishments can diminish the ability of the County to protect and promote the general health, welfare, morals, and safety of the citizens of Becker County.

- C. **Intent of regulations.** The County Board of Commissioners adopts the following land use and permitting regulations, recognizing that it has an interest in the present and future character of the County's residential and commercial neighborhoods. These regulations are to lessen the detrimental and adverse effects adult uses and sexually oriented businesses have on adjacent land uses and protect and promote the health, safety and welfare of the resident of Becker County.
- D. **License Required.** No person, firm or corporation shall own or operate an adult use or sexually oriented business in Becker County without having first secured a license as provided herein. The license shall be one of two types.
1. Adult use principal; or
 2. Adult use accessory.
- E. **Application requirements.** The County shall provide an application for an adult use or sexually oriented business license.
1. **Information required.** This application shall include the following information:
 - a. **Applicant/owner information.** The legal and full name, residence, phone number and birth date of the applicant, if an individual; and, if a corporation, partnership, LLC, or similar entity, the legal full names, residences, phone numbers, and birth dates of those owners holding more than five percent (5%) of the issued and outstanding stock of the corporation or ownership interest in a partnership, LLC, or similar entity.
 - b. **Operator information.** The legal full name, address, phone number and birth date of the operator and manager of such operation, if different from the owners.
 - c. **Location.** The address and legal description of the building, establishment, or premises where the adult use or sexually oriented business is to be located.
 - d. **Prior convictions and licenses.** A statement detailing each gross misdemeanor or felony of which the applicant or, for a corporation, the owners holding more than five percent (5%) of the issued and outstanding stock of the corporation or ownership interest in a partnership, LLC, or similar entity, have been convicted, and whether the applicant has ever applied for or held a license to operate a similar type of business in other counties or cities.
 - e. **Activities.** The activities and type of business to be conducted.
 - f. **Hours.** The hours of operation.
 - g. **Access restrictions.** The provisions made to restrict access to minors.
 - h. **Building and operations plan.** A building plan of the premises detailing internal operations and activities.
 - i. **Remodeling.** A description or building plan that details all proposed interior and exterior changes to an existing building or structure.
 - j. **Boundaries and location of structures.** A scaled drawing defining property boundaries and distances to structures and sewage treatment systems.
 - k. **True information/Change of information.** Each application shall contain a provision on the application in bold print stating that withholding of information or the providing of false or misleading information will be grounds for the denial or revocation of a license. Any changes in the information provided on the application or provided during the investigation shall be provided to the Zoning Administrator in writing, and the Zoning Administrator shall

report the changes to the County Board of Commissioners. Failure to report such changes by the applicant(s) or the licensee may result in the denial or revocation of a license.

2. **Fees.** Each application for a license shall be accompanied by a fee, as set by the resolution of the County Board of Commissioners, for payment in full of the required application and investigative fees for the license as established. All fees shall be paid at time of application.
 - a. **Expiration date/Proration of fees.** All licenses shall expire on the last day of December in each year. The County shall issue each license for one (1) year, except if part of the license year has elapsed when the application is made the County may issue a license for the remainder of the year for a prorated fee. In computing such fee, the County shall count any unexpired fraction of a month as one (1) month.
 - b. **Late fees.** License fees shall be considered past due as of January 1 if not paid. Late fees will be assessed on all past due license applications.
 - c. **County Board sets fees.** The annual fee, investigative fee, and late fees for the adult use or sexually oriented business license shall be established by resolution of the County Board of Commissioners.
 - d. **Refunds prohibited.** No part of any annual fee, investigative fee and late fee as required by this ordinance shall be refunded.
- F. **Process for granting of license.** The County shall investigate all facts set out in the application. After the County finishes the investigation, the County shall grant approval of the application if all requirements of this Ordinance are met.
- G. **Restrictions on issuance of license.** The following restrictions shall be placed on the granting of an adult use or sexually oriented business license.
 1. **Licensee non-transferable.** The County shall only issue the license to the applicant. The license shall not be transferred to another holder.
 2. **Location non-transferable.** The County shall only issue each license for the premises or location described in the application. No license may be transferred to another location or place without the approval of the County Board of Commissioners.
- H. **Applicants ineligible for license.** The County shall not grant a license to nor may one be held by any person who:
 1. Is under twenty-one (21) years of age;
 2. Has been convicted of a felony;
 3. Is not the proprietor of the establishment for which the license is issued;
 4. Has not paid the license and investigative fees required by the Ordinance;
 5. Is not a citizen of the United States; or
 6. Has had an adult use or similar permit or license revoked under any Ordinance or statute similar to this Ordinance.
 7. No license shall be granted for adult uses or sexually oriented businesses if a licensee has been convicted of a violation of this Ordinance, or where any license hereunder has been revoked for cause, until one (1) year has elapsed after such conviction or revocation.
 8. Except for uses lawfully existing at the time of this Ordinance, no license shall be granted for any adult use or sexually oriented business where the premises do not meet all County Ordinance requirements, all building and fire codes requirements, and all provision of state and federal law.

I. **Conditions of license.** The following conditions shall be part of a license for an adult use or sexually oriented business and the conditions shall be met on a continuing basis.

1. **All licenses – principal and accessory.**

- a. **Other laws.** Every license shall be granted subject to the conditions in the following subdivisions and all other provisions of this Ordinance and any applicable county, state, and federal law. No adult use or sexually oriented business shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the adult use establishment that is prohibited by any ordinance of Becker County, the laws of the State of Minnesota or the United States of America. Nothing in this Ordinance shall be construed as authorizing or permitting conduct that is prohibited or regulated by other statutes or ordinances prohibiting the exhibition, sale, or distribution of obscene materials generally, or the exhibition, sale, or distribution of specified materials to minors.
- b. **Posting.** All licenses shall be posted in a conspicuous place.
- c. **Minors.** No minor shall be allowed in or on the premises of an adult use or sexually oriented business. No adult goods, materials or services shall be offered, sold, transferred, conveyed, given, displayed, or bartered to any minor.
- d. **Right of entry and inspection.** Any designated inspection office or law enforcement officer of the County shall have the right to enter, inspect, and search the premises of a licensee during business hours to ensure compliance with age and liquor requirements.
- e. **Licensee responsible for compliance.** Every licensee shall be responsible for the conduct of their place of business and shall maintain conditions consistent with this Ordinance and the County Ordinance generally.
- f. **Separation distances from specific other uses.** No adult use or sexually oriented business shall be located closer than one thousand three hundred twenty feet (1320') from the property line of any residential structure, place of worship, school, public park, shoreland areas, open space, licensed child care or day care center in any city or county. Measurements shall be made in a straight horizontal line, without regard to city or county boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult use or sexually oriented business to the nearest building used as a residential structure, place of worship, school, public park, open space, licensed child care or day care center.
- g. **Number of uses per building limited.** The County prohibits any building owner or operator from having more than one (1) of the following uses, tenants or activities in the same building structure: Adult body painting studios, adult book stores, adult car washes, adult hotels or adult motels, adult motion pictures theaters, adult mini motion picture theaters, adult massage parlors, adult health/sport clubs, adult sauna/steam room/bathhouses, adult companionship establishments, adult rap/conversation parlors, adult novelty businesses, adult motion picture arcade, adult modeling studios, and other premises, enterprises or establishments, businesses or places open to some or all members of the public at or in which there is an emphasis on the presentation or display, depiction, or description of "specified sexual activities" or "specified anatomical areas" that the public can see.

2. **Special requirements for live adult entertainment.**

- a. **Performers.** All performers, dancers, and persons providing live entertainment distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas in the licensed facility or in areas adjoining the licensed facility where entertainment can be seen by patrons, customers, or spectators, shall:
 - (1) Provide social entertainment on a platform intended for that purpose which is raised at least two feet (2') from the level of the floor;

- (2) Provide said entertainment at a distance no closer than six feet (6') to any patron;
 - (3) Not fondle or caress any patron; and
 - (4) Not solicit any pay or gratuity from any patron.
- b. **Patrons.** No patron, customer or spectator of a licensed facility providing live entertainment distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas shall:
- (5) Fondle or caress any performer, dancer, or other person, providing live entertainment; or
 - (6) Pay or give any gratuity to any performer, dancer or other person providing live entertainment.
3. **Conditions of license – Adult use principal or sexually oriented business principal.** The County permits adult use principal and sexually oriented businesses principal subject to the following conditions:
- a. **Separation distances between adult uses.** No adult use principal or sexually oriented business principal shall be located closer than one thousand three hundred twenty feet (1320') from any other adult use principal or sexually oriented business principal. Measurements shall be made in a straight horizontal line, without regard to city or county boundaries, intervening structures, or objects, from the nearest point of the actual business premises of the adult use principal or sexually oriented business principal to the nearest point of the actual business premises of any other adult use principal or sexually oriented business principal.
 - b. **Liquor.** An adult use principal or sexually oriented business principal shall not sell or dispense intoxicating or non-intoxicating liquors, nor shall it be located within one thousand three hundred twenty feet (1320') of a building that contains a business that sells or dispenses intoxicating or non-intoxicating liquors. An adult use principal or sexually oriented business principal shall not allow the consumption of intoxicating liquor or non-intoxicating liquors anywhere on a premise containing that use or business.
 - c. **Off-site impacts.** No adult use principal or sexually oriented business principal shall be conducted in any manner that permits the perception or observation from any property not approved as an adult use of any materials depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” by any visual or auditory media including display, decoration, sign, show window, sound transmission or other means.
 - d. **Required sign.** All adult use principal and sexually oriented business principal shall prominently display a sign at the entrance and located within two feet (2') of the door opening device of the adult use establishment or section of the establishment devoted to adult books or materials which states: “This business sells or displays material containing adult themes. Persons under eighteen (18) years of age shall not enter”.
 - e. **Hours limited.** No adult use principal or sexually oriented business principal shall be open between the hours of 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between 1:00 a.m. and 12:00 p.m. (Noon) on Sunday.
4. **Conditions of license – Adult use accessory.** The County permits adult use accessory and sexually oriented businesses accessory subject to the following conditions:
- a. **Separation distances between adult uses.** No adult use accessory or sexually oriented business shall be located closer than one thousand three hundred twenty feet (1320') from any other adult use accessory or sexually oriented business. Measurements shall be made in a straight horizontal line, without regard to city or county boundaries, intervening structures, or objects, from the nearest point of the actual business premises of the adult use accessory or sexually oriented business.

J. Revocation, suspension, or non-renewal of license.

1. **Causes for revocation, suspension, or non-renewal.** The Zoning Administrator may revoke, suspend, or not renew a license upon recommendation of the assigned staff, MN Department of Health Official and/or Fire Marshal, or the County Sheriff that shows that the licensee, it's owners, managers, employees, agents, or any other interested parties have engaged in any of the following conduct:
 - a. Fraud, deception or misrepresentation in securing a license;
 - b. Habitual drunkenness or intemperance in use of controlled substance under Minnesota Statutes Chapter 152;
 - c. Engaging in conduct involving moral turpitude or permitting or allowing others within their employ or agency to engage in conduct involving moral turpitude or failing to prevent agents, officers, or employees in engaging in conduct involving moral turpitude;
 - d. Failure to follow any requirements of the Ordinances of Becker County regarding sanitary and safety conditions, zoning requirements, or ordinances, the violation of which involves moral turpitude, or failure to follow the requirements of this Ordinance;
 - e. Conviction of an offense involving moral turpitude;
 - f. Conviction of a felony.
2. **Appeal to County Board.** The license holder may appeal such suspension, revocation, or non-renewal to the County Board of Commissioners. The County Board of Commissioners shall consider the appeal at the regularly scheduled public hearing within thirty (30) days from the service of the notice of appeal to the Zoning Administrator.
 - a. At the conclusion of the hearing, the County Board of Commissioners may order:
 - (1) The revocation, suspension or non-renewal affirmed; or
 - (2) That the revocation, suspension, or non-renewal be lifted and that the license be returned to the certified holder.
 - b. The decision of the County Board of Commissioners is final.
 - c. An appeal must be accompanied by a letter of credit, cashiers check, or cash in the amount of one thousand dollars (\$1000). If the decision of the Zoning Administrator is upheld, the County is entitled to recover expenses and return any balance that may remain. If the decision is overturned, the full amount will be refunded to the license holder.

K. Sign restrictions. The following sign regulations shall apply to all adult uses or sexually oriented businesses in Becker County. These regulations are to protect children from exposure to sexually oriented or shocking signs and materials and to preserve the value of property near adult use and sexually oriented businesses. These regulations are in addition to any other provisions of the County's regulations.

1. All signs shall be flat wall or freestanding signs. No sign shall be located on the roof or contain any flashing or rotating lights, moving elements or electronically or mechanical changing messages.
2. The County's sign regulations in Chapter 7, Section 15 of this Ordinance, Becker County, Minnesota shall regulate the number, size, and location of signs allowed for an adult use or sexually oriented businesses.
3. No merchandise, photos, or pictures of any products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk or public

right of way adjoining the building or structure in which the adult use or sexually oriented business is located.

4. No signs shall be placed in any window.
5. A two (2) foot square sign may be placed on the door to state hours of operation and admittance to adults only.

Section 4 Commercial and Industrial Performance Standards

- A. **Intent.** This Section is enacted to provide that commercial and industrial uses of land and buildings shall be maintained with proper appearance from streets and adjoining properties and to provide that each permitted use shall be a good neighbor to adjoining properties.
- B. **Performance standards.** Commercial and industrial uses shall meet the following performance standards.
 1. **Landscaping.** All required yards shall either be open landscaped and green areas or be left in a natural state. If any yards are to be landscaped, they shall be landscaped attractively with lawn, trees, shrubs, etc. Any areas left in a natural state shall be properly maintained in a sightly and well-kept condition. Commercial and industrial yards adjoining any residential district shall be landscaped with buffer planting screens. Plans of such screen shall be submitted for approval as a part of the site plan.
 2. **Noise.** Noise shall be measured on any property line of the tract on which the operation is located. Noise shall be muffled so as not to become objectionable due to intermittence, beat frequency, shrillness, or intensity.
 3. **Odors.** If a use may result in odors that would be offensive to occupants of adjacent or nearby properties the Zoning Administrator may require detailed plans for the prevention of the odors before issuing a building permit.
 4. **Glare.** Glare, whether direct or reflected, such as from floodlights or high temperature processes, and as differentiated from general illumination, shall not be visible beyond any property line.
 5. **Exterior lighting.** Any lights used for exterior illumination shall direct light away from adjoining properties.
 6. **Vibration.** Vibration shall not be discernible at any property line to the human sense of feeling for three (3) minutes or more duration in any one (1) hour.
 7. **Smoke.** Any use established, enlarged, or remodeled after the effective date of this Ordinance shall be so operated as to meet the minimum requirements of the Minnesota Pollution Control Agency for the emission of smoke or other particulate matter.
 8. **Dust.** See item 7, Smoke, above.
 9. **Fumes or Gases.** Fumes or gases shall not be emitted at any point in concentrations or amounts that are noxious, toxic or corrosive. Detailed plans for the elimination of fumes or gases may be required before the issuance of a building permit.
 10. **Hazard.** Every operation shall be carried on with reasonable precautions against fire and explosion hazards.
 11. **Use of river water.** Industrial plants which use river water for cooling processes within their operations shall safeguard against impeding the natural flow of the immediate stream or to pollute, including thermal pollution of its waters.

- C. **Standards for location of commercial or industrial uses near other uses.** Commercial and industrial uses located near uses of lesser intensity may have detrimental side effects. The location of the commercial or industrial use should be based upon the relationship of the proposed use and adjacent properties so any offensive emissions or excess traffic or location of dangerous, explosive, or otherwise hazardous materials do not detract from or endanger said adjacent lands. Considerations for approval of a request should involve storage techniques, safety measures to be incorporated, containment of stored facilities in case of failure of safety measures, wind direction, deflection of blast forces, screening of visually objectionable uses, monitoring devices or techniques, lighting, location and direction and similar design standard criteria.
- D. **Proof of compliance.** In order to assure compliance with the performance standards set forth above, the Board of County Commissioners may require the owner or operator of any permitted or conditional use to have made such investigations and tests as may be required to show adherence to the performance standards. Such investigation and tests as are required to be made shall be carried out by an independent testing organization selected by the County.

Section 5 Extraction of Materials and Minerals

The following regulations shall apply to the extraction of materials and minerals in any land use district.

- A. **Conditional use permit required.** No person shall extract any sand, gravel, stone, coal, clay, peat, subsoil, topsoil, or mineral from the land for sale without first obtaining a conditional use permit.
- B. **Exemption for public roadway projects.** Extraction sites to be used for public roadway projects are exempt from provisions of this section.
 - 1. **Land alteration permit required.** Any operator who has a public roadway construction contract shall be granted a land alteration permit provided the following conditions are met:
 - a. The operator shall provide evidence that the operator has been awarded a contract for public roadway construction. The contract shall state that the operator shall reclaim the nonmetallic mining site according to the most recent edition of the Minnesota Department of Transportation Standards Specifications for Construction, with the additional requirements of any applicable sections of this Ordinance.
 - b. The operator shall provide a copy of the contracting agency's Completion Certificate upon completion of the project.
 - c. All other provisions of the Becker County Zoning Ordinance shall apply.
- C. **Application for extraction conditional use permit.** Application for the conditional use permit shall be made at the office of the Zoning Administrator and the applicant shall furnish the information required:
 - 1. **Applicant information.** Applicant's true name and address.
 - 2. **Property description.** A legal description of the location of the pit or excavation or where it is proposed to be or where the impounded waters are to be maintained.
 - 3. **Mining plan.** A mining plan containing the following information:
 - a. **Map.** A general map of the area defining:
 - (1) Property boundaries;
 - (2) Location and names of all streams and roads on or within three hundred feet (300') of the project site;
 - (3) Location of structures on or adjacent to the site, identifying the purpose of each structure;
 - (4) Boundaries of previous excavations on the property;

- (5) Location and description of proposed mining site boundary stakes with the permanent reference point described.
- b. **Operations plan.** A plan for the operation of the extractive use shall include the following information:
- (1) **Land use.** A narrative outlining current land use.
 - (2) **Material.** An inventory of material to be excavated.
 - (3) **Groundwater.** Observed or estimated depth to groundwater.
 - (4) **Method of extraction.** The description is to include the method of mining.
 - (5) **Timetable.** A timetable for commencement and cessation of mining, operations if seasonal operations are intended, the months of operation shall be identified. The timetable should include hours of operation.
 - (6) **Topsoil management.** A plan for management of topsoil removed to expose material to be mined.
 - (7) **Erosion control plan.** A plan for temporary erosion control measures and temporary stabilization measures to be used during excavation.
 - (8) **Screening plan.** Measures to be taken to screen the operation from view of surrounding land uses or an explanation of why such measures are not needed
 - (9) **Noise control.** Measures to be taken to control noise from affecting surrounding land uses.
 - (10) **Dust control.** Measures to be taken to control dust from affecting surrounding land uses.
 - (11) **Pollution control.** Control measures to minimize any pollution potential from equipment, tanks, chemical storage sheds etc.
 - (12) **Haul routes.** A list of highways, roads, and other public ways in the county to be used for the hauling of any material removed.
- c. **Site plan and staging plan.** A site plan and staging plan including the following information:
- (1) Site plan drawing and description of the sequential stages of the mining activity. The drawing shall show the location of the planned staged boundary locations and extent of the mining site.
 - (2) The plan is to include, but not be limited to, mining refuse dumps, sediment and/or wash ponds and sediment basins.
 - (3) Estimated total volume of materials to be extracted by phase.
- d. **Reclamation plan.** A post mining management plan shall be included with the application. A progressive or staged phasing of a reclamation plan is preferred. The intent is designed to minimize environmental problems, safety issues erosion and ground water contamination. If the site is five (5) acres or less and is to be worked for one (1) year or less, the site is to be reclaimed within twelve (12) months of the stoppage of operations.
- D. **Extractive use standards.**
1. **Shoreland areas.** Processing machinery in shoreland shall be located consistent with all setback standards for structures from ordinary high water levels of public waters and from bluffs.
 2. **Metals and peat.** Mining of metallic minerals and peat shall meet the provisions of Minnesota Statutes, Sections 93.44 to 93.51.
- E. **Bond may be required.** Bond may be required by the Board of County Commissioners in such form and sum as the Board shall determine, with sufficient surety running to the County, conditioned to

pay the County the extraordinary cost and expense of repairing, from time to time, any highways, streets or other public ways where repair work is made necessary by the special burden resulting from hauling and travel, in removing materials from any extractive process, the amount of cost and expense to be determined by the County Engineer; and conditioned further to comply with all the requirements of this Subdivision and the particular permit, and to pay any expense the County may incur by reason of doing anything required to be done by any applicant to whom a permit is issued.

Section 6 Fences

Fences shall be permitted in all yards and along all property lines subject to the following regulations:

- A. **Height.** The following height limits shall apply to fences.
 1. Fences shall not exceed six feet (6') in agriculture and residential districts, and ten feet in (10') commercial and industrial districts, except that fences located in front yard setbacks in residential districts or shore impact zones shall not exceed four feet (4') in height.
 2. If a side lot line is adjacent to a street or roadway, fencing shall not exceed four feet (4') in height and shall be located within the lot setback lines.
 3. Fences located within the setback lines of the lot shall not exceed ten feet (10') in height.
 4. Fences in excess of the above limits may be permitted by conditional use permit except that a fence shall never exceed the height of the principal structure.
- B. **Best side to neighbors.** That side of a fence that is uninterrupted by posts or similar structural components fastening the fence upright or attaching the fence to the ground shall face abutting property.
- C. **Walls and hedges considered fences.** Walls and hedges as well as living plant material or inorganic material sited, placed, or planted along property lines or in required setback areas that present the appearance of a continuous structure shall be considered a fence for the interpretation of this Ordinance. This is not to include trees or plants or decorative structures that are planted at random and which do not hinder roadway vision or detract from the quality of light or air to adjacent properties.
- D. **Within owners lot.** All fencing, whether by fence or hedge landscape, shall be accomplished on the property where the fence landscape originates. Fencing, branches, leaves or any overhang into adjacent property shall not be permitted except by permission of the adjacent landowner.
- E. **Exemption.** Fences normally associated with agricultural operations such as barbed wire fencing and snow fencing shall be exempt from the requirements of this Ordinance.

Section 7 Height Regulations

- A. **Maximum height.** Maximum height limits are established for each land use district in Table 5-4 in Chapter 5. In any instance of a variance or conditional use allowing a greater height, there shall be a maximum height limitation of one hundred and fifty feet (150') on all structures within Becker County. Any tower, spire, etc., may exceed this height only after obtaining a conditional use permit and then only after obtaining a letter of clearance from the Federal Aeronautics Administration and the Airport Commission for any airport located within ten (10) miles of the structure proposed to exceed the height limitation.
 1. **Exceptions.** Height limitations set forth in Table 5-4 in Chapter 5 may be increased by one hundred percent (100%) to a maximum of three hundred feet (300') when applied to the following:
 - a. Monuments

- b. Flag poles
- c. Cooling towers
- d. Grain elevators
- e. Church spires, belfries, or domes that do not contain usable space
- f. Water towers
- g. Chimneys or smokestacks
- h. Radio or television transmitting towers, micro-wave relay towers
- i. Utility poles or towers

Section 8 Home Occupations

Allowed home occupation uses located in a dwelling shall occupy no more than one-third (1/3) of the floor area of the dwelling. Allowed home occupation uses located in an accessory building shall occupy space not exceeding the floor area of the dwelling located on the same lot or parcel.

Section 9 Mobile Home Parks and Multiple Family Dwellings

The location proposed for a mobile home parks or multiple dwellings as a conditional use in General Agriculture or residential zone shall have one or more of the following characteristics:

- A. The proposed location shall be adjacent to heavy traffic carriers such as collector routes or greater in traffic capacity as defined in the Becker County Comprehensive Plan.
- B. The proposed location shall be adjacent to or in near proximity to commercially zoned land uses.
- C. The proposed location shall be part of a planned unit development where adjacent residences were aware of the land use types before their purchase of a lot or parcel in the planned unit development.
- D. The proposed location is comprised of relatively flat terrain (less than 10% grade).
- E. The proposed location is in an area of similar land uses.

Section 10 Non-Residential Uses in GA, RES and HDR Districts

- A. **Non-residential uses except industrial.** Recreational uses, public and semi-public uses such as churches, schools, utility buildings, club houses associated with golf courses, etc., are generally traffic generators, bringing people and automotive traffic into the General Agriculture, Residential or High Density Residential zone. Therefore, in considering an application for conditional uses in a General Agriculture, Residential or High Density Residential zone, particular attention shall be paid to the following:
 - 1. Proximity to traffic generator routes and to the intersection of these routes as opposed other minor roads.
 - 2. Setbacks from adjacent property for screening and landscaping should be adequate.
 - 3. Screening of intensive use areas, such as parking, signing, or lighted areas should be accomplished.
 - 4. Fencing or similar systems to keep people off of adjacent properties.

5. Consideration of limiting hours of use to provide compatibility with neighbors in such case where noise may be a limiting factor.
 6. In case of dangerous site work or potentially hazardous site or land development, adequate protection shall be taken to exclude attractive nuisances.
- B. **Industrial uses.** Industrial uses of the land such as public service buildings or structures, railroad yards and mineral extraction are generally dependent upon service factors, terrain, or natural resources for location rather than the usual social-economic factors of land use; consequently, safeguards should concentrate upon safety and screening features as opposed to traffic routes and adjacent land uses. Access should be considered so as to be the least detrimental and safest to adjacent uses.

Section 11 Parking and Loading Requirements

All parking and loading areas shall conform to the provisions in this Section.

- A. **Minimum size for parking spaces.** Each required parking space shall contain a minimum area of not less than three hundred (300) square feet, including access drives, a width of not less than nine feet (9') and a depth of not less than twenty feet (20').
- B. **Access drives.** Access drives shall conform to the following provisions.
1. Parking and loading spaces shall have proper access from a public right-of-way.
 2. The number and width of access drives shall be located to minimize traffic congestion and abnormal traffic hazard. Frontage roads or service roads may be required when they are necessary to maintain traffic safety.
 3. Vehicular access to business or industrial uses across property in any residential district shall be prohibited.
- C. **Required loading areas.** Loading and unloading areas for goods, supplies and services shall be sufficient to meet the requirements of each use. All loading spaces shall be sufficient to meet the requirements of each use and shall provide adequate space for storage and maneuvering of the vehicles they are designed to serve. Each loading space shall contain a minimum area of not less than five hundred (500) square feet.
- D. **Reduction of existing parking and loading spaces.** On-site parking facilities existing on the effective date of this Ordinance shall not be reduced below that required by this Ordinance for a similar new building or use.
- E. **Not for storage.** Required parking or loading space shall not be used for storage of goods or for storage of vehicles that are inoperable or for sale or rent.
- F. **Yards/setbacks.** On-site parking and loading facilities shall not be subject to front yard, side yard and rear yard regulations, except that:
1. **Commercial districts.** In a (WOC, C) commercial district, no parking or loading space shall be located within ten feet (10') of any property line that abuts a road or highway right-of-way, or any residential or agricultural district.
 2. **Industrial districts.** In (I) industrial districts, no parking or loading space shall be located within ten feet (10') of any property line that abuts a highway right-of-way line, or any residential, special protection, or agricultural district except railroad loading areas.
- G. **Buffer fences and planting screens.** On-site parking and loading areas near or abutting residential districts shall be screened by a buffer fence of adequate design or a planted buffer screen. Plans of

the screen or fence shall be submitted for approval as part of the required site or plat plan, and the fence or landscaping shall be installed as a part of the initial construction.

- H. **Location of parking facilities and combined facilities.** Required on-site parking space shall be provided on the same lot as the principal building or use. Parking spaces shall be located to make their use convenient and logical to the customer and to discourage customer parking on roadways or adjacent properties.
- I. **Joint facilities.** Combined or joint parking facilities may be provided for one (1) or more buildings or uses in commercial districts and in industrial districts, if the total number of spaces is equal to the sum of the requirements for each building or use.
- J. **Construction and maintenance.**
 - 1. **Commercial and industrial districts.** In (WOC, C) commercial districts and in (I) industrial districts, parking areas and access drives shall be covered with a dust-free, all-weather surface with proper surface drainage, as required by the County Engineer.
 - 2. **Responsible party.** The operator of the principal building or use shall maintain parking and loading areas, access drives and yard areas in a neat and adequate manner.
- K. **Lighting.** Lighting for any parking or loading areas shall be reflected away from the public right-of-way and nearby or adjacent residential or agricultural districts and shall be so turned or shaded to prevent direct lighting or visibility from adjacent residential or agricultural property.
- L. **Required site plan.** Any application for a building permit shall include a site plan or plot plan drawn to scale and dimension, showing on-site parking and loading space to be provided in compliance with the Ordinance.
- M. **Required number of on-site parking spaces.** On-site parking areas of sufficient size to provide parking for patrons, customers, suppliers, visitors, and employees shall be provided on the premises of each use. The minimum number of required on-site parking spaces for specific uses are listed in Table 7-1, below. In addition to the requirements in Table 7-1, company vehicles normally kept on the premises shall be provided an additional space.
 - 1. **Computing requirements.** In computing the number of parking spaces required, the following rules shall govern:
 - a. Floor space shall mean the gross floor area of the building.
 - b. If fractional spaces result, the parking spaces required shall be rounded to the nearest whole number.
 - c. The parking space requirement for a use not mentioned in this Ordinance shall be the same as required for a use of similar nature.
 - 2. **Buildings with multiple uses per floor.** Parking spaces for buildings containing more than one type of floor space use shall be computed for the entire building using the formula for the most restrictive parking space requirement.

Table 7-1 Minimum number of on-site parking spaces required by land use

Land use	Minimum number of required parking spaces	Unit of measure for gross area
Automotive, Service stations	4+2	Each service bay
Automotive, Trailer or marine sales and service	1	Every 500 square feet of sales and service area
Bowling alleys	5	Each bowling lane

Fast food and commercial recreation	20+1	Every 20 square feet
Manufacturing and processing	The greater of one (1) space per each two (2) employees on a major shift or one (1) space per each 1,000 square feet of floor area	
Motel or hotel	1	Each rental sleeping unit
Office and service, research, or testing	1	Every 500 square feet of floor area
Public and private schools	2	Each classroom
Public and private athletic clubs	20+1	Every 500 square feet in main building
Land use	Minimum number of required parking spaces	Unit of measure for gross area
Assembly auditoriums or exhibition halls	1	Every 4 seats in main seating area
Residential dwelling units	2	Each dwelling unit
Restaurant, café, or night club	1	Every 75 square feet of floor area of total building
Retail sales and service establishments	1	Every 200 square feet of floor area of total building
Wholesale	1	Every 400 square feet of floor area of total building
Storage and warehouse	1	Every 600 square feet of floor area of total building

Section 12 Recreational Vehicles

Where permitted as specified in Table 5-1, Table of Uses, recreational vehicles may be used as a dwelling only if all of the following requirements are met:

- A. **District standards are met.** The minimum lot size, setbacks and other dimensional standards are met for the district where the recreational vehicle is located.
- B. **Site permit required.** A site permit is obtained from the Zoning Administrator. One (1) recreational vehicle may be occupied temporarily as a guest cottage on a lot, which meets or exceeds single lot area and width dimensions if occupied for less than seven (7) days in any thirty (30) day period without a permit. A recreational vehicle occupied as a guest cottage shall meet all setback requirements.
- C. **Guest Cottage.** One recreational vehicle may be occupied temporarily as a guest cottage on a lot, which meets or exceeds single lot area and width dimensions, if occupied for less than seven (7) days in any 30 day period. A recreational vehicle occupied as a guest cottage shall meet all setback requirements.

Section 13 Residential Uses in Commercial and Industrial Districts

Residential uses in Commercial and Industrial districts should be limited to the necessity of operating the principal purpose of the districts such as housing for watchmen, etc. If a residential type of land use is permitted, such as a mobile home park, concern shall be taken in providing a good living environment in the park and the isolation of the park through screening, from adjacent uses, as well as meeting the general criteria for a conditional use in Chapter 8, Section 11 of this Ordinance.

Section 14 Signs

All signs, except official, public, traffic and street signs, shall conform to this section and any other ordinances or regulations of Becker County.

A. **General provisions.** The following regulations shall apply to all signs:

1. **Prohibited signs.** The following signs shall be prohibited in all districts.
 - a. **Not within public right-of-way.** Signs other than traffic control or warning signs posted by governmental agencies or public utilities shall not be located within the public right-of-way or easements.
 - b. **Fake emergency signs prohibited.** Flashing or rotating signs resembling emergency vehicles or State or County equipment shall not be located in any district.
 - c. **Fake official signs prohibited** No sign shall resemble any official marker erected by a governmental agency.
 - d. **Prohibited locations.** No sign shall obstruct any window, door, fire escape, stairway or opening intended to provide light, air, ingress or egress for any building or structure.
2. **Maintenance requirements.** Signs shall meet the following maintenance standards in all districts.
 - a. **Surrounding area.** The owner, lessee or manager of any ground sign and the owner of the land on which the sign is located shall keep grass or weeds and other growth cut and debris and rubbish cleaned up and removed from the lot on which a sign is located.
 - b. **Sign and structure.** Advertising signs, business signs and nameplate signs that are rotted, unsafe or unsightly shall be repaired or removed by the owner or lessee of the property upon which the sign stands upon notice by the Zoning Administrator.
3. **Standards for signs painted on buildings.** Signs painted on a building shall be governed by the square footage limitations specified for the appropriate zoning districts. These signs shall be repainted periodically and shall be kept in good condition.
4. **Lighting.** If a sign is illuminated, the source of light shall be directed so as not to shine upon any part of a residence or into any residential district or any roadway.
5. **State law controls.** Laws regulating advertising devices along State Highways shall take precedence if they are more restrictive than these regulations.
6. **Signs not requiring a permit.** Signs that are in total thirty-five (35) square feet in size or smaller that are located on property advertising the occupants own business or products do not require a license or permit fee. They shall conform to the regulations of this Ordinance.

B. **Provisions regulating signs in specific districts.** The following provisions shall apply to signs in the land use districts indicated.

1. **Signs in (GA) General Agriculture and the (SP, RES and HDR) residential districts.**
 - a. **Prohibited signs.** Advertising and business signs, other than the advertising and business signs specifically allowed in subsection b., immediately below, shall not be located in the GA, SP, RES and HDR Districts.
 - b. **Allowed signs.** In the GA and SP, RES, and HDR Districts, no sign, except warning signs, shall be erected except:
 - (1) **Nameplate.** A nameplate sign or professional nameplate sign identifying the owner or occupant of a building or dwelling unit if the surface area does not exceed two (2) square feet. The sign may be illuminated.

- (2) **For-sale sign.** A sign for the lease or sale of a building or property, if the sign does not exceed twelve (12) square feet in surface area and is not be illuminated.
 - (3) **Advertising new subdivision.** Temporary signs advertising a new subdivision development; each subdivision or development shall be allowed the following signs:
 - a. One (1) sign located in the development not to exceed ninety-six (96) square feet in surface area, not more than fifteen feet (15') in height.
 - b. Directional signs not to exceed four (4) square feet in surface area. Each subdivision shall be limited to one directional sign per major thoroughfare approach to the subdivision or development. No directional sign shall be allowed on minor residential streets.
 - (4) **Temporary construction sign.** A temporary un-illuminated sign identifying an engineer, architect, contractor, or product engaged in or used in the construction of a building, if the sign does not exceed ninety-six (96) square feet each in surface area and is no more than fifteen feet (15') in height.
 - (5) **Public use and institutional identification signs.** One (1) identification sign, not to exceed thirty-five (35) square feet in area, for the following uses: church, school, hospital, parks and recreation areas or similar uses.
 - (6) **Resort identification signs.** Composite identification signs for resorts will be permitted to forty-eight (48) square feet in size if they conform to the county resort sign standards available through the county engineer. Each segment of the composite sign shall not exceed ten inches (10") by sixty inches (60"). These signs shall only display the name of the use and its activities and services. It may be illuminated, but not flashing.
 - (7) **Crop demonstration signs.** No advertising signs and billboards, except agricultural crop demonstration information signs, shall be permitted within six hundred sixty feet (660') of the highways designated as scenic routes or parkways on the official County Recreation Plan Map.
 - (8) **Home occupation.** For a conditional use permit for a home occupation, a sign shall not be larger than thirty two (32) square feet in size.
2. **Signs in (WOC) Water Oriented Commercial, (C) Commercial and (I) Industrial Districts.** In (WOC, C) commercial districts and (I) industrial districts, no sign, advertising sign or business sign shall be erected, except for the following:
- a. Signs as permitted and regulated in agricultural and residential districts as specified in subsection B.1 of this Section.
 - b. **Advertising signs.** Advertising signs and billboards subject to the following provisions:
 - (1) **Number of sign structures allowed.** Advertising sign structures shall be limited to not more than one (1) for a lot of one hundred feet (100') frontage or less and to one (1) per each additional one hundred feet (100') of lot frontage.
 - (2) **Number of signs per structure.** An advertising structure shall not contain more than two (2) signs per facing in total of no more than four (4) signs per structure.
 - (3) **Maximum length.** Advertising structures shall be limited to no more than fifty-five feet (55') in total length.
 - (4) **Maximum height.** Advertising structures shall not exceed forty feet (40') in height above the average grade.

- (5) **Separation distances.** No advertising sign shall be erected within one hundred feet (100') of any adjoining residential district.
- (6) **Location restriction.** No advertising sign shall be permitted within any road or highway right-of-way or within one hundred ten feet (110') of an intersection right-of-way.
- c. **Business signs.** Business signs, subject to the following provisions:
 - (1) **Free standing sign limits.** No more than one (1) free standing or pylon sign of not more than one hundred (100) square feet in surface area.
 - (2) **Total for all signs.** The total surface area of all business signs on a lot shall not exceed three (3) square feet per lineal foot of lot frontage or twenty percent (20%) of the front building face area or three hundred (300) square feet in area, whichever is greater.
 - (3) **Height limit.** No business sign, other than a freestanding sign, shall project above the height of the building.

C. License and permit fees.

- 1. **Application and annual inspection.** The owner or other person having control of any sign except residential, professional, and institutional name plate signs, church signs and warning signs, shall file an application for a permit to maintain the sign subject to an annual inspection of the sign. Application for these permits shall be accompanied by detailed plans and other information necessary to determine the location and compliance with all regulations.
- 2. **Permit time limit.** All permits shall be renewed by January 1st of each five (5) year period.

Section 15 Single Family Residences

No more than one single-family residence is allowed per lot or parcel unless the criteria of Chapter 5, Table 5-1 are met.

Section 16 Storage of Materials

Commercial and industrial districts. In commercial districts and industrial districts, open storage of materials in any required front, side or rear yard shall be prohibited. Any other outside storage shall be located or screened so as not to be visible from any residential district.

Section 17 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 Becker County Board of Commissioners find 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. **Tower uses allowed without a permit.** The following tower facilities will be allowed within all districts of Becker County including shoreland without obtaining either a building permit or a conditional use permit:
 - 1. Antennas incidental to residential use;

2. Routine maintenance of existing tower facilities; and
 3. The addition of antennas to a tower facility that meets the standards of this Section and does not increase the height of the tower facility (additional support structures will still require a building permit).
- C. **Tower uses requiring only a building permit.** The following tower facilities will be allowed within Becker County without a conditional use permit, but do require a building permit:
1. Tower facilities that are located outside the shoreland and outside the residential zones or residential subdivisions that consist of an unlit monopole tower that does not extend more than one hundred feet (100') above ground level; and
 2. 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 twenty feet (20').
- D. **Tower uses requiring a building permit and CUP.** All other tower facilities not listed in subsections B. and C., above, require a conditional use permit and building permit pursuant to the terms of this Ordinance.
- E. **Standards for all towers.** All towers in Becker County shall meet the following standards.
1. **CUP towers prohibited in residential subdivision.** No conditional use permit shall be issued for a tower facility within a subdivision intended for residential use.
 2. **Minimum setbacks.** Any tower shall conform with the following minimum setback requirements:
 - a. **Public water setback.** No tower facility shall be erected within two thousand six hundred forty feet (2640') of the ordinary high water level of any public water unless there is a finding that there is no other practical alternative location outside of that distance.
 - b. **Same as other structures in district.** In addition to the public water setback in subsection a., immediately above, tower facilities shall meet the setback requirements of the zoning district in which the tower facility is located.
 - c. **Fall zones.** The minimum distance to the nearest residential property line shall be equal to the height of the tower. The minimum distance to the nearest dwelling shall be the height of the tower plus one hundred feet (100').
 3. **Required and prohibited signs.** The owner's name, telephone number and site identification 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, stated, or local authorities.
 4. **Minimum removal of vegetation.** 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.
 5. **Erosion control.** 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. **Building and electrical code.** All towers erected or located within the County and all wiring therefore shall comply with the following requirements:
 - a. 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.

- b. 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.
 - 7. **Weather-proof materials.** Metal towers shall be constructed of, or treated with, corrosive resistant material.
 - 8. **Co-location required.** In order to reduce the number of tower facilities needed within the county in the future, any proposed tower shall be designed, structurally, electrically, and in all respects to accommodate both the applicant's antennas and comparable antennas for additional users. For towers less than two hundred feet (200') in height, the structure shall be designed to accommodate at least four (4) 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 twenty-foot (20') intervals.
 - 9. **Climbing deterrents.** All towers shall be reasonably protected against unauthorized climbing. The bottom of the tower, measured from ground level to twelve feet (12') above ground level, shall be designed in a manner to preclude unauthorized climbing or shall be enclosed by a six foot (6') high chain link fence with anti-climb barbed wire protection and a locked gate.
 - 10. **Camouflage.** All towers and their antennas shall utilize building materials, colors, textures, screening, and landscaping that effectively blend the tower facilities with the surrounding natural setting and built environment to the greatest extent possible as determined by the office of the Zoning Administrator.
 - 11. **Screening.** Trees and large shrubs, native to the area, shall be planted so that the facility is screened from adjacent residential properties. These trees and large shrubs shall be maintained for the life of the tower facility.
 - 12. **Lighting.** Towers and their antennas shall not be illuminated by artificial means, except for camouflage purposes (designed as a lighted tower for a parking lot or a ball field) or the illumination is specifically required by the Federal Aviation Administration or other authority. No nighttime strobes shall be allowed unless specifically required by the Federal Aviation Administration or other authority.
 - 13. **Prohibited in public right-of-way.** No part of any antenna or tower, nor any lines, cable, equipment, wires, or braces shall at any time extend across or over any part of the right-of-way, public street, highway, or sidewalk, without approval of the County through the building permit approval process.
 - 14. **Insurance required.** All communication towers and their antennas shall be adequately insured for injury and property damage caused by collapse of the tower.
- F. **Site permit application requirements for antennas mounted on roofs, walls, and existing towers.** In addition to the submittal requirements required elsewhere in this Ordinance, an application for a building permit for antennas to be mounted on an existing structure shall be accompanied by the following information:
- 1. **Site plan.** 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. **Building plan.** 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. **Structural information.** Proof of the structure's or tower's ability to support the antennas; and

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

G. **CUP application requirements.** Application for a conditional use permit for a tower facility shall be submitted pursuant to the requirements of Chapter 8, Section 11 of this ordinance and shall be accompanied by the following:

1. **Site plan.** 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 twenty feet (1":20');
 - 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 feet (10'), 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.
2. **Vicinity map.** Vicinity map showing land uses and existing residences and businesses within one-half (1/2) mile of the proposed tower.
3. **Co-location effort statement.** 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 (2) 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. No existing or approved towers or commercial/industrial buildings within a two-mile radius meet the radio frequency (RF) engineer.
 - d. Existing or approved towers and commercial/industrial buildings within a two (2) mile radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional radio frequency (RF) engineer.
 - e. 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. Proof of negotiations may be required.
 - f. The applicant must demonstrate that a good faith effort to co-locate on existing towers and structures within a two (2) mile radius was made, but an agreement could not be reached.
4. **Future co-location agreement.** 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. **Erosion control plan.** 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. **FAA filing.** 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. **FCC requirements.** 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. **Proof of insurance.** A copy of the Certificate of Insurance for liability and workers compensation insurance that requires notification to Becker County Planning and Zoning Office prior to cancellation. This insurance shall be kept in effect until the tower facility is removed.
9. **Financial guarantee.** 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 Becker County Zoning Administrator.
10. **Fees.** Filing fees as determined by the Becker County Board of Commissioners.

H. **Time frame for completion of construction.** Construction of an approved tower facility shall be completed within two (2) years from the date of the issuance of the conditional use permit. Landscaping and screening must be installed within the first growing season immediately following construction.

I. **Continued use of existing towers, abandonment, and removal.**

1. **Continued use.** Existing tower facilities may continue in use and routine maintenance may be performed on them, but they may not be altered, converted, modified, transformed, varied, added to, or changed in any way without complying with the terms of this Ordinance.
2. **Annual statement of use required.** 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 10th of each year following construction of the tower. If the statement is not filed by January 10th 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. **Abandonment and removal.** Tower facilities that are not in use for 180 consecutive days shall be deemed abandoned and shall be removed by the owner within 180 days from the date of the abandonment. Removal includes removal of the complete tower facility, including accessory buildings and related above ground infrastructures and restoration of the site to preexisting vegetative cover,
 - a. **Multiple operators.** 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 180 consecutive days.
 - b. **Removal by County.** 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.

J. **Maintenance required.** 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.

Section 18 Used Buildings

A building that has been previously used elsewhere shall not be moved onto a property without first obtaining a site permit. This provision shall not apply to a building that is to be used for agricultural purposes.

Section 19 Yard Encroachment Regulations

The following provisions shall govern the encroachment of structures, portions of structures, and uses into required yards and setbacks.

- A. **Measurement rule.** Measurements shall be taken from the nearest point of the wall of a building to the lot line in question.
- B. **Encroachments by architectural features.**
1. Cornices, canopies, or eaves may extend into the required front yard a distance not exceeding four feet six inches (4'6").
 2. Fire escapes may extend into the required front yard a distance not exceeding four feet six inches (4'6").
 3. A landing place or uncovered porch may extend into the required front yard to a distance not exceeding six feet (6') if the landing place or porch has its floor no higher than the entrance floor of the building. An open railing no higher than four feet (4') may be placed around such place.
 4. The above architectural features also may extend into any side or rear yard, except that no porch or terrace for the support of people, or outside stairway shall project into the required side yard distance.
 5. On nonconforming lots, eaves of the structures shall not encroach the side lot line by more than two (2) feet.
- C. **Fences, walls, hedges.**
1. No wall, fence, or hedge over four feet (4') in height may occupy any part of a required front yard in a residential district. On double frontage lots, the required front yard shall be provided on both streets.
- D. **Clear sight requirements.**
1. The required front yard of a corner lot shall not contain any wall, fence or other structure, tree, shrub, or other growth that may cause danger to traffic on a road or public road by obscuring the view.
 2. The required front yard of a corner lot shall be unobstructed above a height of three feet (3') in a triangular area, two (2) sides of which are the lines running along the side road lines between the road intersection and a point fifty feet (50') from the intersection, and the third side of which is the line between the latter two points.
 3. If a lot is located at the intersection of two (2) or more roads or highways there shall be a front yard setback on each road or highway side of each corner lot. No accessory buildings shall project beyond the front yard of either road.

Section 20 Yard Maintenance and Landscaping Requirements

Commercial and industrial districts. In all commercial districts and industrial districts, all required yards shall be either open landscaped and green areas or be left in a natural state, except as provided in

Chapter 6, Section 7. If any yards are to be landscaped, they shall be landscaped attractively with lawn, trees, shrubs, etc. Any areas left in a natural state shall be properly maintained in a sightly and well-kept condition. Yards adjoining any residential districts shall be landscaped with planting buffer screens. Plans for such screens shall be submitted as a part of the application for building permit and installed as a part of the initial construction.

Section 21 Mass Gathering

- A. **Purpose.** No person, firm or corporation shall conduct, maintain, operate, promote, organize, manage, or advertise, nor sell or give tickets of admission to, a show, exhibition or assembly of any nature (hereinafter called assembly) for which it is planned or may reasonable be expected that 300 or more persons attending the assembly may remain, or may be permitted to remain, upon the site, lot, field, or tract of land (hereinafter called premises) upon which the exhibition, show, or assembly is conducted for more than eighteen consecutive hours, except as permitted by this ordinance.
- B. **Application.** The applicant for license shall make application in writing, verified under oath by the applicant or, if a corporation is applicant, by its president and secretary, filed with the County Auditor not less than sixty (60) days prior to the proposed beginning date of the assembly and shall set forth:
1. The full name, age, residence, and mailing address of the applicant, or names and addresses of the partners if applicant is a partnership, or the names of the stock of the corporation if the applicant is a corporation.
 2. A legal description of the premises upon which it is proposed to conducts the assembly, with the names and addresses of all persons owning an interest in the premises, stating the nature of the interest.
 3. The nature and purpose of the assembly, the proposed beginning date, and the period during which the assembly will be conducted, and a detailed statement of the manner in which it will be conducted.
 4. The maximum number of persons which the applicant will permit to assemble on the premises at any time during the assembly, which number shall be stated as a condition of any license which may be issued.
 5. The plans of the applicant to limit and control admission to the premises to the maximum number of persons stated in the license, and for controlling and parking vehicles of persons assembling on the premises.
 6. Description of existing facilities, and plans for proposed construction and alteration of, sewage, garbage and waste disposal systems, toilets, urinals, sinks, wash basins, drains; the source of water supply and plans for water distribution on the premises and methods of fire protection to be used during such assembly.
 7. The proposed method of lighting the structures and premises during the assembly.
 8. The number, location, and power of amplifiers and speakers, and the plans for sound control during the assembly, if applicable.
 9. Plans for maintenance of security and order on the premises, including the proposed number, deployment, and hours of availability of security guards upon the premises prior to, during, and immediately after the close of the assembly.
 10. Plans for the preparation and distribution of food and refreshments upon the premises.

11. Plans for telephone facilities to the premises reasonably available to persons assembling and to law enforcement agents and county officers and employees.
12. Plans for medical services, including buildings therefore, the names and hours of availability of physicians and nurses, and provisions for ambulance and other emergency services.

C. **Fees.** The application shall be accompanied by a license fee and a bond in an amount set by the County Board of Commissioners with sureties to be approved by the County of Becker conditioned that the licensee (a) carries out all of the plans and keeps and performs all of the conditions of the application and license, (b) maintain order on the premises, (c) leave the premises in neat and respectable condition, (d) pay, when due, to the person or persons entitled thereto, all debts and obligations incurred in promoting, advertising, and conducting and operating the assembly, and (e) indemnify and hold harmless the County of Becker, its officers, agents, and employees, from any liability or causes of action arising in any way from the conduct of the assembly. The bond shall run for a period of one (1) year. If the applicant has made application for a like assembly at the same location for four (4) consecutive years immediately preceding the application under consideration, the Becker County Board of Commissioners may, in its sole discretion, waive the license fee and/or the bond referred to above.

D. **Board Action.** In considering applications for license, the County Board shall consider the character of the applicant, the nature of the assembly, the place thereof, the length of time during which it is to be conducted, and the adequacy of facilities for the protection of the public peace, health, safety, and welfare to be provided on the premises and in the area of the assembly, and plans to secure compliance with the conditions of the license.

1. Within twenty (20) days of filing of application, the County shall consider the application:

- a. If the application is denied, the County shall inform the applicant in writing of the reasons for denying the applications; if the objection can be corrected, the applicant may amend the application and resubmit it for approval.
- b. If the application is approved, the applicant shall be given an approval report which shall permit the applicant to proceed according to the plans stated in the application, provided, however, that such approval shall not relieve the applicant from compliance with all applicable statutes, ordinances, and regulations.
- c. Plans and statements submitted in an approved application shall be deemed a condition of the approval report and of any license issued pursuant thereto, whether or not stated in the report or license.

E. **Filing Operation Plan with County Auditor.** Not less than ten days prior to the start of the assembly the applicant shall file with the County Auditor:

1. The names, addresses and credentials of all security guards to be employed during the assembly.

2. The names and addresses of all food and service concessionaires who would be permitted to operate on the premises, with the license or permit number of each.
3. A report showing completion of all construction and installation necessary to comply with the application for license, or in the event that such remain incomplete, evidence satisfactory to the County that completion will be had prior to the scheduled commencement of the assembly. Upon receipt of such report and after making such investigation and inspection of the premises as it may deem proper, and finding that all plans and requirements stated in the application have been or will be complied with, the County shall issue a license. The license shall at all times permit law enforcement officers and agents and officers of the county to enter upon the premises upon which the assembly is to be, or is being, conducted.

- F. **Limitations.** No licensee shall sell tickets to, nor permit to assemble, more than the number of persons stated in the license.
- G. **Revocation of License.** The license may be revoked at any time if any of the conditions of the approval report of license are not performed or complied with, or cease to be performed or complied with. The County shall forthwith, upon revocation, serve upon the licensee a notice specifying the way or ways in which the licensee has failed to comply: upon satisfactory proof of compliance, the County Board, may, in its discretion, reinstate said license.
- H. **Cease and Desist.** If the license shall be denied or revoked, the applicant and all persons under the applicant's direction and control shall forthwith cease and desist from all acts for the promotion, advertisement, organization, and operation of the assembly, and shall do all things necessary to advise persons who may intend to assemble of the refusal or revocation of license, and shall do all things necessary to disperse persons who may have assembled upon the premises.
- I. **Enforcement.** Any person, firm, corporation, or association violating or failing to comply with any provision of this ordinance, or any licensee who fails to comply with the conditions of a license, shall be subject to a fine of not more than \$700.00, or to imprisonment for not more than ninety (90) days, or both. The County Attorney may institute in the name of the county any appropriate actions or proceedings for the enforcement of this ordinance and the conditions of licenses issued pursuant to it. The promotion, conduct, operation, or maintenance of an assembly in violation of this ordinance or any license issued pursuant to it is hereby declared a public nuisance.
- J. **Indoor Assembly.** This ordinance shall not require a license for an indoor assembly at an established and permanent stadium, auditorium arena or place of worship where the reasonably anticipated assembly does not exceed the maximum seating capacity of the structure by more than 250 persons.
- K. **Validity.** If any section or part of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions hereof.

- L. **Adoption.** This ordinance shall become effective upon its adoption and publication according to law and will amend and supersede that ordinance passed by the Becker County Board of Commissioners on the 5th day of June, 1974. This was adopted and signed the 11th day of April, 1989.

Section 22 Animal Density Regulations

A. Shoreland District – Agricultural Zones - 20 Acre Parcels and less

1. Riparian lots
 - a. Only domestic animals permitted within 300 feet of the ordinary high water mark of the lake.
 - b. 4 Acres minimum and more than 300 feet from public waters, 1 animal unit is permitted
 - c. Greater than 4 Acres and more than 300 feet from public waters – 1 additional animal unit for each additional 2 acres
 - d. Supplemental feed plan must be in place year round;
 - e. Manure removed regularly or if composted must be in a manner to protect surface and groundwater;
 - f. Fencing to control animal units is required
2. Non Riparian parcels
 - a. 4 Acres minimum and more than 300 feet from public waters, 1 animal unit is permitted
 - b. Greater than 4 Acres and more than 300 feet from public waters – 1 additional animal unit for each additional 2 acres
 - c. Supplemental feed plan must be in place year round;
 - d. Manure removed regularly or if composted must be in a manner to protect surface and groundwater;
 - e. Fencing to control animal units is required.
3. Keeping of Wild and/or Exotic animals will require a conditional use permit.
4. The number of juvenile animals less than six (6) months of age is not limited provided they are offspring to an allowed adult animal. Once the juvenile reaches the age of six (6) months, the animal shall be counted as an adult.

B. Non Shoreland District – Agricultural Zones - 20 Acre Parcels and less

1. 4 Acres minimum, 1 animal unit is permitted
2. Greater than 4 Acres – 1 additional animal unit for each additional 2 acres
 - a. Supplemental feed plan must be in place year round;
 - b. Manure removed regularly or if composted must be in a manner to protect surface and groundwater;
 - c. Fencing to control animal units is required.
3. Keeping of Wild and/or Exotic animals will require a conditional use permit.
4. The number of juvenile animals less than six (6) months of age is not limited provided they are offspring to an allowed adult animal. Once the juvenile reaches the age of six (6) months, the animal shall be counted as an adult.

CHAPTER 8 PERMITS AND APPLICATION REVIEW PROCESSES

Section 1 General Application Provisions That Apply to All Permits and Subdivisions

- A. **General application requirements.** Applications for all permits or subdivisions shall comply with the provisions in this subsection. Additional application requirements may apply as specified elsewhere in this Ordinance.
- B. **Application forms.** Application for a permit or subdivision will be made on forms designated by the County and shall be submitted to the Zoning Administrator.
- C. **Fees.** An application for a permit or subdivision shall be accompanied by a fee as established by the Board of County Commissioners.

Section 2 Public Hearing Requirements

Whenever a public hearing is required prior to official action the procedures in this Section shall be followed.

- A. **Notice requirements.** Notice of the time, place, and purpose of any public hearing shall be given by publication in the official newspaper of the County, at least ten (10) days before the hearing. Written notice of the time, place, and purpose of the public hearing shall be sent to entities in the following list. For the purpose of notification, ownership of property shall be determined by the tax record for the previous year. The notification to affected property owners shall include both a legal description and a common description of the property in question with a brief explanation of the intended purpose for which the application is filed.
 - 1. **Property owners - Incorporated areas.** Property owners of record within five hundred feet (500') of the affected property in incorporated areas.
 - 2. **Property owners - Unincorporated areas.** In unincorporated areas the notice shall be sent to property owners as follows:
 - a. **Variiances.** In the case of variances, to owners of record within five hundred feet (500') of the affected property;
 - b. **CUPs.** In the case of conditional use permits, to owners of record within one quarter mile of the affected property or to the ten (10) properties nearest to the affected property, whichever would provide notice to the greatest number of owners; and
 - c. **Other public hearings.** In the case of all other official controls, including but not limited to zoning district change, zoning regulations and subdivision regulations, to owners of record within one half (1/2) mile of the affected property.
 - 3. **Cities.** In the case of amendments to this Ordinance notice of public hearings also shall be sent to the governing bodies of all towns and all municipalities located within the county.
 - 4. **Townships.** Written notice also shall be given to the board of town supervisors of the town in which the affected property is located, and the municipal council of any municipality within two (2) miles of the affected property.
 - 5. **Shoreland areas – DNR notice.** If the application involves lands within the shoreland areas of the County, notice of the application, along with supporting documentation described in this Ordinance, shall be forwarded to the State Commissioner of Natural Resources for review and

comment in sufficient time to give the State Commissioner at least ten (10) days in which to respond to the application;

6. **Watershed districts.** If the application involves land within a watershed district, notice of the application, along with supporting documentation described in this Ordinance, shall be forwarded to the Chair of the Watershed Board for review and comment in sufficient time to give the Chair at least ten (10) days in which to respond to the application.
- B. **When required.** At least one (1) public hearing shall be required as part of the review process for an application for a map amendment (rezoning), text amendment, conditional use permit, variance, or appeal. Upon receipt in proper form of the application and other requested material, the Becker County Planning Commission or Board of Adjustment shall hold the required public hearing in a location to be prescribed by the Planning Commission or Board of Adjustment.
- C. **Application requirements.** An application for a map amendment (rezoning), text amendment, conditional use permit, variance or appeal shall be accompanied by a map or plat showing all properties within one half mile of the boundaries of the property affected by the change. The application also shall include names and addresses of the owners of all such properties.
- D. **Findings.** Following a public hearing, the Becker County Planning Commission or Board of Adjustment shall make a report of its findings and recommendations on the proposed request and shall file a copy with the applicant, the Board of County Commissioners, and the Zoning Administrator.

Section 3 General Review Standards That Apply to All Permits and Subdivisions

The provisions in this subsection shall be applied by the reviewing staff or official body to all permit or subdivision applications. Additional provisions may apply as specified elsewhere in this Ordinance.

- A. **One dwelling.** Only one dwelling unit is permitted per lot or parcel of land, unless the criteria of Chapter 5, Table 5-1 are met.
- B. **County policy on easements.** The following provisions shall apply if an application includes an easement:
 1. **Survey required.** Every application involving an easement must be accompanied by a survey of the land area that is subject to the easement;
 2. **Value of easement.** The cost of the easement is the appraised market value of the land over which the easement runs.
 3. **Responsible entity.** It is the responsibility of each owner or township to obtain all necessary easements.
- C. **Land alteration standards.** Land alterations pursuant to a permit or subdivision approval issued under this Ordinance shall be subject to the following regulations:
 1. **General land alteration standards.**
 - a. **Incidental to permitted or conditional use.** Land alterations shall not be allowed unless the use is incidental to a permitted or conditional use and does not adversely affect adjacent or nearby properties.
 - b. **Ground exposure and revegetation.** Any land alteration shall be accomplished in a manner that assures that the least possible amount of bare ground is exposed for the shortest time possible. Bare ground shall be covered temporarily with mulches or similar materials. A permanent vegetation cover shall be established as soon as possible after any excavation.

- c. **Erosion control.** Soil erosion shall be minimized and efforts shall be taken to trap sediments before they reach any surface water feature. Altered areas shall be stabilized to acceptable erosion control standards consistent with the field office technical guides of the Becker Soil and Water Conservation District and the Natural Resource Conservation Service (NCRS);
- 2. **Shoreland areas.** Land alteration in shoreland areas shall meet the following standards in addition to the other provisions of this subsection.
 - a. **Prohibited activities.** No land alteration permit will be granted for any land alteration that will result in:
 - (1) The destruction of natural vegetation except as allowed in Chapter 6, Section 7 of this Ordinance;
 - (2) Increased shoreline erosion;
 - (3) Increased runoff to a lake; or
 - (4) Increased runoff to adjacent properties.
 - b. **DNR approval required.** Any topographical changes below the ordinary high water level of public waters shall first be authorized by the Commissioner of the Department of Natural Resources.
 - c. **Placement of material.** Fill or excavated material shall not be placed in a manner that creates an unstable slope and shall not be placed in a bluff impact zone.
 - d. **Riprap.** Natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, may be placed in a shore impact zone.
 - e. **Certification by professional.** The Zoning Administrator may require, and for a land alteration within the shore impact zone or a bluff impact zone shall require, an applicant to provide certification from a landscape architect or professional engineer that the land alteration standards of Chapter 8, Section 3, subsection C. of this Ordinance have been followed.
- 3. **Wetlands.** An application for a permit or subdivision approval for a project that includes any grading or filling in any type 2, 3, 4, 5, 6, 7, or 8 wetland shall contain a description of the extent 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. Shoreline or bank stabilization; and
 - f. Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.
- 4. **Steep slopes.** If a project requires fill or excavated material to be placed on steep slopes the plans accompanying the application shall demonstrate that the slope will have continued slope stability and will not create finished slopes of thirty percent (30%) or greater.
- D. **Impervious surface coverage.** Impervious surface coverage of all lots shall not exceed the allowable percentage of the lot area in the appropriate Zoning District as specified in Table 5-4 of this Ordinance.

Section 4 Site Permits

- A. **When required.** No person, firm, or corporation shall erect, alter, repair, place or replace a building or structure without first getting a site permit.
1. **Exceptions.** An alteration or repair that does not change the exterior dimensions of a building or structure does not require a site permit. A site permit is not required for such buildings or structures as agricultural buildings, fish houses, play houses, dog kennels, or swing sets; however, the required building setbacks shall apply.
- B. **Application requirements.** Each application for a site permit shall be accompanied by a plan drawn to scale showing the dimension of the lot to be built upon and the size and location of the building or structure and accessory buildings or structures to be erected or placed.
- C. **Application review criteria.** The Zoning Administrator shall issue the site permit only if the plans and the application comply with this Ordinance.
- D. **Length of permit.** The site permit will be valid for a period of one (1) year. If the exterior of the structure is not complete within one year, a one (1) time, one (1) year extension may be permitted.
- E. **Road frontage requirement.** No site permit shall be issued for a lot, plot or tract of land not having frontage on a public road unless:
1. The property has no access to a public road except by an easement over the land of others;
 2. The easement from the property to a public road must be at least thirty-three (33) feet wide when servicing one (1) or two (2) tracts of land;
 3. The easement from the property to the public road must be at least sixty-six (66) feet wide when servicing three (3) or more tracts of land; except that this provision does not apply to property that is accessed by a forest management road; and
 4. The easement from the property to the public road has a graded and serviceable driving surface.

Section 5 Subdivision of Land

- A. **When required.** A subdivision application and approval of subdivision plat conforming to the provisions of this Section is required in any of the following circumstances.
1. **Platting of land.** Any plat filed after enactment of this Ordinance for each subdivision or each part thereof lying within the jurisdiction of this Ordinance shall be prepared, presented for approval, and recorded as prescribed by this Ordinance.
 2. **Division of land into two or more parts.** These regulations shall apply to the subdivision of any lot, tract, or parcel of land into two (2) or more lots, tracts or the division of land including the re-subdivision or re-platting of land or lots.
 - a. **Exemptions.** The following subdivisions shall be exempt from the requirements of this Section:
 - (1) **All large tracts.** The subdivision of land into tracts all of which are larger than five (5) acres in area located outside the shoreland district and all of which are larger than twenty (20) acres within the shoreland district; unless the project meets the exemption criteria of the Environmental Review Technical Panel.
 - (2) **Enlargement of existing lots.** The subdivision of a lot for the purpose of attachment to contiguous lots where no lots less than five (5) acres in area left unattached.
 - (3) **Governmental or utility use.** Conveyances to a governmental unit or public utility for the purpose of roads, streets residual, substations, poles, towers, telephone booths, etc.

- (4) **Non-riparian lots.** Non-riparian lots not meeting the required size of the zoning district unless the provisions of subsection M of this Section 5.
3. **Subdivision of tracts into 3 or fewer parcels.** All subdivisions of tracts into three (3) or fewer parcels that are not exempted from subdivision review under 2., above, shall conform to the provisions of subsection J. of this Section 5.
4. **Metes and bounds transfers.** All conveyances which are exempted in subsection 2., above, in which the land conveyed is described by metes and bounds are subject to subsection K. of this Section 5.

B. Approvals required.

1. **Approvals necessary for acceptance of subdivision plats.**

- a. **County approvals.** Before any plat shall be recorded or be of any validity, it shall be approved by the County Planning Commission and by the Board of County Commissioners as having fulfilled the requirements of this Ordinance.
- b. **Cities.** Where any municipality has adopted extra-territorial subdivision platting regulations as provided by State law and the Townships in the extra territorial area have not thereafter enacted subdivision regulations, any proposed plat lying within two (2) miles of said municipality shall be submitted to and approved by said municipality. Upon approval of the preliminary and final plat from said municipality both the preliminary and final plat shall be submitted to Becker County Planning and Zoning for review to ensure the plat is consistent with requirements of the Becker County Zoning Ordinance. The plat shall be exempt from the Becker County Planning Commission.
- c. **Townships.** Where any township in Becker County has adopted platting regulations as provided by State law, any proposed plat lying within said township shall also be submitted to and approved by said township.

2. **Approval required before recording of plat.** No plat of any subdivision shall be entitled to record in the Becker County Recorder's Office or have any validity until the plat thereof has been prepared, approved, and acknowledged in the manner prescribed by this Ordinance.

3. **Approval required before issuance of site permits.** No site permits shall be issued by Becker County for the construction of any building, structure, or improvement to the land or to any lot in a subdivision, as defined herein, until all requirements of this Ordinance have been complied with.

C. Land suitability required. Each lot created through subdivision, including planned unit developments, must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis shall consider all of the following conditions:

1. Susceptibility to flooding;
2. Existence of wetlands
3. Soil and rock formations with severe limitations for development;
4. Severe erosion potential;
5. Steep topography;
6. Inadequate water supply or sewage treatment capabilities;
7. Near-shore aquatic conditions unsuitable for water-based recreation;
8. Important fish and wildlife habitat;
9. Presence of significant historic sites; or
10. 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 County.

- D. **Procedure for review of subdivision applications and preliminary plats.** Applications for subdivision of land shall meet the requirements of this Ordinance, shall include a preliminary plat meeting the data requirements of subsection E., below, and shall be submitted to the Zoning Administrator on forms developed Becker County Zoning Department. The procedure for reviewing subdivision applications will follow the steps in this subsection.
1. **Staff review of applications for completeness and date of submission:** Applications shall be reviewed within ten (10) working days for completeness by the Zoning Administrator upon receipt and prior to forwarding an application to the Planning Commission or County Board. An incomplete application shall be returned to the applicant with specific information on deficiencies in the application and remedies for such deficiencies. Any date referring to the date of submission of a completed application shall mean the date upon which a complete application was submitted, it shall not mean the date upon which an incomplete application was submitted.
 2. **Filing fee.** The subdivision application and preliminary 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 or disapproval of said plat, which may thereafter be submitted.
 3. **Compliance and site suitability review:** Upon receipt of a completed application and filing fee, the Zoning Administrator shall review the application and preliminary plat for conformance with this Ordinance and site characteristics for development suitability meeting the provisions of Chapter 8, Section 5, subsection C., above.
 4. **Review by the County Planning Commission.** The Zoning Administrator shall forward completed subdivision applications and preliminary plats to the County Planning Commission. The Planning Commission shall hold a public hearing on said application and preliminary plat. The public hearing shall conform to the provisions of Chapter 8, Section 2, of this Ordinance. The Planning Commission shall approve the preliminary plat with findings that contain conditions for approval or shall state reasons for denial of the plat. A denial of a plat by the Planning Commission shall be reviewed by the County Board for final action on the plat. 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.
 5. **Review by the County Board.** After the public hearing and review of the preliminary plat by the Planning Commission, such preliminary plat, together with the recommendations of the Planning Commission, shall be submitted to the County Board for consideration. 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.
 6. **Preliminary plat approval not final approval – Final plat required.** 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 two (2) years 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.

- E. Preliminary plat data required.** The subdivider shall prepare and submit a preliminary plat as follows, together with any necessary supplementary information:
1. **Legal description.** Legal description of the property to be subdivided
 2. **Five (5) copies** of a preliminary plat of any proposed subdivision containing the following information:
 - a. Proposed name of subdivision; names shall not duplicate or too closely resemble names of existing subdivisions.
 - b. Names and addresses of the subdivider and the designer making the plat.
 - c. Graphic scale of plat, not less than one (1) inch to one hundred (100) feet.
 - d. Date and north point.
 - e. Existing conditions:
 - (1) Location, width, and name or identifying number of each existing or platted street, road or other public way, railroad, the utility right-of-way, parks wildlife, and other public open spaces, and permanent buildings, within or adjacent to the proposed subdivision.
 - (2) All existing sewers, water mains, gas mains, culverts, power or communication cables or other underground installations within the proposed subdivision or immediately adjacent thereto.
 - f. Proposed development:
 - (1) The location and width of proposed streets, roads, alleys, pedestrian ways, and easements.
 - (2) The 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 of septic system site and an alternate septic systems site as required by Minnesota Rules 7080.0300 subpart 2.
 - (5) 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.
 - (6) Building setback lines with dimensions.
 - (7) Each lot shall have at least one building site with an area of more than two thousand (2,000) square feet. A building site shall be entirely within the setback lines and shall not contain any part of a bluff impact zone or shore impact zone or wetland.
 - (8) Existing topography, with contour intervals of not less than five feet (5'), related to United States Geological Survey datum.
 - (9) Also the location of water courses, ravines, bridges, lakes, springs, near shore aquatic vegetation, wetlands, wooded areas, bluffs, steep slopes, rock outcroppings, approximate acreage of each such feature, and other such features as may be pertinent to the subdivision.

- (10) Proposed surface drainage diagrams for lots in the form of arrows, proposed contours, or other appropriate method.
 - (11) Ordinary High Water Level or highest known high water level.
- g. **Supplementary requirements:** Upon request of the Planning commission, supplementary information shall be submitted; such supplementary information may include the following:
- (1) Two (2) copies of profiles for each proposed street and road, showing existing grades and proposed approximate grades and gradients on the centerline. The location of proposed culverts and bridges shall also be shown.
 - (2) Vicinity sketch, at a legible scale, to show the relation of the plat to its surroundings.
 - (3) Soil tests and reports, as specified by the County Engineer, by an approved soils laboratory.
- F. **Procedure for review of final plats.** After the preliminary plat has been approved, the final plat may be submitted for approval as follows:
- 1. **Review by the County Planning Commission.** The final plat shall be submitted to the Zoning Administrator in the Becker County Planning and Zoning Office. The Zoning Administrator shall review the final plat for conformance with the preliminary plat approval and any conditions thereof. The Zoning Administrator shall forward the final plat with a report to the Planning Commission. The Planning Commission shall approve the final plat if it is in conformance with the preliminary plat approval and any conditions thereof. 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.
 - 2. **Review by the County Board.** After review and approval of the final plat by the Planning Commission, such final plat, together with the recommendation of the Planning Commission, shall be submitted to the County Board for action. 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.
3. **Requirements of final plat approval.**
- a. **Development agreement required.** 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 or their heirs, personal representatives and assigns, that he will cause no private construction to be made on said plat of 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 sought to be constructed have access.
 - b. **Financial assurance required.** Prior to making of such required improvements, the subdivider shall deposit with the County Auditor an amount equal to one and one quarter (1 1/4) times the County's estimated cost of such improvements, either in cash or an indemnity bond, with sureties satisfactory to the County, conditioned upon the payment of all construction costs incurred in making of such improvements and all expenses incurred by the County for engineering and legal fees and other expenses in connection with the making of such improvements.

- c. **County Engineer certification.** No final plat shall be approved by the County Board without first receiving a report from the County Engineer certifying that the improvements described herein, together with the agreements and documents required herein, meet the minimum requirements of all applicable ordinances. Drawings showing all improvements as built shall be filed with the County Engineer.
 - d. **Flooding standards.** 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.
 - e. **Inspections of improvements.** All of the required improvements to be installed under the provisions of the 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.
- G. Final plat data required.** The subdivider shall submit a final plat together with any necessary supplementary information, including:
- 1. **Recording fee.** The filing should be accompanied by the fees for recording the plat with the County Recorder.
 - 2. **One (1) copy of a final plat prepared for recording purposes.** The final plat shall be prepared in accordance with provisions of Minnesota State Statutes and as required below:
 - a. Name of the subdivision, which shall not duplicate or too closely approximate the name of any existing subdivision.
 - b. 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 and which boundaries must be shown in relation to a known section, quarter section or quarter-quarter section corner, or Subdivision Plat of Record. The allowable error of closure on any portion of a final plat shall be one tenth (0.1) of one (1) foot.
 - c. The location of monuments shall be shown and described on the final plat. 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, one half (1/2) inch or larger in diameter marked with the surveyor's registration number. 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 bearings and distances. Permanent monuments shall be placed at all quarter section and quarter corners within the subdivision or on its perimeter.
 - d. 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.
 - e. Lots shall be numbered clearly. If blocks are to be numbered or lettered, these shall be shown clearly in the center of the block. All lots shall be assigned an address number in accordance to the Becker County E-911 Ordinance and policies.
 - f. The exact locations, widths, and names of all roads to be dedicated.
 - g. Location and width of all easements to be dedicated.

- h. Scale of plat (the scale to be shown graphically and in feet per inch), date, and north point.
- i. 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".
- j. 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.
- k. The subdivider shall submit with the final plat an opinion by an attorney admitted to the practice of law in the State of Minnesota certifying that the developer has good and marketable title to the property being subdivided including any property being dedicated to the public use.

3. Certifications required. The following certification shall appear on the final plat:

- a. Notarized certification by owner, and by any mortgage holder of record, of the adoption of the plat and the dedication of streets, roads, and other public areas.
- b. 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 exist as located and that all dimensional and geodetic details are correct.
- c. Certification showing that all taxes and special assessments due on the property have been paid in full.
- d. Certification that the requirements of Minnesota Statute 505.03 relating to written comments and recommendations by the Commissioner of Transportation and County Highway Engineer have been compiled with.
- e. Certification by the Chairman of the Town Board of the township in which the plat is located that
 - (1) the township has accepted and agrees to maintain all roads and streets dedicated by the plat;
 - (2) the township and the developer have entered into a written agreement relating to acceptance and maintenance of all roads dedicated by the plat; or
 - (3) that the township has not accepted or agreed to maintain the roads and streets dedicated by the plat. If an agreement has been entered into between the developer and the township, that agreement shall be filed with the County Recorder before the plat shall be accepted for recording.
- f. Space for certificates of approval to be filled in by the signatures of the Chairman of the County Planning Commission and the Chairman of the County Board.

(1) The form of approval by the Planning Commission is as follows:

Approved by the Becker County Planning Commission this _____ day of _____, _____.

Signed: _____

Chairman

Attest: _____

Secretary

(2) The form of approval of the Board of County Commissioners is as follows:

Approved by Becker County, Minnesota, this _____ day of _____, ____.

Signed: _____

Chairman, Board of County Commissioners

Attest: _____

County Administrator

4. **Supplementary documents and information may be required as follows:**

- a. A complete set of street profiles showing grade lines as constructed.
- b. Copies of any private restrictions affecting the subdivision or any part thereof.
- c. Signatures of municipal or township officials approving the plat when such approval is required by State Law.
- d. Upon approval by the County Board, the plat shall be filed with the County Recorder.

H. **Subdivision design standards.** Each subdivision application shall contain a plat that conforms to the following general design standards.

1. **Blocks.**

- a. **Block length.** In general, intersecting street and roads, determining block lengths, shall be provided at such intervals as to serve cross-traffic adequately and to meet existing streets and roads. Where no existing plats control, the blocks in residential subdivisions shall normally not exceed thirteen hundred twenty feet (1,320') in length, except where topography or other conditions justify a departure from this maximum. In blocks longer than eight hundred feet (800'), pedestrian ways and/or easements through the block may be required near the center of the block. Blocks for business or industrial use should normally not exceed six hundred feet (600') in length.
- b. **Block width.** The width of the block shall normally be sufficient to allow two (2) tiers of 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. **Minimum lot size.** 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 Chapter 5, Section 2, of this Ordinance.
- b. **Corner lots.** Corner lots for residential use shall have additional width to permit appropriate building setback from both roads as required by the Chapter 5, Section 2, of this Ordinance.
- c. **Side lines.** Sidelines of lots shall be approximately at right angles to road or street lines or radial to curve road or street lines.
- d. **Double frontage lots.** 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 feet (10') in order to allow space for screen planting along the back lot line.

- e. **Minimum road frontage.** Every lot must have at least sixty-six feet (66') of frontage on a public dedicated road or street other than an alley except that a lot created by a Surveyor's Sketch is not required to have frontage on a public road if access is provided:
 - (1) The easement from the property to a public road must be at least thirty-three (33) feet wide when servicing one (1) or two (2) tracts of land;
 - (2) The easement from the property to the public road must be at least sixty-six (66) feet wide when servicing three (3) or more tracts of land; except that this provision does not apply to property that is accessed by a forest management road;
 - (3) The easement from the property to the public road has a graded and serviceable driving surface.
- f. **Setbacks.** Setback or building lines shall be shown on all lots intended for residential use and shall not be less than the setback required by Chapter 5, Section 2, of this Ordinance. On those lots, which are intended for business or industrial use, the setback shall not be less than the setback required by Chapter 5, Section 2, of this Ordinance.

3. **Roads, Highways, Streets and Alleys.**

- a. **Conformance with Comprehensive Plan.** The arrangement of highways shall conform as nearly as possible to the Becker County Comprehensive Plan.
- b. **All proposed streets or roads shall be offered for dedication as public rights-of-way.** No private streets or roads shall be permitted.
- c. **Connectivity to adjacent roads and parcels required.** Roads and streets 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. Dead-end streets and roads shall not be prohibited, but proper cul-de-sacs or other approved means of turning traffic around will be permitted where topography or other conditions justify their use, and if the alternative proposed meets the following conditions:
 - (1) Cul-de-sac alternatives shall meet the National Fire code. Cul-de-sacs shall include a terminal turn-around, which shall be provided at the closed end, with an outside curb or shoulder radius of at least fifty feet (50') and a right-of-way radius of not less than seventy feet (70').
 - (2) The Hammerhead alternative, also known as a "T" and the "L" Terminal will be allowed and shall be subject to township road standards in which the plat is located. Specifications outlined in Appendix B. The minimum leg length for this alternative is sixty feet (60').
 - (3) The other approved turn-arounds in (1) and (2), immediately above, will have a roadway width which matches the main street or road width of the plat and will have minimum radii matching the class of the road approved.
- d. **Criteria for highway arrangement.** 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.
- e. **Standard for local roads.** Local roads and streets should be planned so as to discourage their use by non-local traffic.

- f. **Plan for future roads.** 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 portion shall be prepared and submitted by the subdivider, if required.
- g. **Plan for future re-subdivision.** 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 re-subdivision, with provision for adequate utility connections for such re-subdivision.
- h. **Right-angle intersections.** Roads shall be designed so as to intersect as nearly as possible at right angles, except where topography or other conditions justify variations. 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 feet (125') shall be avoided.
- i. **Plan for frontage roads.** 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 frontage 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.
- j. **Alleys.** 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 feet (20') 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.
- k. **Half streets prohibited.** 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.
- l. **Minimum ROW widths.** For all public ways hereafter dedicated the minimum right-of-way widths for streets, roads and highways shall be as shown in the Becker County Comprehensive 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 in Table 8-1, except for the following.
 - (1) Where the existing or anticipated traffic on major and minor arterial highways warrants greater widths or right-of-way, these shall be required.
 - (2) Right-of-way widths for major intercity highways shall also meet standards established by the Minnesota State Highway Department.

Table 8-1: Minimum Right-of-Way Widths

Minimum Right-of-Way Widths

Major Intercity and Regional Highways		
	Major Intercity Highway	150 feet
Arterial Highways		
	Major Arterial Highway	150 feet
	Minor Arterial Highway	100 feet
	Township Roads	66 feet
	Frontage Roads	66 feet
	Alley	20 feet
	Pedestrian Way	10 feet

- m. **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 in Table 8-2. In addition, there shall be a minimum grade on all roads and highways of not less than five-tenths of one percent (0.5%).

Table 8-2: Maximum road grades

Maximum Road Grades		
Major Intercity and Regional Highways		
	Major Intercity Expressway	As required by the MN Dept. of Transportation
	Major Intercity Highway	
Arterial Highways		
	Major Arterial Highway	5 percent
	Minor Arterial Highway	6 percent
	Township Roads	8 percent
	Alley	8 percent

- n. **Road and highway horizontal alignment.** The horizontal alignment standards on all roads, highways and streets shall be as follows in Table 8-3. In addition, there shall be a tangent between all reversed curves of at least one hundred feet (100') except for cul-de-sacs.

Table 8-3: Road and highway horizontal alignments

Horizontal Alignment – Radii of Center Line		
Major Intercity and Regional Highways		
	Major Intercity Expressway	As required by the MN Dept. of Transportation
	Major Intercity Highway	
Arterial Highways		
	Major Arterial Highway	500 feet
	Minor Arterial Highway	300 feet
	Township Roads	100 feet

- o. **Road and highway vertical alignment.** All changes in street grades shall be connected by vertical parabolic curves of such length as specified in Table 8-4.

Table 8-4: Road and highway vertical alignments

Vertical Alignment – Parabolic Curve Length		
Major Intercity and Regional Highways		
	Major Intercity Expressway	As required by the MN Dept. of Transportation
	Major Intercity Highway	
Arterial Highways		
	Major Arterial Highway	150 foot minimum
	Minor Arterial Highway	150 foot minimum
	Township Roads	50 foot minimum

- 4. **Utility and stormwater management easements.**
 - a. **Utility easements.**
 - (1) **Minimum width.** An easement for utilities shall be provided along lot boundaries where necessary to form a continuous right-of-way, at least twenty feet (20’) 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 liens or across lots.
 - (2) **Connection to adjoining properties.** Utility easements shall connect with easements established in adjoining properties.

- (3) **Utility pole guys.** 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 along side lot lines.
- b. **Stormwater management easements.** 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 course, 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.
- c. **Changing easements prohibited.** These easements, when approved, shall not thereafter be changed without the approval of the County Board, by ordinance, or upon the recommendation of the Planning Commission.

I. Improvements required for all subdivisions.

1. Road and highway improvements.

- a. All roads 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 in accordance with the standards and specifications for road construction as approved by the County Board and shall conform to one or more of the classes of roads shown in Appendix B as determined at the time of the preliminary plat approval and shall comply with the minimum standards of the township in which the plat is located.
- 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 and protection for lakes, watercourses, and wetlands. 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 traffic signs conforming to the Minnesota Manual of Uniform Traffic Control Devices shall be installed on each street or road as required.

2. Sanitary sewer and water distribution improvements.

- a. Sanitary sewers, both public and private, shall be installed as required by standards and specifications as approved by the County Board.
- b. Water facilities, both public and private, including pipefittings, hydrant, etc., shall be specifications as approved by the County Board.

3. Public utilities.

- a. 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.

J. Subdivision of a tract of land into three or fewer tracts. Applications involving tracts of land that are proposed to be subdivided into three (3) or fewer tracts, but are not exempt from subdivision review under Chapter 8, Section 5, subsection A.2, may be reviewed according to the procedures in this subsection. The design of such subdivisions shall conform to the requirements of this subsection. Within a three (3) year period, a total of three (3) tracts of land may be subdivided from a parent tract by a certificate of survey. Additional tracts may be created through the public hearing process.

1. **When allowed.** Any quarter-quarter section, government lot, or smaller tract of land which was under single ownership on the effective date of this Ordinance may be subdivided into three or fewer tracts without following the preceding provisions for a plat if a surveyor's sketch of the proposed subdivision is submitted and approved in accordance with the procedures in this subsection J.

2. **Review procedure.**

a. **Within a shoreland area.**

- (1) **Administrative Review.** The surveyor's sketch shall be submitted to the Zoning Administrator for approval. The Zoning Administrator shall approve the surveyor's sketch only if it meets or exceeds two and one half (2.5) acres. The Zoning Administrator reserved the right to refer the certificate of survey to the Planning Commission and County Board of Commissioners for consideration with any subdivision proposal presenting extraordinary circumstances. Approval or disapproval of the proposed subdivision shall be conveyed to the subdivider in writing fifteen (15) days after the submission. If the proposed subdivision is disapproved, the subdivider shall be notified in writing of the reasons for the disapproval. The approval of the proposed subdivision together with a copy of the surveyor's sketch shall be filed with the County Recorder before any conveyances of the subdivided lots shall be valid.
- (2) **Review by the Planning Commission.** The surveyor's sketch shall be submitted to the Zoning Administrator in the Becker County Planning and Zoning Office. The County Planning Commission shall hold a public hearing on said proposed subdivision. The public hearing shall conform to the provisions of Chapter 8, Section 2, of this Ordinance. The Planning Commission shall approve the subdivision with findings that contain conditions for approval or shall state reasons for denial. A denial of a subdivision by the Planning Commission shall be reviewed by the County Board for final action. In case the proposed subdivision 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.
- (3) **Review by the County Board.** After the public hearing and review of the proposed subdivision by the Planning Commission, such proposed subdivision, together with the recommendations of the Planning Commission, shall be submitted to the County Board for consideration. Approval or disapproval of the proposed subdivision shall be conveyed to the subdivider in writing ten (10) days after the meeting of the County Board at which such proposed subdivision was considered. In case the proposed subdivision is disapproved, the subdivider shall be notified in writing of the reasons for the disapproval.

The approval of a proposed subdivision together with a copy of the surveyor's sketch shall be filed with the County Recorder before any conveyances of the subdivided lots shall be valid.

b. Outside of shoreland areas.

- (1) **Administrative review.** The surveyor's sketch shall be submitted to the Zoning Administrator for approval. The Zoning Administrator shall approve the surveyor's sketch only if it complies with the requirements of this Ordinance. Approval or disapproval of the proposed subdivision shall be conveyed to the subdivider in writing fifteen (15) days after the submission. If the proposed subdivision is disapproved, the subdivider shall be notified in writing of the reasons for the disapproval. The approval of the proposed subdivision together with a copy of the surveyor's sketch shall be filed with the County Recorder before any conveyances of the subdivided lots shall be valid.
3. **Design standards.** All tracts created with the subdivision process provided for in this subsection J. shall conform to the design standards for platted lots set forth in Chapter 8, Section 5, subsection H. 2 of this Ordinance.
4. **Surveyor's sketch requirements.** Five (5) copies of a surveyor's sketch shall be submitted by the subdivider and shall contain the following information:

 - a. **Tract boundaries.** Location by section, township, range, county, and state, and including descriptive boundaries of each tract based on an accurate traverse, giving angular and linear dimensions which must mathematically close and which boundaries must be shown in relation to a known section, quarter section or quarter-quarter section corner. The allowable error of closure on any portion of a tract shall be one tenth of one foot (0.1').
 - b. **Monuments.** The location of monuments shall be shown and described on the tract. Permanent markers shall be placed at each corner of every lot or portion of a lot, points of curvature and points of tangency or road lines, and at each angle point on the boundary of the tract. A permanent marker shall be deemed to be a steel rod or pipe, one half inch (1/2') or larger in diameter marked with the surveyor's registration number. 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 surveyor's sketch together with accurate interior angles, bearings, and distances. Permanent monuments shall be placed at all quarter section and quarter corners within the subdivision or on its perimeter.
 - c. **Dimensions.** 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 tract on the ground shall be shown. Dimensions shall be shown from all angle points of curve to lot lines
 - d. **Setback lines.** Building setback lines with dimensions.
 - e. **Shoreland.** If the proposed subdivision is located in shoreland, the location of the ordinary high water level and any bluffs, steep slopes and wetlands.
 - f. **Names and addresses** of the subdivider and the surveyor who prepared the sketch.
 - g. **Scale of plat** (the scale to be shown graphically and in feet per inch of not less than one (1) inch to one hundred (100) feet), date, and north point.
 - h. **Date prepared.**
 - i. **Legal description.** The legal description to be used to describe each lot. All lots shall be assigned an address number in accordance to the Becker County E-911 Ordinance and policies.

- j. **Surveyor's certification.** Certification by the surveyor preparing the sketch that the surveyor is registered by the State of Minnesota and that each description is legally sufficient to locate the boundary lines of the lots shown.
- k. **Large remnant tracts.** If a remnant tract is larger than five (5) acres and is not going to be conveyed the surveyor's sketch can be modified as follows:
 - (1) The boundaries of the remnant tract need not be shown,
 - (2) Permanent markers do not have to be placed on the boundaries of the remnant tract, and
 - (3) A legal description of the remnant tract does not have to be provided.

K. Registered surveys and conveyance by metes and bounds.

- 1. **Registered land surveys.** It is the intention of this Ordinance that all registered land surveys in Becker 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 relationships of proposed tracts 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 maintain any such tracts unless so approved.

2. Conveyance by Metes and Bounds.

- a. **Use of metes and bounds conveyance limited.** No conveyance in which the land conveyed is described by metes and bounds shall be made or recorded unless such parcel was a separate parcel of record at the effective date of this Ordinance or unless a surveyor's sketch is first submitted to the Office of the Zoning Administrator and presented to the County Recorder along with a copy of the conveyance.
- b. **Surveyor's sketch required.** A surveyor's sketch is required for a metes and bounds conveyance and the surveyor's sketch shall contain the same information required by Section 5, subsection J. 4 of this Chapter except that:
 - (1) No permanent monuments need be set; and
 - (2) If the sole purpose of the conveyance is to modify a boundary line, only the modified boundary line need be shown on the sketch.

- 3. **Enforcement.** Building permits will be withheld for buildings on tracts, which have been subdivided and conveyed by metes and bounds without submission of a surveyor's sketch and the County may refuse to take over tracts as streets or roads or to improve, repair or maintain any such tracts.

L. Enforcement. The provisions of this Chapter shall be enforced in the following manner in addition to the general enforcement powers in Chapter 9 of this Ordinance.

- 1. **Recorder's responsibilities.** The County Recorder shall submit to the Office of Zoning Administration copies of any documents presented for filing which appear to be in violation of this ordinance. The Zoning Administrator shall examine each such instrument to determine whether the proposed conveyance complies with this ordinance. If the conveyance does not comply with this ordinance, the Zoning Administrator shall give notice by mail of the potential violation to the parties to the conveyance.

2. **Sale of lots from unrecorded plats.** It shall be unlawful to sell, trade, or otherwise convey any lot or parcel of land in violation of this ordinance.
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.

M. **Non-riparian lots.** Non-riparian lots not meeting the required size of the zoning district may be allowed if the following criteria are met;

1. Non-riparian lots described by metes and bounds conveyance must be described by legal description the riparian lot to which it is being attached to and the combined tract cannot be conveyed separately nor separated without county approval;
2. Non-riparian lots created by platting must include in the plat dedication the legal description of the riparian lot to which it is being attached and that neither can be conveyed separately nor separated without county approval;
3. The non-riparian lot and riparian lot must be located within two hundred (200) feet of each other;
4. To the extent practicable and feasible, non-riparian lot must be at least five thousand (5000) square feet including any non-buildable area;
5. A non-riparian lot shall not be created that limits the access or development of parcels adjacent to the same roadway;
6. The minimum road frontage of the non-riparian lot is fifty (50) feet;
7. All setbacks for the applicable zoning district shall apply to the non-riparian lots;
8. The lot area of the non-riparian lot cannot be used in the calculations of impervious coverage for the riparian lot;
9. The maximum lot coverage of the non-riparian lot cannot exceed twenty-five (25) percent of the area of the non-riparian lot.

N. **Minor Subdivision Exemption on Natural Environment Lakes.** When a property owner owns a lot that is not large enough to subdivide into two tracts meeting the required lake frontage and lot area, a one-time minor subdivision exemption may be allowed if the following conditions are met:

1. The existing tract is large enough to meet the required lake frontage and lot area standard for the appropriate lake size and the remnant tract meets or exceeds the State lake frontage and lot area standards for a natural environment lake.
2. The lake frontage and lot area must be divided equally or as near practical as possible; and
3. The minor subdivision does not create more than one (1) additional lot according to the lot size requirements of 4/17/14.

Section 6 Non –Shoreland Multi-Unit Developments (MUDs)

- A. **Types of MUDs permissible.** Multi-unit developments (MUDs) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. The land use districts in which they are an allowable use are identified in Table 5-1.
- B. **Processing of MUDs.** Multi-unit developments shall be processed as a conditional use, except that an expansion to an existing commercial MUD involving six (6) or less new dwelling units or sites is permissible as a permitted use provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures in subsection D. of this section. Approval shall not be given until the environmental review process (EAW/EIS) is completed, if required.
- C. **Application for a MUD.** The applicant for a MUD shall submit the following documents prior to final action being taken on the application request:
1. **Site plan and plat.** A site plan and plat for the project showing locations of property boundaries, surface water features, existing and proposed structures and other facilities, land alterations, sewage treatment and water supply systems (if public systems will not be provided), and topographic contours at ten foot (10') intervals or less. When a MUD is a combined commercial and residential development, the site plan and plat shall indicate and distinguish which buildings and portions of the project are residential, commercial, or a combination of the two. The plat shall comply with design standards and submission procedures of the Section 5 of this Chapter unless otherwise provided in this section.
 - a. **Open space.** All common open space shall be labeled on the site plan. The site plan also shall contain a statement of the intended purpose of all open space.
 2. **Property owner's association.** A property owner's association agreement (for residential MUDs) with mandatory membership which agreement shall meet the requirements of this section.
 3. **Property restrictions.** Deed restrictions, covenants, permanent easements, or other instruments that:
 - a. Properly address future vegetative and topographic alterations, construction of additional buildings, and construction of commercial buildings in residential MUDs; and
 - b. Ensure the long-term preservation and maintenance of open space in accordance with the other provisions of this section.
 4. **Master Plan.** When necessary, a master plan or drawing describing the project and the floor plan for all commercial structures to be occupied.
 5. **Additional information.** Those additional documents as requested by the Planning Commission which are necessary to explain how the MUD will be designed and will function.
- D. **General regulations**
1. **Density.** Except for individual lot area and frontage requirements, the multi-unit development project shall conform to the density requirements of the zoning district.
 2. **Minimum lot sizes.** The multi-unit development project shall have a minimum individual lot size equal to two-thirds (2/3) the minimum requirements for the zoning district, except that street setbacks shall conform to that of the district.
 3. **Commercial MUD density and site area.** There shall be maximum density and minimum site area for commercial MUDs as established in the zoning district under which the conditional use is requested. Land area requirements for dwelling units of the owner or persons employed by the owner, convenience stores or other buildings, shall be in addition to these requirements.

4. **Minimum area and frontage.** There shall be a minimum area requirement of six (6) acres with a minimum frontage on a public road of two hundred feet (200') for any MUD other than a mobile home park.

E. **Mobile home parks and recreational vehicle parks.** In addition to other provisions of this Section 6, the following regulations shall apply to mobile home or recreational vehicle parks reviewed as a MUD.

1. **Minimum area and frontage.** There shall be a minimum area requirement of eight (8) acres with a minimum frontage on a public road of three hundred feet (300') for any MUD for a mobile home park or recreational vehicle park.
2. **Recreation area size.** Every mobile home park and recreational vehicle park shall contain at least one (1) recreation area that shall contain five hundred (500) square feet of park area for each mobile home stand or pad in the mobile home park and two hundred (200) square feet of park area for each recreational vehicle stand or pad in a recreational vehicle park.
3. **Recreation area location.** The recreation area shall not be located in the side, front or rear yards of any mobile home and recreational vehicle stand or pad, but shall be in a separately defined area of the park.
4. **Lot coverage.** Maximum lot coverage for mobile home parks and recreational vehicle parks shall be twenty-five percent (25%) excluding roads and parking areas.
5. **Separation distance.** Minimum distance between mobile home and recreational vehicle units shall be twenty-five (25) and fifteen (15) feet respectively, the point of measurement being a straight horizontal line on a flat plane and at the closest point between the units being measured.
6. **Non-public street width.** Non-public streets in a MUDs for mobile home parks or recreational vehicle parks shall be at least fourteen feet (14') in width one way and twenty-four feet (24') in width two way to permit ease of access to the mobile home or recreational vehicle parking stand or pad for the placement or removal of a unit, without causing damage to or otherwise jeopardizing the safety of any occupants or mobile home or recreation vehicle in the park or court.
7. **Setbacks and landscaping.** There shall be a minimum setback of eighty feet (80') between the property line and any use within the mobile home or recreational vehicle park, the setback area shall be landscaped and screened by a fence or screen plantings of sufficient size to permit complete privacy for the residents of both the mobile home park, recreational vehicle park and adjacent properties.
8. **Parking.** In mobile home and recreational vehicle parks at least one (1) off-street parking space shall be provided at each stand or pad. All additional spaces required shall be located within three hundred feet (300') of the stand or pad.
9. **Storage lockers.** Enclosed storage lockers shall be provided either adjacent to the mobile home in a mobile home park or at such other place in the park as to be convenient to the unit for which it is provided. Large items such as boats, boat trailer, etc., shall not be stored at the site of the mobile stand or pad, but rather shall be stored in a separate screened area of the park.
10. **Maintenance.** The operator of any mobile home park, or a duly authorized attendant or caretaker, shall always be in charge to keep the mobile home park, its facilities and equipment, in a clean, orderly, and sanitary condition. The attendant or caretaker shall be answerable, with the operator, for the violation of any of these regulations to which the operator is subject.

F. **Street and parking requirements.**

1. **Parking.** Parking requirements shall be as prescribed in Chapter 7, Section 12 of this Ordinance.

2. **Commercial MUD streets.** Public streets and roads within a commercial MUD shall be designed to comply with the regulations in Chapter 8, Section 8, subsection H. of this Ordinance and the Becker County E-911 Ordinance.

G. Maintenance and administration requirements.

1. **Long-term existence.** Before final approval of a multi-unit development, adequate provisions shall be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.
2. **Open space preservation.** Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means shall be provided to assure long-term preservation and maintenance of open space. The instruments shall include all of the following prohibitions:
 - a. Commercial uses prohibited in residential multi-unit developments;
 - b. Vegetation and land alterations other than routine maintenance;
 - c. Construction of additional buildings or storage of vehicles and other materials; and
 - d. Uncontrolled beaching of watercraft.
3. **Development organization and functioning.** Unless an equally effective alternative community framework is established all residential multi-unit developments shall use an owners association with the following features:
 - a. Membership shall be mandatory for each dwelling unit or site purchaser and any successive purchasers;
 - b. Each member shall pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites;
 - c. Assessments shall be adjustable to accommodate changing conditions; and
 - d. The association shall be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

H. Design requirements.

1. **Open space design.** Multi-unit developments shall contain open space meeting the following requirements:
 - a. **Size.** At least fifty percent (50%) of the total project area shall be preserved as open space, and the design of the open space shall conform to the following:
 - (1) Dwelling units or sites, road rights-of-way, or land covered by road surfaces, parking areas, or structures, are developed areas and shall not be included in the computation of minimum open space;
 - (2) Open space shall include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries;
 - (3) Open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests and by the general public;
 - (4) Open space may include sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems.
2. **Park dedication.** The Planning Commission and County Board may determine that portions of the required open space (not to exceed five percent (5%) of the total site area), or an equivalent

value of the raw land will be dedicated to the County for public recreation or open space purposes.

3. **Erosion control and stormwater management.** Erosion control and stormwater management plans shall be developed and the MUD shall:
 - a. **Erosion control design standard.** Erosion control systems shall be designed, and the construction managed, to reduce the likelihood of serious erosion occurring either during or after construction.
 - b. **Method of control.** Erosion control shall be accomplished by limiting the amount and the length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques shall be used to reduce erosion impacts on surface water features. Erosion control plans approved by a Soil and Water Conservation District may be required if project size and site physical characteristics warrant; and
 - c. **Stormwater management design standard.** Stormwater management systems shall be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff.
 - d. **Impervious surface limit.** In Non-Shoreland MUDs impervious surface coverage shall not exceed twenty-five percent (25%) of the MUD area.
4. **Centralization and design of facilities.** Facilities structures shall be centralized according to the following standards:
 - a. **Utilities.** Multi-unit developments shall be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems shall be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and Chapter 4 of this Ordinance. On-site sewage treatment systems shall be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors shall be provided for a replacement soil treatment system for each sewage system.
 - b. **Dwellings.** Dwelling units or sites shall be clustered into one or more groups and located on suitable areas of the development.

I. **Phasing of development.**

1. **Details and timing.** Any application for a MUD proposed to be constructed in phases shall include full details of the proposed phasing. The application shall state the time for beginning and completion of each phase.
2. **Assurances required.** The landowner or developer shall make such easements, covenants and other arrangements and shall furnish such performance bond or bonds as may be determined by the County Planning Commission and County Board to be reasonably required to assure performance and completion of private streets and utilities, landscaping and privately owned and maintained recreational facilities in accordance with the plan and to protect the public interest in the event of abandonment of the plan before completion.

- J. **Minor modification to design.** The uniqueness of each proposal for a MUD requires that specifications and standards for streets, utilities and services may be subject to minor modifications from the specifications and standards established in this and other County ordinances governing their construction. The County Board may therefore, waive or modify the specifications or standards if it is found that they are not required in the interests of the residents or of the County. The plans and profiles of all streets, utilities and services shall be reviewed, modified, if necessary, and approved by the County Engineer prior to the final approval of the MUD plan by the County Board.

Section 7 Shoreland Conservation Subdivision Developments

A Conservation Subdivision is a method of development characterized by clustering homes adjacent to a permanently preserved common open space. Critical natural areas and community recreation areas are identified and protected. Vulnerable natural features are incorporated into the design, which provides for the preservation of significant native habitat and creates a balance between housing development and the ecology of shoreland areas.

- A. **Purpose.** The purpose of these regulations is to establish procedures and criteria to evaluate conservation subdivision developments. It is intended to provide a relationship between buildings, and between building and sites, that cannot be accomplished by the one building-one lot application of the land use provisions of this ordinance. In order to encourage well-designed building groups, this section provides for the development of more than one structure upon a single lot or tract as well as the integral development of one or more lots as a single tract.
- B. **Where allowed.** Conservation subdivision developments are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings, resorts, campsites, and land use.
- C. **Definition of residential development.** Shoreland conservation subdivision developments consisting of sites or units that are sold or leased for purposes of establishing the residence of the occupant, or any other method of transferring long term rights to lodging spaces, rooms, recreational vehicle sites, or parcels shall be considered residential and must comply with this section of the Ordinance.
- D. **Review process for Conservation Subdivisions.**
 1. **Conditional use permit required.** Conservation subdivision developments shall be processed as conditional uses.
 2. **Pre-application.** The developer shall submit a pre-application conceptual plan to the Planning and Zoning Department for review of project plans. Conceptual plans shall contain, at a minimum, the following information:
 - a. The project scope and number of units proposed;
 - b. The size and configuration of the parcel;
 - c. The presence and proximity to wetlands and lakes;
 - d. Significant topographical or physical features;
 - e. The presence of significant historic sites;
 - f. The site suitability for individual subsurface sewage treatment systems, if they are to be installed;
 - g. North arrow;
 - h. Scale;
 - i. Vicinity map; and
 - j. Area dedicated for each site.
 3. **Pre-application meeting.** In order to avoid costly revisions of plans and plats, the developer or the developer's representative, must have preliminary meetings with the Planning and Zoning and Environmental Review Technical Panel to insure that the applicant is informed of the procedural requirements or limitations imposed by other county ordinances or plans, prior to the development of the conservation subdivision development. Applicants shall present a conceptual plan to the Planning and Zoning Department and Environmental Review Technical Panel prior to the filing of the multi-unit development plans.

4. **Written authorization to proceed.** Applicant will receive written authorization from the Planning and Zoning Department to proceed with the preparation of the conservation subdivision development plan. This authorization may contain comments identifying particular issues, concerns, and items to address in the conservation subdivision development plan. No conservation subdivision development application will be accepted for review without this written authorization.
5. **Environmental review.** The Department, along with the assistance of the Environmental Review Technical Panel, may recommend that a discretionary Environmental Assessment Worksheet (EAW) be prepared for the proposed project or a project that meets mandatory threshold requirements for an EAW. If the Environmental Review Technical Panel recommends that an EAW is to be completed and the County Board of Commissioners approves this recommendation, the EAW must be completed prior to the conservation subdivision development conditional use permit application.
6. **Conditional use permit application.** The following documents must be submitted with a conservation subdivision development conditional use permit application:
 - a. **Site plan or plat.** A site plan and/or plat for the project showing locations of property boundaries, surface water features, existing and proposed structures and other facilities, land alterations, sewage treatment and water supply systems (where public systems will not be provided), and topographical contours at two foot (2') intervals or less.
 - b. **Declaration documents.** Declaration documents shall be provided with the application indicating the ultimate intended ownership of the lots or units within the conservation subdivision.
 - (1) **CIC requirements.** If the subdivision will be a common interest community it shall be created in accordance with Minnesota Condominium Acts (Chapters 515 and 515A of the Minnesota Statutes) or a Common Interest Community (CIC) formed under Chapter 515B of the Minnesota Statutes (which would also include condominiums, cooperatives, a Planned Community that is not a condominium or a cooperative, or a Leasehold Common Interest Community).
 - (2) **Documents required.** At minimum, there shall be provided by the applicant the Declaration for the Common Interest Community or planned unit development as well as copies of the Owners' Association documents, including, but not limited to, Articles of Incorporation and Bylaw of the Association or in the case of an Owners' Association which will be a limited liability company or a non-profit corporation, the Articles of Organization, Member Control Agreement and Operation Agreement.
 - c. **Minimum content of application documents.** The following items must be permanently included in the Declaration Documents:
 - (1) Vegetative and topographic alterations and maintenance;
 - (2) The construction of additional buildings if allowed;
 - (3) Regulation of shore recreation areas;
 - (4) Long-term preservation plans and maintenance of open space and the shore impact zone;
 - (5) Protection of wetlands from any future draining or filling;
 - (6) Provisions for third-party management of individual subsurface sewage treatment systems.
 - d. **Master plan.** A master plan/drawing describing the project and the site plan for the dedicated area of each site.

- e. **Additional information.** Those additional documents as requested by the Planning & Zoning Department and the Planning Commission that are necessary to explain the conservation subdivision design and function.
- E. **Suitable area and density calculation.** The suitable area and density will be calculated for each conservation subdivision development conditional use application according to the following provisions.
1. **Calculation of tiers.** The parcel is divided into tiers by locating one or more lines approximately parallel to the ordinary high water level at intervals set forth in the table 8.5 below. The first tier is closest to the water.

Table 8.5 Shoreland tier dimensions

Lake or River Classification	Tier Depth	
	1 st Tier	2 nd Tier
Public Water Classification	1 st Tier	2 nd Tier
General Development Lakes	200 feet	201-1000 feet
Recreational Development Lakes	267 feet	268–1000 feet
Natural Environment Lakes	400 feet	401–1000 feet
All River Classes – All classifications	300 feet	

2. **Suitable area calculation.** The suitable area within each tier is calculated by excluding from the tier area all wetlands, bluffs, public road right of ways, easements, or land below the ordinary high water level of Protected Waters. All suitable area of the project must be located within the shoreland district.
3. **Density calculation for General Developments Lakes and Recreational Development Lakes.**
 - a. **Maximum number of tiers.** A maximum of two tiers of development will be allowed.
 - b. **First tier density calculation.** The number of units in the first tier will be determined by the number of lots that would be allowed on the suitable area by a single-family residential subdivision.
 - c. **Second tier density calculation.** The number of units in the second tier will be determined by the number of lots that would be allowed by a single-family residential subdivision or one and one-half (1.5) times the number of lots in the first tier, which ever number is more restrictive.
4. **Design requirements for General Developments Lakes and Recreational Development Lakes.**
 - a. **Density transfers between tiers.** Allowable density and placement may be transferred from first tier to second tier.
 - b. **Maximum impervious surface.** Impervious surface coverage cannot exceed twenty-five percent (25%) of conservation subdivision development suitable area.

- c. **Controlled access lots.** No controlled access lot is required. Space must be reserved in the first tier for access to shore recreation areas.
5. **Density calculation for Natural Environment Lakes.**
- a. **Density calculation.** One tier of development will be allowed. The number of units will be determined by the number of lots that would be allowed on the suitable area.
 - (1) **Lakes larger than 250 acres.** The number of dwelling units will be determined by allowing one site for each 200 feet of lake frontage and 80,000 sq ft of suitable area
 - (2) **Lakes smaller than 250 acres.** The number of dwelling units will be determined by allowing one site for each 250 feet of lake frontage and 100,000 sq ft of suitable area.
6. **Design requirements for Natural Environment Lakes.**
- a. **Maximum impervious surface.** Impervious surface coverage cannot exceed twenty-five percent (25%) of conservation subdivision development suitable area.
 - b. **Controlled access lot.** No controlled access lot is required. Space must be reserved for access to shore recreation areas.
- F. **Open space requirements.** Multi-unit residential developments must contain open space meeting all of the following requirements:
- 1. **Preserved open space.** At least fifty percent (50%) of the total project area shall be preserved as open space, and the design of the open space shall conform to the following:
 - a. Dwelling units or sites, road rights-of-way, or land covered by road surfaces, parking areas, or structures, are developed areas and shall not be included in the computation of minimum open space;
 - b. Open space shall include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries;
 - c. Open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests and by the general public;
 - d. Open space may include sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems; and
 - e. The shore impact zone must be included as open space. At least seventy percent (70%) of the shore impact zone must be a preservation area or a restoration area;
- G. **Other design requirements.** In addition to other design requirements of this section, conservation subdivision developments must meet all of the following requirements:
- 1. **Shore recreation area.** A contiguous thirty percent (30%) of the shore impact zone or two hundred feet (200'), whichever is the most restrictive, may be used for shore recreation area. Evaluation for suitability of shore recreation areas must include consideration of land slope, water depth, upland and aquatic vegetation, presence of wetlands, soils, depth to ground water and bedrock or other relevant factors;
 - 2. **Minimum setback.** There shall be a minimum setback of twenty feet (20') between any property line and any improved use within the development. The setback area shall be landscaped and screened by a fence or screen plantings of sufficient size to permit complete privacy for the residents of the development and adjacent properties; and
 - 3. **Maximum impervious surface.** Impervious surface coverage cannot exceed twenty-five percent (25%) of conservation subdivision development suitable area.

- H. **Erosion control and stormwater management.** Storm water management and grading plans that meet the design requirements set forth by the Environmental Review Technical Panel. The storm water management controls shall be constructed and maintained to effectively manage storm water runoff. This requirement does not substitute for review and permit requirements of other entities including MPCA, Watersheds, etc.
1. **Maximum impervious surface.** Impervious surface coverage cannot exceed twenty-five percent (25%) of conservation subdivision development suitable area.
- I. **Centralization and design of facilities.** Centralization and design of facilities and structures must be done according to the following standards:
1. **Utilities.** Conservation subdivision developments shall be connected to publicly owned water supply and sewer systems, if available. On-site water supply shall be designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and Chapter 4 Section 9 of this Ordinance. On-site sewage treatment systems may be a single system or more than one centralized system, with the locations designated on the plan, and designed and installed to meet or exceed applicable standards or rules of the State of Minnesota and Chapter 4 Section 10 of this Ordinance. On-site sewage treatment systems shall be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors shall be provided for a replacement soil treatment system for each sewage system.
 2. **Dwellings.** Dwelling units or sites shall be clustered into one or more groups and located on suitable areas of the development.
 3. **Shore recreation areas.** Shore recreation areas, including but not limited to swimming areas, docks and watercraft mooring areas must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, upland and aquatic vegetation, presence of wetlands, soils, depth to ground water and bedrock or other relevant factors.
 4. **Docks.** The number of spaces provided for continuous docking of watercraft on a general development or recreational development lake shall not exceed one and one-half for each allowable dwelling unit in the first tier, with a maximum of one slip for each unit in the development. The number of spaces provided for continuous docking of watercraft on a natural environment lake shall not exceed one for each allowable dwelling in the development. Launching ramp facilities, including a small dock for short-term loading, and unloading equipment, and a day dock may be provided, if suitable, for use by the occupants of the development.
 5. **Screened from lake view.** Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from Protected Waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.
 6. **Accessory structures and facilities.** One water-oriented structure will be allowed. Maximum structure size is 120 sq ft. The minimum setback from the lake is twenty feet (20') from the ordinary high water mark or current water level, whichever is most restrictive.
 7. **Minimum street width.** Non-public streets shall be a minimum of fourteen feet (14') in width one-way and twenty-four feet (24') in width two-way to permit ease of access, without causing damage to or otherwise jeopardizing the safety of any occupants in the development.
- J. **Criteria for evaluation of conservation subdivision applications.** Before recommending the approval of the preliminary development plan and conditional use permit for a conservation subdivision, the Planning Commission shall find that all of the following criteria are satisfied:

1. The conservation subdivision development conforms to the regulations of the land use district in which it is proposed to be located;
2. The conservation subdivision development or unit thereof is of sufficient size, composition and arrangement that its construction, marketing and operation are feasible as a complete unit without dependence upon any subsequent unit;
3. The conservation subdivision development will not create an excessive burden on parks, schools, streets and other public facilities and utilities, which serve or are proposed to serve the multi-unit development;
4. The minimum area of land to be included in the conservation subdivision development is as designated in the land use district in which it is proposed to be located; and
5. Adequate provisions are developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.

K. Maintenance and administration requirements.

1. **Long-term existence.** Before final approval of a conservation subdivision development, adequate provisions shall be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.
2. **Open space preservation.** Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means shall be provided to assure long-term preservation and maintenance of open space. The instruments shall include all of the following prohibitions:
 - a. Commercial uses prohibited in multi-unit residential developments;
 - b. Protection of vegetation is encouraged and topographic alterations shall be prohibited in the preservation areas and restoration areas;
 - c. Prohibition of construction of additional buildings or storage of vehicles and other materials;
 - d. Prohibition of uncontrolled beaching of watercraft; and
 - e. Identification of all wetlands in the parcel with signs and protection against alterations of any type.

L. Minor modification to design. The uniqueness of each proposal for a conservation subdivision development requires that specifications and standards for streets, utilities and services may be subject to minor modifications from the specifications and standards established in this and other County ordinances governing their construction. The County Board may therefore, waive or modify the specifications or standards if it is found that they are not required in the interests of the residents or of the County. The plans and profiles of all streets, utilities and services shall be reviewed, modified, if necessary, and approved by the County Engineer prior to the final approval of the conservation subdivision development plan by the County Board.

M. Design changes during development.

1. **Minor design changes.** During the development of the approved conservation subdivision development, the Department may approve minor changes in the location, placement, and height of buildings, if such changes are required by engineering or other circumstances not foreseen at the time the preliminary plan was approved.
2. **Changes not allowed.** Changes in uses, rearrangement of lots, block and building tracts, or any changes in the provisions of the common open space require re-submission and re-approval of the preliminary plan by the Planning Commission.

N. **Conversions of existing uses.** Existing resorts or other land uses and facilities may be converted to conservation subdivision developments provided that the land is reclassified to the residential use category and all of the following standards are met:

1. **Application and correction of deficiencies.** At the time of conversion, the plan meets conservation subdivision development application and general regulation standards in subsection D of this Section and includes the correction of all site deficiencies such as water supply, sewer systems, storm water management, shoreline and bluffs;
2. **Density.** At the time of conversion, the plan meets shoreland residential density standards in subsection E of this Section.
3. **Brought into conformity with regulations.** At the time of conversion, the site is brought into conformity including: removal of buildings, units and recreational vehicle sites to the approved density, centralization of shore recreation facilities, restoration of the shore impact zone and all other open space requirements;
4. **Future replacement sites designated for nonconformities.** At the time of conversion, the plan designates a future site for replacement of each nonconforming unit including cabins, cottages, and recreational vehicle sites. Thus, a purchaser acquires an existing structure and the rights to a specific location for future replacement building or recreational vehicle site. The nonconforming structures can continue to be utilized until such time when a rebuild or replacement is proposed and then must comply with all ordinance standards at the pre-designated site, not to exceed ten years from the date of the approved conversion. Exterior expansions, normal maintenance or replacement of existing structures are allowed only if the structures are already located on its designated future site meeting the required lake classification setbacks.

O. **Phasing of development.**

1. **Details and timing.** Any application for a conservation subdivision development proposed to be constructed in phases shall include full details of the proposed phasing. The application shall state the time for beginning and completion of each phase.
2. **Assurances required.** The landowner or developer shall make such easements, covenants and other arrangements and shall furnish such performance bond or bonds as may be determined by the County Planning Commission and County Board to be reasonably required to assure performance and completion of private streets and utilities, landscaping and privately owned and maintained recreational facilities in accordance with the plan and to protect the public interest in the event of abandonment of the plan before completion.

Section 8 Controlled Access Lots

- A. **Purpose.** The purpose of this Section is to manage water surface crowding, to reduce fish and wildlife disturbance, to prevent pollution to surface water by suspension of sediment, to maintain property values, and to maintain natural characteristics of shorelands, shoreland controls must regulate access to public waters.
- B. **Application and review.** Application for a land subdivision with a controlled access lot shall follow the guidelines and procedures in Chapter 8, Section 5 of this Ordinance.
- C. **Standards.** Access lots, or parcels of land that provide access to public waters for owners of riparian lots within a subdivision may be allowed where the local government determines that direct riparian access is not feasible due to the presence of protected vegetation, wetlands, or other critical fish or wildlife habitat. Access lots that provide riparian access for owners of non-riparian lots or parcels

shall be prohibited. Where allowed by local governments, access lots shall meet or exceed the following standards:

1. **Suitability and minimum lot sizes.** The lot shall meet the width and size requirements for residential lots in the respective lake classification, and be suitable for the intended use of controlled access lots.
2. **Conversion prohibited.** Existing residential lots shall not be converted to access lots for non-riparian subdivisions.
3. **Maximum watercraft storage.** If the lot is to be used for docking, mooring, or over-water storage, the number of spaces for continuous docking of watercraft shall not exceed docking criteria as outlined in the conservation subdivision development requirements in Chapter 8, Section 7.
4. **Ownership.** The access lot shall be jointly owned by owners of lots within the subdivision who are allowed riparian access rights of the access lot as determined by the first tier density criteria outlined in the conservation subdivision development requirements in Chapter 8, Section 7.
5. **Covenants.** Covenants or other equally effective legal instruments shall be developed that include provisions for the following:
 - a. **Allowed users.** Provisions specifying the lot owners who have authority to use the access lot and the activities that are allowed.
 - b. **Allowed activities.** Provisions identifying allowed activities may only include:
 - (1) Watercraft launching, loading, mooring, or docking; and
 - (2) 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.
 - c. **Limits on vehicles and watercraft.** Provisions limiting the total number of vehicles, which will be parked and the total number of watercraft, which will be continuously moored, docked, or stored over water.
 - d. **Common facilities.** Provisions requiring centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations.
 - e. **Screening of view from lake.** Provisions requiring 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.
6. **Location of shore recreation facilities.** Shore recreation facilities, including but not limited to swimming, docks, and watercraft mooring areas must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, upland and aquatic vegetation, presence of wetlands, soil type, depth to ground water and bedrock, or other relevant factors. Lake access must not impact critical fish or wildlife habitat as determined by the DNR. All wetlands must be identified with signs and protected against any alterations.
7. **Shore impact zone.** The controlled access lot must include preservation or restoration areas, at least seventy percent (70%) of the shore impact zone. The natural or restored area must be protected. The lot may use up to thirty percent (30%) or two hundred feet (200'), whichever is more restrictive, for shore recreation purposes.
8. **Placement of docks.** The landward end of all docks must be a minimum of ten feet (10') from the nearest lot line. Docks must be placed so that no portion extends across the projection of the

setback from side lot lines into the lake and so as not to block access from an adjacent property owner to open water.

9. **Prohibition.** Controlled access lots, or any lot, tract, or parcel of land, however designated or described, intended to be used to provide accesses to public waters for owners of non-riparian lots, shall be prohibited.

D. Review process for controlled access lots.

1. **Pre-application.** The developer shall submit a pre-application conceptual plan to the Planning and Zoning Department for review of project plans. Conceptual plans shall contain, at a minimum, the following information:
 - a. The project scope and number of lots proposed;
 - b. The size and configuration of the parcel;
 - c. The presence and proximity to wetlands and lakes to the project;
 - d. Significant topographical or physical features;
 - e. The presence of significant historic sites;
 - f. The site suitability for individual subsurface sewage treatment systems, if they are to be installed;
 - g. North arrow;
 - h. Scale; and
 - i. Vicinity map.
2. **Pre-application meeting.** In order to avoid costly revisions of plans and plats, the developer or the developer's representative, must have preliminary meetings with the Planning and Zoning and Environmental Review Technical Panel to insure that the applicant is informed of the procedural requirements or limitations imposed by other county ordinances or plans, prior to development. Applicants shall present a conceptual plan to the Planning and Zoning Department and Environmental Review Technical Panel prior to the filing of the development plans.
3. **Written authorization to proceed.** Applicant will receive written authorization from the Planning and Zoning Department to proceed with the preparation of the development plan. This authorization may contain comments identifying particular issues, concerns, and items to address in the development plan. No development application will be accepted for review without this written authorization.
4. **Environmental review.** The Department, along with the assistance of the Environmental Review Technical Panel, may recommend that a discretionary Environmental Assessment Worksheet (EAW) be prepared for the proposed project or a project that meets mandatory threshold requirements for an EAW. If the Environmental Review Technical Panel recommends that an EAW is to be completed and the County Board of Commissioners approves this recommendation, the EAW must be completed prior to the development application.

Section 9 Commercial Planned Unit Developments

- A. **Purpose and applicability.** The purpose of this Section is to establish procedures and criteria to evaluate commercial/transient multi-unit developments. It is intended to provide a relationship between buildings, and between building and sites, that cannot be accomplished by the one building-one lot application of the land use provisions of this Ordinance. In order to encourage well-designed building groups, this Section provides for the development of more than one structure upon a single lot or tract as well as the integral development of one or more lots as a single tract.

- B. **Where allowed.** Commercial/transient multi-unit developments (MUDs) are allowed for new projects on undeveloped land, redevelopment of previously built sites, conversions of existing buildings, resorts, campsites, and land use.
- C. **Definition.** Commercial/transient multi-unit developments consist of sites or units that allow transient occupancy of short-term lodging spaces, rooms, RV sites or parcels. “Transient occupancy” means occupancy when it is the intention of the parties that occupancy will be temporary. There is a rebuttable presumption that, if the unit occupied is the sole residence of the guest, the occupancy is not transient. There is a rebuttable presumption that, if the unit occupied is not the sole residence of the guest, the occupancy is transient.
- D. **Applicability to licensed resorts, parks, and campgrounds.** Existing licensed resorts, RV parks and campgrounds that are licensed, with the Minnesota Department of Health as of April 26, 2005, *and continue to operate as a resort*, are only subject to the provisions of Section 10.
- E. **Review process for Shoreland Commercial/Transient MUDs.**
1. **Conditional use permit required.** Shoreland commercial/transient multi-unit developments shall be processed as conditional use permits meeting the provisions of Chapter 8, Section 11 of this Ordinance.
 2. **Pre-application meeting.** In order to avoid costly revisions of plans and plats, the subdivider or the subdivider’s representative, must have preliminary meetings with the Planning and Zoning and Environmental Review Technical Panel to insure that the applicant is informed of the procedural requirements or limitations imposed by other County ordinances or plans, prior to the development of the commercial/transient multi-unit development. Applicants shall present a conceptual plan to the Planning and Zoning Department and Environmental Review Technical Panel prior to the filing of the commercial/transient multi-unit development plans.
 3. **Pre-application.** The developer shall submit a pre-application conceptual plan to the Planning and Zoning Department for review of project plans. Conceptual plans shall contain, at a minimum, the following information:
 - a. The project scope and number of units proposed;
 - b. The size and configuration of the parcel;
 - c. The presence and proximity to wetlands and lakes;
 - d. Significant topographical or physical features including the general land contour, bluffs and low areas;
 - e. Near shore aquatic conditions including vegetation, water depth, and lake bottom sediments;
 - f. The presence of significant historic sites and past land use;
 - g. The site suitability for individual subsurface sewage treatment systems, if they are to be installed;
 - h. North arrow;
 - i. Scale; and
 - j. Vicinity map.
 4. **Written authorization to proceed.** Applicant will receive written authorization from the Planning and Zoning Department to proceed with the preparation of the multi-unit development plan. This authorization may contain comments identifying particular issues, concerns, and items

to address in the multi-unit development plan. No commercial/transient multi-unit development application will be accepted for review without this written authorization.

5. **Environmental review.** The Department, along with the assistance of the Environmental Review Technical Panel, may recommend that a discretionary Environmental Assessment Worksheet (EAW) be prepared for the proposed project or a project that meets mandatory threshold requirements for an EAW. If the Environmental Review Technical Panel recommends that an EAW is to be completed and the County Board of Commissioners approves this recommendation, the EAW must be completed prior to the commercial/transient multi-unit development conditional use permit application.
6. **Conditional use permit application.** The following documents must be submitted with a commercial/transient multi-unit conditional use permit application:
 - a. **Site plan or plat.** A site plan and/or plat for the project showing locations of property boundaries, surface water features, existing and proposed structures and other facilities, land alterations, sewage treatment and water supply systems (where public systems will not be provided), and topographical contours at two foot (2') intervals or less.
 - b. **Documents.** Deed restrictions, covenants, permanent easements, or other enforceable instruments that:
 - (1) Properly address vegetative and topographic alterations and maintenance;
 - (2) Properly address the construction of additional buildings, if allowed;
 - (3) Properly address the regulation of shore recreation facilities and watercraft docking,
 - (4) Properly address the construction of commercial buildings, if allowed;
 - (5) Ensure the long-term preservation and maintenance of open space and shore impact zone;
 - (6) Protect wetlands from any future draining or filling;
 - c. **Master plan.** A master plan/drawing describing the project and the site plan for the dedicated area of each site.
 - d. **Additional information.** Those additional documents as requested by the Planning and Zoning Department and the Planning Commission that are necessary to explain the commercial/transient MUD design and function.
- F. **Suitable area and density calculation.** The suitable area and density will be calculated for each commercial/transient MUD conditional use application according to the following provisions.
 1. **Structure free zone.** The structure free zone is the area, which is designated and is consistent with the required lake classification structure setback from the ordinary high water level of the lake. This area shall remain free of all structures.
 2. **Suitable area.** The suitable area shall be calculated by excluding from the area all wetlands, bluffs, public road right of ways, easements, or land below the ordinary high water level of public waters. All suitable area of the project must be located within the shoreland district. For density calculation, there shall be a maximum tier depth of two (2) times the lake frontage width.
 3. **Density determination.**
 - a. The number of units allowed will be determined by the amount of suitable area divided by the appropriate division factor determined by the amount of lakeshore frontage. Table 8-6, below, contains the division factors by lake classification for each lake frontage category.
 - b. All structures or sites will be placed behind the structure free zone.

Table 8-6 Density division factors for commercial/ transient multi-unit developments

Division factors by lake class	Lake frontage length				
	300 ft to 599 ft	600 ft to 899 ft	900 ft to 1199 ft	1200 ft to 1499 ft	1500 ft plus
General Development lakes	30,000	25,000	20,000	15,000	10,000
Recreational Development lakes	35,000	30,000	25,000	20,000	15,000
Natural Environment lakes	40,000	35,000	30,000	25,000	20,000

G. **Open space requirements.** Commercial/transient multi-unit developments must contain open space meeting all of the following requirements:

1. At least fifty percent (50%) of the total project area shall be preserved as open space, and the design of the open space shall conform to the following:
 - a. Dwelling units or sites, road rights-of-way, or land covered by road surfaces, parking areas, or structures, are developed areas and shall not be included in the computation of minimum open space;
 - b. Open space shall include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries;
 - c. Open space may include outdoor recreational facilities;
 - d. Open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems; and
 - e. The shore impact zone must be included as open space. At least seventy percent (70%) of the shore impact zone must be a preservation area or a restoration area.

H. **Other design requirements.** In addition to other design requirements of this Section, commercial/transient multi-unit developments must meet all of the following requirements:

1. **Minimum unit site dimensions.** A minimum of two thousand five-hundred (2,500) square feet is allowed per unit site. The unit site will be a minimum of fifty feet (50') wide.
2. **Side lot setback.** Structures must be ten feet (10') from the side lot line of the unit site.
3. **Shore recreation area.** A contiguous thirty percent (30%) of the shore impact zone or two hundred feet (200'), whichever is the most restrictive, may be used for shore recreation facility purposes. Evaluation for suitability of shore recreation areas must include consideration of land slope, water depth, upland and aquatic vegetation, presence of wetlands, soils, depth to ground water and bedrock or other relevant factors;
4. **Minimum setback.** There shall be a minimum setback of twenty feet (20') between any property line and any use within the development. The setback area shall be landscaped and screened by a fence or screen plantings of sufficient size to permit complete privacy for the residents of the development and adjacent properties; and
5. **Maximum impervious surface.** Impervious surface coverage cannot exceed twenty-five percent (25%) of commercial/transient MUD suitable area.

I. **Erosion control and stormwater management.** Commercial/transient MUDs must have storm water management and grading plans that are approved by the Planning and Zoning Department. The storm water management controls shall be constructed and maintained to effectively manage storm water runoff. This requirement does not substitute for review and permit requirements of other entities including MPCA, Watersheds, etc.

J. **Centralization and design of facilities.** Centralization and design of facilities and structures must be done according to the following standards:

1. **Utilities.** Commercial/transient multi-unit developments shall be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems shall be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and Chapter 4, Section 10, of this Ordinance. On-site sewage treatment systems shall be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors shall be provided for a replacement soil treatment system for each sewage system.
 2. **Dwellings.** Dwelling units or sites shall be clustered into one or more groups and located on suitable areas of the development. They must be designed and located outside of the structure free zone.
 3. **Shore recreation areas.** Shore recreation areas, including but not limited to swimming areas, docks and watercraft mooring areas must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, upland and aquatic vegetation, presence of wetlands, soils, depth to ground water and bedrock or other relevant factors.
 4. **Docks.** The number of spaces provided for continuous docking of watercraft shall not exceed one and one-half for each allowable dwelling unit as established by the conservation subdivision development provisions in Chapter 8, Section 7, subsection I.4, of this Ordinance. Launching ramp facilities, including a small dock for short-term loading, and unloading equipment, may be provided, if suitable, for use by the occupants of the development.
 5. **Screened from lake view.** Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from Protected Waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.
 6. **Accessory structures and facilities.** Accessory structures and facilities must be located outside the structure free zone and must be centralized.
 7. **Minimum street width.** Non-public streets shall be a minimum of fourteen feet (14') in width one-way and twenty-four feet (24') in width two-way to permit ease of access, without causing damage to or otherwise jeopardizing the safety of any occupants in the development.
- K. **Criteria for evaluation of commercial/transient MUD conditional use applications.** Before recommending the approval of the preliminary development plan and conditional use permit for a commercial/transient MUD, the Planning Commission shall find that all of the following criteria are satisfied:
1. The MUD conforms to the regulations of the land use district in which it is proposed to be located;
 2. The MUD or unit thereof is of sufficient size, composition and arrangement that its construction, marketing and operation are feasible as a complete unit without dependence upon any subsequent unit;
 3. The MUD will not create an excessive burden on parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the multi-unit development;
 4. The minimum area of land to be included in the MUD shall be as designated in the land use district in which it is proposed to be located; and
 5. Adequate provisions are developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.
- L. **Maintenance and administration requirements.**

1. **Open space preservation.** Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means shall be provided to ensure long-term preservation and maintenance of open space. The instruments shall include all of the following protections:
 - a. Vegetation topographic alterations shall be prohibited in the shore impact zone and restoration area except as part of an approved vegetation restoration plan;
 - b. Construction of additional buildings or storage of vehicles and other materials is prohibited;
 - c. Uncontrolled beaching of watercraft is prohibited; and
 - d. All wetlands in the parcel shall be identified with signs and protected against alterations of any type.

M. Design changes during development.

1. **Minor design changes.** During the development of the approved commercial/transient MUD, the Planning and Zoning Department may approve minor changes in the location, placement, and height of buildings, if such changes are required by engineering or other circumstances not foreseen at the time the preliminary plan was approved.
2. **Changes not allowed.** Changes in uses, rearrangement of lots, block and building tracts, or any changes in the provisions of the common open space require re-submission and re-approval of the preliminary plan by the Planning Commission.

N. Conversions of existing uses. Existing resorts or other land uses and facilities may be converted to conservation subdivision developments meeting provisions of Chapter 8, Section 7 of this Ordinance, and provided that the land is reclassified to the residential use category and all of the following standards are met:

1. **Application and correction of deficiencies.** At the time of conversion, the plan meets the conservation subdivision development application and general regulation standards in Chapter 8, Section 7 of this Ordinance and includes the correction of all site deficiencies such as water supply, sewer systems, storm water management, shoreline and bluffs;
2. **Density.** At the time of conversion, the plan must meet conservation subdivision density standards in Chapter 8, Section 7, subsection E, of this Ordinance.
3. **Brought into conformity with regulations.** At the time of conversion, the site is brought into conformity including: removal of buildings, units and recreational vehicle sites to the approved density, centralization of shore recreation facilities, restoration of the shore impact zone and all other open space requirements;
4. **Future replacement sites designated for nonconformities.** At the time of conversion, the plan designates a future site for replacement of each nonconforming unit including cabins, cottages, and recreational vehicle sites. Thus, a purchaser acquires an existing structure and the rights to a specific location for future replacement building or recreational vehicle site. The nonconforming structures can continue to be utilized until such time when a rebuild or replacement is proposed and then must comply with all Ordinance standards at the pre-designated site, not to exceed ten years from the date of the approved conversion. Exterior expansions, normal maintenance or replacement of existing structures are allowed only if the structures is already located on its designated future site meeting the required lake classification setbacks.

O. Phasing of development.

1. **Details and timing.** Any application for a commercial/transient MUD proposed to be constructed in phases shall include full details of the proposed phasing. The application shall state the time for beginning and completion of each phase.

2. **Assurances required.** The landowner or developer shall make such easements, covenants and other arrangements and shall furnish such performance bond or bonds as may be determined by the County Planning Commission and County Board of Commissioners to be reasonably required to assure performance and completion of private streets and utilities, landscaping and privately owned and maintained recreational facilities in accordance with the plan and to protect the public interest in the event of abandonment of the plan before completion.

P. **Minor modification to design.** The uniqueness of each proposal for a commercial/transient MUD requires that specifications and standards for streets, utilities and services may be subject to minor modifications from the specifications and standards established in this and other County ordinances governing their construction. The County Board may therefore, waive or modify the specifications or standards if it is found that they are not required in the interests of the residents or of the County. The plans and profiles of all streets, utilities and services shall be reviewed, modified, if necessary, and approved by the County Engineer prior to the final approval of the MUD plan by the County Board.

Section 10 Existing Licensed Resorts

A. **Licensed resort expansion or replacement.** The provisions in this subsection are applicable only to proposed unit or area expansion or replacement for existing licensed resorts (Minnesota Department of Health license list as of April 26, 2005) so long as they continue to maintain licensed status and continue to operate as a resort at their present location. Expansion to an existing resort involving six (6) or more additional units, at once or cumulatively, or the conversion to or expansion by six (6) or more seasonal sites, at once or cumulatively, shall be processed as a conditional use.

1. **Exception to commercial/transient MUD density provisions.** Existing resorts, RV parks and campgrounds that are licensed and operational prior to the adoption of Chapter 8, Section 9, of this Ordinance are not subject to the density standards listed in Chapter 8, Section 9, subsection F, of this Ordinance. At the time of proposed unit or resort area expansion or replacement the allowable density of existing licensed resorts, RV parks, or campgrounds will be determined by existing conditional use permits or the previous commercial shoreland planned unit development (PUD) density evaluation listed under subsection 2., Suitable area and density evaluation, of Chapter 8, Section 10.

2. **Suitable area and density evaluation.**

a. **Density evaluation - Commercial PUD.** The maximum number of dwelling units allowed in a commercial shoreland PUD is determined for each tier of development as follows:

(1) **Calculation of tiers.** The PUD parcel is divided into tiers by locating one or more lines approximately parallel to the ordinary high water level at intervals set forth in the following Table 8-7. The first tier is closest to the water. There shall be no more than two (2) tiers for density evaluation purposes.

Table 8-7 Commercial PUD shoreland tier dimensions

Lake or River Classification	Tier Depth	
	1 st Tier	2 nd Tier
General Development Lakes	200 feet	201-1000 feet
Recreational Development Lakes	267 feet	268-1000 feet
Natural Environment Lakes	400 feet	401-1000 feet
All River Classes	300 feet	

- (2) **Calculation of useable area.** The useable area of each tier is calculated by excluding from the tier area all wetlands, bluffs, public rights-of-way or land below the ordinary high water level.
- (3) **Calculation of living units or sites.** The maximum number of living units or sites in a commercial PUD is computed as follows:
 - a. Determine the total habitable inside living area size of the existing dwelling units or sites within each tier. Computation of inside living area sizes need not include decks, patios, stoops, steps, garages, or porches and basements, unless they are habitable space.
 - b. Determine the total coverage area of the proposed dwelling units or sites within each tier.
 - (1) For each proposed tent camping site and primitive transient recreational vehicle site, assign four hundred (400) square feet.
 - (2) For each proposed manufactured home sites and newly constructed buildings in recreational camping areas or on existing resort grounds, coverage is the actual size of the manufactured home or building.
 - (3) For each proposed seasonal recreational vehicle site, assign two thousand (2000) square feet.
 - c. Select the appropriate ratio of land surface that can be covered by structures from Table 8-8.

Table 8-8 Commercial PUD/Resort Structure Area Ratios

Public Water Classes	1 st Tier	2 nd Tier
General Development Lake	0.125	0.075
Recreational Development Lake	0.075	0.075
Natural Environment Lake	0.038	0.038
Rivers/Streams – all classes	0.038	

- d. Multiply the suitable area within each tier by the appropriate lake classification ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.
- e. Determine the maximum allowable number of existing and proposed dwelling units or sites for each tier by comparing the total structure coverage to that allowed in each tier.
- f. A proposed Resort expansion and/or conversion is limited to this density calculation.
- 3. Allowable density required for expansions.** Expansions to licensed resorts may be permitted provided that:
 - a. There is allowable density combining all tiers of the resort area as calculated by Chapter 8, Section 10 of this Ordinance, or permitted by an existing conditional use permit. Units may be added, if allowed by a total site density calculation (determined above) minus the existing units/sites located within all tiers of the resort area.

- b. There is allowable density in tier 2 as calculated by Chapter 8, Section 10 of this Ordinance. Limited to the maximum individual tier density calculation (determined above); two units may be added in tier 2 for each unit removed from tier 1.
 - c. The resort has a conforming sewage treatment system.
4. **Nonconforming structure replacement and expansion – outside of the shore impact zone.** Licensed resorts may replace, improve, or expand nonconforming structures following these procedures:
- a. Existing nonconforming structures, located within the first tier, on a licensed resort may be replaced without regard to available density.
 - b. Existing nonconforming structures must be replaced in their current location and there must be no expansion closer to the lake.
 - c. Licensed resorts, at maximum density (calculated in Chapter 8, Section 10.), may add three hundred (300) square feet to the existing structures' livable area footprint if:
 - (1) The unit size does not exceed one thousand five hundred (1,500) square feet with expansion;
 - (2) The unit is not expanded closer to the lake;
 - (3) These expansions will be approved one time per unit without issuance of a variance; and
 - (4) The resort must have a conforming sewage treatment system.
5. **Nonconforming structure replacement and expansion – within the shore impact zone.** Existing nonconforming structures, if destroyed by fire or an Act of God will be permitted to rebuild in the same footprint as the previous structure.
- a. Deteriorated nonconforming structures may be allowed to rebuild if:
 - (1) The resort has an approved storm water management plan; and
 - (2) The resort has an approved shore impact zone restoration plan.
6. **Docking /mooring calculations.**
- a. A maximum of one mooring space per allowable unit/site or twenty-five (25) lineal feet of shoreline, whichever is most restrictive, may be provided for continuous mooring of watercraft at existing licensed resorts, RV parks, and campgrounds abutting public waters. Centralization of docking and mooring spaces is recommended. Additional mooring spaces/lifts may be allowed by variance with an approved centralized docking system.
 - b. Boatlifts may be allowed and will be equal to one and one-half (1.5) times a mooring space calculated above.

Section 11 Conditional Use Permits

- A. **Conditional uses allowed.** Conditional use permits may be issued only for the conditional uses allowed in the zoning district in which the land in the application is located. Conditional uses for each zoning district are specified in Chapter 5, Section 1, Table 5-1.

- B. **Application.** An application for a conditional use permit shall be filed with the Zoning Administrator on a form prescribed by the Board of County Commissioners. The application shall be accompanied by such plans, elevations and site plans as prescribed by the County Planning Commission.
- C. **Planning Commission public hearing.** Upon receipt in proper form of the application and other requested material, the Becker County Planning Commission shall hold at least one (1) public hearing in a location to be prescribed by the Planning Commission. Such public hearing shall conform to the provisions in Chapter 8, Section 2 of this Ordinance.
- D. **Planning Commission report to the County Board.** For each application for a conditional use, the County Planning Commission shall report to the Board of County Commissioners its findings and recommendations, including the stipulation of additional conditions and guarantees that these conditions will be complied with when they are necessary for the protection of the public interest.
- E. **County Board action.** Upon receipt of the report of the Planning Commission, the Board of County Commissioners shall hold whatever public hearings it deems advisable and shall decide whether to grant or deny a Conditional use permit.
- F. **Findings and criteria.** No conditional use shall be recommended by County Planning Commission or granted by the Board of County Commissioners unless the Commission or the Board shall find that all of the following criteria are met:
 - 1. **Affect on surrounding property.** That the conditional use will not harm the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish or impair property values within the immediate vicinity.
 - 2. **Affect on orderly, consistent development.** That establishing the conditional use will not impede the normal, orderly development and improvement of surrounding vacant property for uses predominant in the area.
 - 3. **Adequate facilities.** That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.
 - 4. **Adequate parking.** That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.
 - 5. **Not a nuisance.** That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so none of these will constitute a nuisance, and to control lighted signs and other lights so that no disturbance to neighboring properties will result.
 - 6. **Additional criteria for shoreland areas.** In Shoreland areas, it shall be found that adequate measures have been or will be taken to assure that:
 - a. **Pollution.** Soil erosion or other possible pollution of public waters will be prevented, both during and after construction;
 - b. **View from public waters.** That the visibility of structures and other facilities as viewed from public waters will be limited;
 - c. **Adequate utilities.** That the site is adequate for water supply and on-site sewage treatment; and
 - d. **Watercraft.** That the types, uses, and number of watercrafts that the project will generate can be safely accommodated.
- G. **Report to DNR.** If an application for conditional use is for property located within the limits of the shoreland of public waters, the application shall be filed with the Commissioner of Natural Resources for comments at least 10 days before the official public hearing. A copy of the decision granting or

denying the conditional use application shall be sent to the State Commissioner within ten (10) days of the action.

- H. **Continuing compliance with terms required.** Any use permitted under the terms of any conditional use permit shall be established and conducted in conformity with the terms and conditions of the permit.
- I. **Expiration.** If two years after the date that the conditional use permit is granted and the use has not been implemented, the conditional use permit shall be null and void, unless a request for extension of time in which to complete the work has been granted by the Board of Commissioners. The request must be placed on the Board of Commissioners agenda prior to the expiration of the conditional use permit to request a one year extension with no limit on extension requests. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the conditional use permit. If the permitted use was implemented, but the use has been discontinued for a period of two years, the conditional use permit shall also be null and void. This does not pertain to conditional use permits issued prior to December 1, 2009.
- J. **Requirements for previously denied applications.** No application for a conditional use permit shall be resubmitted for a period of one year from the date that a request is denied by the Becker County Board of Commissioners, except the County Board may allow a new application if, in the discretion of the County Board, new evidence or a change in circumstances warrant it.

Section 12 Variances

- A. **Review authority.** The Board of Adjustment shall have the exclusive power to order the issuance of variances from the terms of this Ordinance.
- B. **Application.** Application for a variance or other adjustment shall be made to the Board of Adjustment in the form of a written application.
- C. **Public hearing required.** Upon receipt of any application, the Board of Adjustment shall set a time and place for a public hearing on the application. Such public hearing shall conform to the provisions in Chapter 8, Section 2 of this Ordinance.
- D. **Findings.** If the Board of Adjustment finds that a variance meets the criteria for granting a variance as specified in subsection I, below, the Board of Adjustment shall make written findings of the facts upon which its decision is based clearly identifying the specific conditions that exist which justify the granting of the variance. Copies of the findings shall be mailed to the applicant and to any other party who appears at the hearing and the town board.
- E. **Conditions.** The Board of Adjustment may impose conditions in the granting of variances to insure compliance and to protect adjacent properties and the public interest.
- F. **Recording of decision.** A certified copy of any order issued by the Board of Adjustment acting upon a request for a variance, shall be filed with the county recorder or registrar of titles for record. The order issued by the Board of Adjustment shall include the legal description of the property involved
- G. **Appeals.** The decision of the Board of Adjustment shall be final except that any person or persons, or any department, board, or commission of the county or of the state shall have the right to appeal within thirty (30) days, after receipt of notice of decision, to the district court.
- H. **Minimum variance necessary.** The variance granted shall be the minimum variance necessary to relieve the circumstance that justifies the variance.
- I. **Criteria for granting variances.** A variance shall be granted only if all of the following criteria are met:

1. **Compliance with Statute.** The Board of Adjustment shall not grant a variance unless it finds that the standards of Minnesota Statutes Annotated section 394.27, subsection 7 have been met.
 2. **Intent of Ordinance:** Variances shall only be permitted if they are in harmony with the general purposes and intent of this Ordinance.
 3. **Hardship.** Variances shall only be permitted if there are practical physical difficulties or particular physical hardships when the strict letter of this Ordinance is imposed. "Hardship" as used in connection with the granting of a variance means the property in question cannot be put to a reasonable use if used under the conditions allowed by this Ordinance. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of this ordinance. The Board of Adjustment may consider the inability to use solar energy systems a "hardship" in the granting of variances.
 4. **Plight of Landowner.** Variances shall only be permitted if the plight of the landowner is due to circumstances unique to the property not created by the landowner.
 5. **Health and Safety.** Variances shall be permitted only if the granting of the variance will not materially adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property of the applicant.
 6. **Earth Shelter Construction.** Variances shall be permitted for earth-sheltered construction as defined in Minnesota Statutes when in harmony with this ordinance.
- J. **Additional criteria for Shoreland setback variances.** Variances to the Shoreland setback provision of the ordinance may be granted under the following circumstances:
1. **Alternative sewage treatment method.** Where structures incorporate a method of sewage treatment other than soil absorption.
 2. **Setback averaging.** Where development exists on both sides of a proposed building site, setbacks may be varied to conform to the existing setbacks.
 3. **Unusual topography.** In areas of unusual topography or substantial elevation above the lake level, setbacks may be varied to allow a riparian owner reasonable use and enjoyment of his property.
- K. **Prohibited variances.**
1. **ISTS non-compliance.** No variance shall be issued for replacement, or for the addition of a bedroom or bathroom on property served by a system unless the individual subsurface sewage treatment system is in compliance with the Becker County ordinance on individual subsurface sewage treatment systems as evidenced by a certificate of compliance.
 2. **Prohibited uses.** No variance shall be granted that would allow any use that is prohibited in the zoning district in which the subject property is located.
- L. **Notice of decision to DNR.** A notification of any decision involving shoreland areas shall be sent to the Commissioner of the Department of Natural Resources or the Commissioner's designated representative within ten (10) days. If the Department of Natural Resources has formally recommended denial of a variance and the variance is approved the notification also shall include the Board of Adjustment's record of the hearing and the findings and conclusions which supported approval.

- M. **Expiration.** If two years after the date that the variance was granted, a zoning permit was not obtained and construction did not begin, the variance shall become null and void, unless a request for extension of time in which to complete the work has been granted by the Board of Adjustment. The request must be placed on the Board of Adjustment agenda prior to the expiration of the variance. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the variance. This does not pertain to variances issued prior to December 1, 2009.

Section 13 Rezoning or Text Amendment

- A. **Criteria for amendment.** This Ordinance may be amended whenever required by the public necessity and the general welfare.
- B. **Who may request an amendment.** Proceedings for amendment of this Ordinance shall be initiated by:
1. A petition of the owner or owners of actual property;
 2. A recommendation of the County Planning Commission;
 3. Or by action of the Board of County Commissioners.
- C. **Application requirements.** An application for an amendment shall be filed with the Zoning Administrator. An application for a change in the boundaries of any zoning district shall be accompanied by a map or plat showing the boundaries proposed to be changed and all properties within one-half (1/2) mile of the boundaries to be changed, the application also shall include the names and addresses of the owners of all such properties.
- D. **Planning Commission public hearing.** Upon receipt in proper form of the application and other requested material, the Becker County Planning Commission shall hold at least one public hearing as delineated in Chapter 8, Section 2, of this Ordinance.
- E. **Planning Commission findings and decision.** Following the public hearing, the County Planning Commission shall make a report of its findings and recommendations on the proposed amendment and shall file a copy with the Board of County Commissioners and the Zoning Administrator within sixty (60) days after the hearing. If no report or recommendation is transmitted by the County Planning Commission within sixty (60) days after the hearing, the Board of County Commissioners may act without awaiting a recommendation.
- F. **County Board hearing and decision.** Upon filing of the Planning Commission report or recommendation, the Board of County Commissioners may hold such public hearings upon the amendment as it deems advisable. After the hearings, if any, the Board of County Commissioners may adopt the amendment or any part thereof. The amendment shall be effective only if four-fifths (4/5) of all the members of the Board concur in its passage.

Section 14 Land Alteration Permit

- A. **Land alteration permit required.** Except for public roads, public ditches, or public parking areas no land alterations shall be made until a land alteration permit meeting the requirements of Chapter 8, Section 3, subsection C of this Ordinance has been obtained from the Becker County Zoning Administrator unless the changes will result in:
1. The movement of less than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones;

2. The movement of less than fifty (50) cubic yards of material in other areas.
- B. **Agricultural use exemption.** A land alteration permit is not required for a land alteration that is part of an agricultural use provided that the land alteration follows the Best Management Practices for farming as recommended by the University of Minnesota Extension Service, the Becker County Soil and Water District, Minnesota Pollution Control Agency, or a Federal Farm Program where such stipulations are placed as a result of enrollment in a farm program.
 - C. **May be part of another permit.** A separate land alteration permit is not required if a permit has been granted for construction of a structure or sewer system unless the information required for the land alteration permit was not included in the application for the permit.
 - D. **Statement regarding other permits.** An application for a permit for a project that includes land alterations shall contain a statement that all required permits, reviews, or approvals by other local, state, or federal agencies such as a watershed district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers have been obtained or applied for.
 - E. **Certification by professional.** The Zoning Administrator may require, and for a land alteration within the shore impact zone or a bluff impact zone shall require, an applicant to provide certification from a landscape architect or professional engineer that the requirements of this subsection and the requirements of Chapter 8, Section 3, subsection C of this Ordinance have been followed.

Section 15 Multi-Unit Storage Structure Developments

A. Purpose and applicability. The purpose of this section is to establish the procedure and criteria to evaluate multi-unit storage structure developments for private ownership. It is intended to provide a means to create a development for privately owned storage structures.

B. Where allowed. Multi-unit storage structure developments are allowed for new projects on undeveloped land, redevelopment of previously developed land, or conversion of existing buildings in land use districts where storage structures are allowed.

C. Definition. Multi-unit storage structure developments consisting of sites or units that are sold for the purpose of private storage, work space or any other non-residential and non-commercial use associated with storage structures.

D. Review process. Multi-unit storage structure developments shall be considered a plat and processed as subdivisions of land into units, lots or parcels as outlined in Chapter 8, Section 5 of this ordinance.

E. Application for a Multi-unit storage structure development. The applicant for a multi-unit storage structure development shall submit the following documents prior to final action being taken on the application requests:

A. Preliminary site plan. A site plan for the project showing locations of property boundaries, surface water features, proposed units or lots, common elements and structures, land alterations, topographic contours at ten foot intervals or less and sewage treatment and water supply systems (if any are being proposed).

B. Property owners association. A property owner's association agreement with mandatory membership with the following features:

1. Membership shall be mandatory for each unit or site purchaser and any successive purchasers;
2. Each member shall pay a pro rata share of the association expenses and unpaid assessments can become liens on units or sites;
3. Assessments shall be adjustable to accommodate changing conditions; and

4. The association shall be responsible for insurance, taxes and maintenance of all commonly owned property and facilities.
5. Any changes to the association agreement related to the layout, impervious surface, surface water flow or other uses/features that were included in the approved site plan shall be submitted to the County for Planning Commission and County Board approval.

F. Design requirements.

A. Density. The density of multi-unit storage structure developments shall be determined by the allowable impervious surface coverage for the land use district.

B. Water and Septic. If water is being supplied to the units, it is recommended that a common well be utilized, if possible. If septic is being supplied to a unit, all systems must be designed and installed in accordance with Minnesota Rules Chapters 7080 through 7083 and Chapter 10, Section 4 of this ordinance. Under Minnesota Rules Chapters 7080 through 7083, holding tanks are a permitted system. However, lots that would require use of holding tanks must not be approved.

C. Erosion control and stormwater management. Erosion control and stormwater management shall be developed in accord with any Minnesota Pollution Control Agency requirements or Watershed District in which the multi-unit storage structure development is situated. If the multi-unit storage structure development is not located with and Watershed District or if the governing Watershed District nor MPCA does not have or require erosion control and stormwater management standards the multi-unit storage structure development shall:

1. Erosion control design standard. Erosion control systems shall be designed, and the construction managed, to reduce the likelihood of serious erosion occurring either during or after construction.

2. Method of control. Erosion control shall be accomplished by limiting the amount of and the length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques shall be used to reduce erosion impacts on surface water features. Erosion control plans approved by a Soil and Water Conservation District may be required if project size and site physical characteristics warrant; and

3. Stormwater management design standard. Stormwater management systems shall be designed and constructed to effectively manage reasonable expected quantities and qualities of stormwater runoff.

Section 16 Private or Vacation Home Rental

Where permitted as specified in Table 5-1, Table of Uses, rentals may be operated with an administrative permit only if all of the following requirements are met:

- A. Permit required. An annual rental permit is obtained from the Zoning Director. One (1) structure shall be used to determine the maximum occupant density of the parcel. Permits shall be posted on-site and shall include name and contact information for the property owner or property manager. All permitted units shall post the department assigned permit number to all advertisement of the unit and the maximum number of occupants.
- B. Property Owner or Manager. Should there be a need for management on site, a designated individual must be available twenty-four hours a day, seven days week and must be able to respond to the permitted rental within one hour of being contacted.

- C. Certificate of Compliance. A current septic system certificate of compliance shall be provided to the Zoning Department upon permit application submittal.
- D. Garbage. Garbage and recycling shall be stored completely enclosed. The owner or operator of the rental unit shall provide sufficient trash storage containers and service to accommodate the demand of the occupants.
- E. Parking. On-site vehicle parking shall be designated by the approved permit. Public streets and right-of-way shall not be used for parking of trailers or overnight parking of vehicles by occupants.
- F. Permit Transfer. In order for a permit to remain valid upon a change in ownership of the permitted property. All current information must be provided to the Zoning Department.
- G. Rental log. A log of rental activity to include guest's names and contact info as well as dates of stay must be maintained by the property owner.
- H. Other ordinances and licenses. All other County ordinance's and agency license's shall apply to this section.
- I. Recreational Vehicle. One recreational vehicle on a vacant parcel may operate the rental unit.
- J. Lodging tax, sales tax, etc. When applicable all required State, Federal, and Local tax must be submitted.
- K. Density. Overnight guest occupancy is the maximum number of overnight guests allowed at a private/vacation home rental without a conditional use permit. Overnight guest occupancy shall not exceed the lesser of the following limits unless a conditional use permit has been granted to do so:
 - 1. Three (3) overnight guests per bedroom.
 - OR
 - 2. The maximum number of overnight guests shall not exceed the total treatment capacity of the septic system in gallons per day divided by 50 gallons per overnight guest. (i.e. 450 gallons per day / 50 gallons per person = 9 guests.)
 - 3. Not more than a total of 12 overnight guests unless a conditional use permit has been issued where such use is conditionally permitted.

Section 17 Cannabis

Standards for the Cultivation, Manufacture, Wholesale, and Retail of Cannabis.

- A. General Standards applying to cannabis businesses.
 - a. All Cannabis establishments must be permitted with Becker County prior to operation
 - b. Licensing. Stat licensing, if applicable, is required prior to establishment of the use.
 - c. Nuisance. The use must not establish a nuisance in the form of noise, vibration, glare, fumes, odor, lighting, or electrical interference detectable off premise.
 - d. Home Occupation. Cannabis businesses are prohibited as a home occupation.

- e. All establishments related to Cannabis will require a Conditional Use Permit.

B. Performance Standards.

- a. Setbacks. Cannabis Businesses are subject to the following setbacks:

- i. 1,000 feet from a school.
- ii. 500 feet from a church, daycare, library, or a residence on an adjacent property.
- iii. 500 feet from a residential treatment facility.
- iv. 500 feet from a park, playground, or athletic field.
- v. Setbacks shall be measured from property lines.

- b. Cannabis Cultivation.

- i. Cultivation is subject to the following performance standards:
- ii. Cultivation and Operations Plan. A business licensed or authorized to cultivate cannabis must prepare, maintain, and execute an operation plan and a cultivation plan, which must include but is not limited to:
 - 1. Site Plan. Detailing size and layout of facility., including size and layout of the cultivation facility.
 - 2. Security. Provision for fencing and lighting.
 - 3. Solid Waste. A plan to destroy all cannabis plant material and cannabis byproduct to render it unusable. Waste material must be stored in a secure location.

- c. Manufacture and Wholesale.

- i. Manufacture and Wholesale are subject to the following performance standards:
- ii. Facility and Operations Plan. A business licensed or authorized to manufacture and wholesale cannabis and cannabis related products must prepare, maintain, and execute a facility and operations plan, which must include but is not limited to:
 - 1. Site Plan. Detailing size and layout of facility, including size and layout of the manufacturing facility.
 - 2. Security. Provisions for fencing and lighting.
 - 3. Solid Waste. A plan to destroy all cannabis plant material and cannabis byproduct to render it unusable. Waste material must be stored in a secure location.

- d. Retail.

The retail sale of cannabis and related cannabis products is subject to the following performance standards:

Business and Operations Plan. A retail business licensed or authorized to sell cannabis and cannabis related products must prepare, maintain, and execute a business plan, which must include but is not limited to:

1. Hours of Operation. 8:00 AM to 9:00 PM Monday through Saturday and 10:00 AM to 9:00 PM Sunday.
2. Site Plan. A site plan detailing the size and layout of the retail facility.
3. Solid Waste. A plan to destroy all cannabis plant material and cannabis byproduct to render it unusable. Waste material must be stored in a secure location.

CHAPTER 9 VIOLATION, ENFORCEMENT, FEES, AND APPEALS

Section 1 Violation

- A. **Violation a misdemeanor.** Any person, firm or corporation who violates or who fail to comply with any of the provision of this ordinance or who make any false statement or omission in any document required to be submitted under the provisions shall be guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by state law.
- B. **Each day an offense.** Each day that a violation continues shall constitute a separate offense.
- C. **Inspection fee for violations.** An inspection fee plus mileage may be charged for re-inspections of the property once the property owner has been notified of the violation.

Section 2 Enforcement

- A. **Duty of enforcement.** It shall be the duty of the Zoning Administrator to enforce this Ordinance through the proper legal channels. It shall be the duty of the County Attorney and the Sheriff of Becker County when called upon to enforce this Ordinance.
- B. **Stop work order.** When any work shall have been stopped by the Zoning Administrator for any reason, it shall not again be resumed until the reason for the work stoppage has been completely resolved.
- C. **Civil enforcement.** The County, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct, or abate any violations or threatened violations, and it shall be the duty of the County Attorney to institute such action.
- D. **Taxpayer action.** Any taxpayer or taxpayers of the County may institute mandamus proceedings in the District Court to compel specific performance by the official or officials of any duty required by this Ordinance.

Section 3 Fees and Fines

- A. **Fee required.** A permit fee shall be paid by the applicant for any application required under this Ordinance.
- B. **Amount of fee.** The amount of each fee shall be established by resolution of the Board of County Commissioners.
- C. **After-the-fact fine.** The amount of each fine shall be established by resolution of the Board of County Commissioners. Fines may be assessed for beginning a project without proper permits, violating the terms and conditions of the permits, and after the fact variances and conditional use permits.

Section 4 Appeals

- A. **Who may appeal.** Any aggrieved person or any department, board of bureau of a town, municipality, county, or state objecting to the ruling of any administrative official administering this

Ordinance or any other ordinance adopted pursuant to Sections 394.21 to 394.37, Minnesota Statutes, Chapter 559, Laws of 1959, as amended, shall have the right to appeal to the Board of Adjustment.

- B. **Time period for appeal.** An appeal shall be taken within thirty (30) days of the order, requirement, decision, or determination appealed from.
- C. **Filing with Board of Adjustment.** An appeal shall be taken by filing with the Board of Adjustment a notice of appeal specifying the ground for the appeal.
- D. **Public hearing.** The Board of Adjustment shall fix a reasonable time for the hearing of the appellant and give due notice of the hearing to the applicant and the officer from whom the appeal is taken and to the public and town board. The public hearing shall meet the requirements of Chapter 8, Section 2, of this Ordinance.
- E. **Time period for decision.** The board of adjustment shall decide the appeal within fifteen (15) days of the hearing.
- F. **Appeal stays underlying proceedings.** An appeal stays all proceedings in furtherance of the action appealed from unless the Board of Adjustment certifies that because of the facts stated in the certificate a stay would cause imminent peril to life or property.
- G. **Form of decision.** The Board of Adjustment may reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination appealed from and to that end shall have all the powers of the officer from whom the appeal was taken and may direct the issuance of a permit. The reasons for the board's decision shall be stated in writing and mailed to any person appearing at the hearing.
- H. **BOA decision appealable to District Court.** The decision of the Board of Adjustment shall be final, except that any person having an interest affected by the decision shall have the right to appeal to the District Court, provided the appeal is instituted within thirty (30) days after receipt of notice of the decision of the Board of Adjustment.
- I. **Recording of decision.** A certified copy of any order issued by the Board of Adjustment acting upon an appeal from an order, requirement, decision or determination by administrative official, or a request for a variance, shall be filed with the county recorder or registrar of titles for record. The order issued by the Board of Adjustment shall include the legal description of the property involved.
- J. **Board of County Commissioner's decision appealable to District Court.** The decision of the Board of County Commissioner's shall be final, except that any person having an interest affected by the decision shall have the right to appeal to the District Court, provided the appeal is instituted within thirty (30) days after receipt of notice of the decision by the Board of County Commissioner's. These decisions include conditional use permits, change of zone requests, and all subdivisions.

CHAPTER 10 Buffer Ordinance

Section 1 Statutory Authorization and Policy

- 1.1. **Statutory authorization.** This buffer ordinance is adopted pursuant to the authorization and policies contained in Minn. Stat. §103F.48, the Buffer Law, and the County planning and zoning enabling legislation in Minn. Stat. chapter 394.
- 1.2. **Purpose and intent.** It is the purpose and intent of the County to:
 - (a) Provide for riparian vegetated buffers and water quality practices to achieve the following purposes:
 - (1) Protect state water resources from erosion and runoff pollution;
 - (2) Stabilize soils, shores, and banks; and
 - (3) Protect or provide riparian corridors.
 - (b) Coordinate the implementation and enforcement of the water resources riparian protection requirements of Minn. Stat. §103F.48 with the shoreland management rules and ordinances adopted under the authority of Minn. Stat. §103F.201 to 103F.227 and the management of public drainage systems established under Minn. Stat. chapter 103E where applicable; and
 - (c) Provide efficient and effective direction to landowners and protection of surface water quality and related land resources.

Section 2 Definitions and General Provisions

- 2.1 Definitions. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the same meaning they have in common usage and 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, are measured horizontally.
 - 2.1.1 “APO” means the administrative penalty order issued pursuant to Minn. Stat. §103F.48, subd. 7 and Minn. Stat. §103B.101, subd. 12a.
 - 2.1.2 "Buffer" has the meaning provided in Minn. Stat. §103F.48, subd. 1(c).
 - 2.1.3 "Buffer protection map" has the meaning provided in Minn. Stat. §103F.48, subd. 1(d) and which are available on the Department of Natural Resources website.
 - 2.1.4 “BWSR” means the Board of Water and Soil Resources.
 - 2.1.5 “Cultivation farming” means farming practices that disturb root or soil structure or that impair the viability of perennial vegetation due to cutting or harvesting near the soil surface.
 - 2.1.6 “Drainage authority” has the meaning provided in Minn. Stat. §103E.005, subd. 9.
 - 2.1.7 “Landowner” means the holder of the fee title, the holder’s agents or assigns, any lessee, licensee, or operator of the real property and includes all land occupiers as defined by

Minn. Stat. §103F.401, subd. 7 or any other party conducting farming activities on or exercising control over the real property.

2.1.8 “Parcel” means a unit of real property that has been given a tax identification number maintained by the County.

2.1.9 “Public drainage system” has the meaning given to “drainage system” in Minn. Stat. §103E.005, subd. 12.

2.1.10 “Local water management authority” has the meaning provided in Minn. Stat. §103F.48, Subd. 1(g).

2.1.11 “Normal water level” means the level evidenced by the long-term presence of surface water as indicated directly by hydrophytic plants or hydric soils or indirectly determined via hydrological models or analysis.

2.1.112 “SWCD” means Soil and Water Conservation District.

2.2 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.

2.3 Data sharing/management.

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

2.3.2 The County will manage all such data in accordance with the Minnesota Data Practices Act and any other applicable laws.

Section 3 Jurisdiction

3.1 Jurisdiction. The provisions of this ordinance apply to all waters, including public drainage systems for which the County is not the drainage authority under Minn. Stat. chapter 103E, shown on the buffer protection map.

Section 4 Buffer Requirements

4.1 Buffer width. Except as provided in subsection 4.4 and 4.5, a landowner owning property adjacent to a water body identified on the buffer protection map must establish and maintain a buffer area as follows:

(a) For waters shown on the buffer protection map requiring a fifty (50) foot width buffer, the buffer width will be fifty (50) foot average and thirty (30) foot minimum width as provided in Minn. Stat. §103F.48, subd. 3 and as measured according to subsection 4.2; and

(b) For waters shown on the buffer protection map requiring a sixteen and a half (16.5) foot minimum width buffer, the buffer width will be sixteen and a half (16.5) feet as provided in Minn. Stat. §103F.48, subd. 3 and as measured according to subsection 4.2.

4.2 Measurement.

(a) The width of any required buffer on land adjacent to a water requiring a fifty (50) foot average width and a thirty (30) foot minimum width buffer shall be measured

from the top or crown of the bank. Where there is no defined bank, measurement must be from the edge of the normal water level as provided in Minn. Stat. §103F.48, subd. 3(c).

- (b) The width of any required buffer on land adjacent to a water requiring a sixteen and a half (16.5) foot minimum width buffer shall be measured in the same manner as for measuring the vegetated grass strip under Minn. Stat. §103E.021, subd. 1 as provided in Minn. Stat. §103F.48, subd. 3(c).

4.3 Use of buffer area. Except as provided in sections 4.4 and 4.5 a buffer as defined in this ordinance may not be put to any use, included but not limited to cultivation farming, which would remove or prevent the permanent growth of perennial vegetation.

4.4 Exemptions. The requirement of section 4.1 does not apply to land that is exempted from the water resources riparian protection requirements under Minn. Stat. §103F.48, subd. 5.

4.5. Alternative practices. As provided in Minn. Stat. §103F.48, subd. 3(b) an owner of land that is used for cultivation farming may demonstrate compliance with subsection 4.1 by establishing and maintaining an alternative riparian water quality practice(s), or combination of structural, vegetative, and management practice(s) which provide water quality protection comparable to the water quality protection provided by a required buffer as defined in sections 4.1 to 4.3. The adequacy of any alternative practice allowed under this section shall be based on:

- (a) the Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG);
- (b) common alternative practices adopted and published by BWSR;
- (c) practices based on local conditions approved by the SWCD that are consistent with the Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG); or
- (d) other practices adopted by BWSR.

4.6 Nonconformity. Where the provisions of any statute, other ordinance or regulation imposes greater restrictions than this ordinance, the provisions of such shall be controlling. The continuation of nonconformities provided for by Minn. Stat. §394 and §462 shall not apply to compliance with this ordinance and Minn. Stat. §103F.48.

Section 5 Compliance Determinations

5.1 Compliance determinations. Compliance with the buffer requirements set forth in section 4 will be determined by the SWCD on a parcel by parcel basis. The compliance status of each bank, or edge of a waterbody on an individual parcel will be determined independently.

5.2 Investigation and notification of noncompliance. When the County identifies a potential noncompliance with the buffer requirements or receives a third party complaint from a private individual or entity, or from another public agency, it will consult with the SWCD to determine the appropriate course of action to document compliance status. This may include communication with the landowner, inspection, or other appropriate steps necessary to verify the compliance status of the parcel. On the basis of the evidence gathered in this process, the SWCD may issue a Notification of Noncompliance to the County. If the SWCD does not issue such a Notification, the County will not pursue a compliance or enforcement action under Minnesota Statutes §103F.48 and subsection 6.2.

At any time during process set forth in 5.2 and 5.3, the landowner may provide documentation of compliance to the SWCD.

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

5.3 Corrective Action Notice. On receipt of an SWCD Notification of Noncompliance, the County will issue the landowner a Corrective Action Notice that will:

- (a) include a list of corrective actions needed to come into compliance with the requirements of Minn. Stat. §103F.48;
- (b) provide a timeline for complying with the corrective action notice;
- (c) provide a compliance standard against which the County will judge the corrective action; and
- (d) include a statement that failure to respond to this Notice may result in the assessment of criminal, civil or administrative penalties.

The County may send the landowner a combined Corrective Action Notice and APO as provided in section 6.2 so long as the combined Notice/APO includes all the required elements of both.

The County shall transmit the corrective action notice by either personal service to the landowner or by depositing the same in the U.S. Mail. If service is made by U.S. mail, the document is deemed received Seven (7) business days after the notice was placed in the U.S. mail. Failure of actual receipt of a corrective action notice that has either been personally served or served by depositing the same in the U.S. Mail shall not be deemed a defense in an enforcement proceeding under section 6.0. The County shall also send a copy of the Notice to the SWCD and BWSR.

Counties may modify the corrective actions and timeline for compliance, in accordance with section 5.2, to extend the compliance timeline for a modification that imposes a substantial new action or significantly accelerates the completion date for an action.

5.3.1 At any time after receipt of a corrective action notice, the landowner may provide documentation of compliance to the County. In addition, the landowner may supply information to the County or the SWCD in support of a request to modify a corrective action or the timeline for compliance. On the basis of any such submittal or at its own discretion, the County may make a written modification to the Corrective Action Notice or timeline for compliance. The County should also make a written determination documenting whether the noncompliance has been fully corrected. Any such modification of a compliance determination will be served on the landowner in the manner provided for in section 5.3. The County shall provide the SWCD and BWSR a written copy of any modification made pursuant to this provision.

5.3.2 The SWCD may, after an evaluation of the evidence documenting compliance submitted by the landowner, issue a written Validation of Compliance if requested by the landowner. Upon receipt by the County of a written compliance determination issued by the SWCD, the Corrective Action Notice will be deemed withdrawn for the purpose of section 6.0, and the subject property will not be subject to enforcement under that section.

Section 6 Enforcement

6.1 The County may issue an APO as provided for in Minn. Stat. §§103F.48, subd. 7(b) and (c) and 103B.101, subdivision 12a to a landowner who has failed to take the corrective action as set forth in the corrective action notice. For the APO to be effective it must be served on the landowner together with a copy of the corrective action notice or alternatively the County may serve the landowner with a combined Corrective Action Notice and APO so long as the combined Notice/APO includes all the elements of both. Service is effective either by personal service or by depositing the documents set forth herein in the U.S. Mail. Any penalty assessed in the APO shall continue to accrue until the violation is corrected as provided in the Corrective Action Notice and APO.

(a) Initial violation. The penalty for a landowner on a single parcel that has not previously been the subject of an APO issued by the County shall be:

- i. \$0 for 11 months after issuance of the Corrective Action Notice;
- ii. \$50 per parcel per month for the first six (6) months (180 days) following the time period in i; and
- iii. \$200 per parcel per month after six (6) months (180 days) following the time period in ii.

b) Repeat violation. The penalty for a landowner on a single parcel that has previously been the subject of an APO issued by the County shall be:

- i. \$50 per parcel per day for 180 days after issuance of the Corrective Action Notice; and
- ii. \$200 per parcel per day for after 180 days following the time period in i.

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

6.2.1 APO. To be valid the APO shall include, at a minimum:

- i. The facts constituting the violation of the riparian protection and water quality practices requirements set forth in this section 4.0 of this ordinance or Minn. Stat. §103F.48 ;
- ii. The specific statute and/or ordinance section(s) that has/have been violated;
- iii. A written description of prior efforts to work with the landowner to resolve the violation;
- iv. The amount of the penalty to be imposed;
- v. The date the penalty will begin to accrue;
- vi. The date that payment of the penalty is due;
- vii. The date by which all or part of the penalty may be forgiven if the landowner has/have complied with the Corrective Action Notice; and
- viii. A statement of the landowner's right to appeal the APO.

6.2.2 All or part of the penalty may be forgiven based on the correction of the noncompliance by the date specified in the APO by the landowner as provided in Minn. Stat. §103F.48, subd. 7(d).

6.2.3 A copy of the APO must be sent to the SWCD and BWSR.

6.2.4 An APO issued under this section may be appealed to the BWSR within 30 days of receipt by the landowner in accordance with the requirements set for the in Minn. Stat. §103F.48, subd. 9. Any APO that is not appealed within the 30 day period shall be deemed final.

6.3 Administrative Penalty Order Procedures

6.3.1 Statute of limitations. Any criminal enforcement action undertaken pursuant to section 6.1 of this ordinance must be undertaken within two years after the alleged violation was discovered or reasonably should have been discovered by the County. According to Minn. Stat. §541.07, the County has two years in which to commence an APO action after the date the violation is discovered. The goal is to complete the action as soon as reasonably practical, recognizing that situations for which data must be gathered, field investigations must be completed and/or modeling must be performed will require adequate time to complete the work and communicate with the landowner involved.

6.3.2 Compliance verification. Once a landowner has submitted written evidence of correction of the violation set forth in the notice of compliance, compliance must be verified. The County will:

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

The County may consult with the SWCD when conducting a compliance verification.

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

6.3.4 Penalty due. Unless the landowner appeals the APO as provided in section 6.3.3 the penalty specified in the APO becomes immediately due and payable to the County as set forth in the APO. If, however, the landowner submits written documentation that the violations has been corrected prior to the time the penalty becomes due and payable the County shall verify compliance and adjust the penalty to an amount the landowner would have owed had the penalty been paid on the date the landowner submitted written documentation of compliance. Written documentation of compliance may include a written validation of compliance issued by the SWCD.

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

6.3.5 Referral for collection of penalty. All penalties and interest assessed under an APO must be paid by the landowner within the time specified in this section. All payments shall be

made payable to the County. Any penalty or interest not received in the specified time may be collected by the County using any lawful means.

6.3.6 Reporting and documentation. The County shall maintain the following records for any potential violation of the riparian protection and water quality practices requirements. Said records shall include but are not limited to the following:

- iv. The cause of the violation;
- v. The magnitude and duration of the violation;
- vi. Documentation showing whether the violation presents an actual or imminent risk to public health and safety;
- vii. Documentation showing whether the violation has the potential to harm to the natural resources of the state;
- viii. A record of past violations;
- ix. Efforts by the SWCD, County, Watershed District or BWSR to assist the responsible party or parties to become compliant, including written and oral communications with the responsible party or parties ; and
- x. Past and present corrective action efforts by the responsible party or parties.

CHAPTER 11 DEFINITIONS

Section 1 Rules

Certain words or terms used in this Ordinance shall be interpreted according to the following rules:

- A. Whenever a word or term defined in Section 2., below, appears in the text of this Ordinance, its meaning shall be construed as set forth in such definition. If no set definition is given in the Ordinance, the word may be interpreted according to the dictionary definition.
- B. Words used in the present tense shall include the future;
- C. Words used in the singular shall include the plural and the plural the singular;
- D. The word "structure" shall include the word "building" and the word "lot" shall include the word "piece" or "parcel";
- E. The word "shall" is mandatory;
- F. The word "may" is permissive; and
- G. The word "person" includes a firm, association, partnership, trust, company, or corporation, as well as an individual.

Section 2 Definitions

For the purpose of this Ordinance, certain words and terms are hereby defined as follows;

Accessory use. See “Use, accessory.”

Adult body painting studio. An establishment or business that provides the service of applying paint or other substance, whether transparent or non-transparent, to or on the body of a patron when such body is wholly or partially nude in the terms of “specified anatomical areas.”

Adult book store. An establishment, building or business engaging in the barter, rental, or sale of items or merchandise consisting of printed matter, pictures, slides, records, audio tapes, video tapes, computer or video disks, motion picture film, or any other similar materials, if such shop is not open to the public generally but only to one or more classes of the public, excluding any minor because of age, if more than twenty percent (20%) of the useable floor area of the establishment, building or business, characterized by the emphasis on matters depicting, describing or related to “specified sexual activities” or “specified anatomical areas.”

Adult cabaret. An establishment, building or business that provides dancing or other live entertainment if such dancing or live entertainment is distinguished or characterized by an emphasis on the performance or presentation, display, depiction, or description of “specified sexual activities” or “specified anatomical areas.”

Adult car wash. A wash facility for any type of motor vehicle that allows employees, agent, independent contractors, or persons to appear in a state of partial or total nudity in terms of “specified anatomical areas.”

Adult companionship establishment. An establishment or business, if such establishment excludes minors because of age, or which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and customer, if such service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”

Adult entertainment facility. A building or space in which an admission is charged for the entrance, or food or non-alcoholic beverages area being sold or intended for consumption, and in which may be observed live presentation of entertainment distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”

Adult establishment. An establishment, building or business engaging in any of the following activities or which uses any of the following business procedures or practices:

1. Any business conducted exclusively for the patronage of adults and about which minors are specifically excluded from patronage either by law or by the operator of such business; or
2. Any other business that offers its patrons services, products or entertainment characterized by an emphasis on matters depicting, exposing, describing, discussing, or relating to “specified sexual activities” or “specified anatomical areas”.

Specifically included in the term, but without limitation, are adult book stores, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult health clubs, adult saunas, adult companionship establishments, adult cabarets, adult car washes, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels or motels, adult body painting studio.

Adult hotel or motel. A hotel or motel from which minors are specifically excluded from patronage and in which material is presented that is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”

Adult massage parlor, health/sport club. A massage parlor or health sport club that restricts minors because of age or law, which provides services of massage if such services is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”

Adult mini-motion picture theater. A business or establishment in an enclosed building with a capacity for less than fifty (50) persons used for the presenting of visual media material if such business as a prevailing practice excludes minors by age or law, or if said material is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas” for observation by patrons.

Adult modeling studio. An establishment or business whose major business is the provision of customers of figure models who are provided with the intent of providing sexual stimulation or sexual gratification to such customers who engage in “specified sexual activities” or emphasize “specified anatomical areas” while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

Adult motion picture arcade. Any building or place to which the public is allowed or invited in which coin or slug operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, computers or other image producing devices that show images to five (5) or fewer persons per machine at once, and characterized by an emphasis on depicting or describing “specified sexual activities” or specified anatomical areas.”

Adult motion picture theater. A business or establishment in an enclosed building with a capacity for fifty (50) or more persons used for the presenting of visual media material if such business as a prevailing practice excludes minors by age or law, or if said material is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas” for observation by patrons.

Adult novelty business. A business that has a principal activity for the sale of materials or devices that stimulate human genitals or devices designed for sexual stimulation or which depict or which relate to “specified sexual activities” or “specified anatomical areas.”

Adult sauna/steam room/bathhouse. A business that excludes minors because of age, or which provides a steam bath or heat bathing room used for bathing, pleasure, relaxation or reducing, utilizing steam or hot air as a cleaning, relaxing, or reducing agent, if the service provided by the sauna/steam room/bathhouse is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”

Adult use/sexually oriented business. Adult body painting studios, adult book stores, adult car washes, adult hotels or motels, adult motion pictures theaters, adult mini motion picture theaters, adult massage parlors, adult health/sport clubs, adult sauna/steam room/bath houses, adult companionship

establishments, adult rap/conversation parlors, adult novelty businesses, adult motion picture arcade, adult modeling studios and other premises, enterprises or establishments, businesses, or places open to some or all members of the public at or in which there is an emphasis on the presentation or display, depiction, or description of “specified sexual activities” or “specified anatomical areas” which the public could see. This definition does not apply to the practice of medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry by State licenses registered persons. Activities classified as obscene, defined by Minnesota Statutes Section 617.241, are not lawful and are not included in the definitions of adult uses.

Adult uses, accessory. The offering of goods and/or services classified as adult uses on a limited scale that are incidental to the primary activities and goods and/or services offered by the establishment. Examples of such items include adult magazines, adult movies, adult novelties, and the like.

Adult uses, principal. The offering of goods and/or services classified as adult uses as a primary or sole activity of a business or establishment and include, but are not limited to the following: adult body painting studio; adult book store; adult cabaret; adult companionship establishments; adult entertainment facility; adult establishment; adult hotel or motel; adult massage parlor, health/sport club; adult mini-motion picture theater; adult modeling studio; adult motion picture arcade; adult motion picture theater; adult novelty business; or adult sauna/steam room/bathhouse.

Agriculture. The art or science of cultivation of the soil, the growing of soil crops, horticulture of crops, and forestry in the customary manner, the accessory raising of livestock and poultry, also packing, treating, or storing the produce raised on the premises. The term shall include incidental retail selling by the producer of products raised on the premises, provided that space necessary for parking of vehicles of customers shall be furnished off the public right-of-way.

Agricultural building or structure. Any building or structure, incidental to agriculture, existing or erected on land used principally for agriculture, with the exception of a dwelling.

Agricultural land. Land, which is used for agriculture, including land temporarily removed from the agricultural use. See also “Agriculture.”

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

Animal Feedlot. “Animal feedlot” means a facility as defined in Minnesota Rules, part 7020.0300. 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. A unit of measure used to compare differences in the production of animal manure that uses as a standard the amount of manure produced on a regular basis by a slaughter steer or heifer. For purposes of this rule, the following equivalents apply:

ANIMAL		UNIT	
One slaughter steer or heifer	1.0	animal	unit
One mature dairy cow	1.4	animal	unit

ANIMAL		UNIT	
One horse	1.0	animal	unit
One swine over 55 pounds	0.4	animal	unit
One sheep	0.1	animal	unit

One swine under 55 pounds	0.05	animal	unit
One turkey	0.018	animal	unit
One chicken	0.01	animal	unit

For animals not listed, the number of animal units is defined as the average weight of the animal divided by one thousand (1,000) pounds.

Antenna. Any structure or device used for the purpose of collecting or radiating electromagnetic waves, including, but not limited to, directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whips.

Attached. The sharing of a common wall or portion of a wall with a door, so that a person may travel between buildings without going outside.

Authorized Representative: An employee or agent of the County Planning and Zoning Department.

Automobile wrecking. See “Junk yards.”

Bedrock. That layer of parent material which is consolidated and un-weathered. Bedrock also includes layers of which greater than fifty percent (50%) by volume consists of un-weathered in-place consolidated bedrock fragments.

Bedroom. Any room or unfinished area within a dwelling that might reasonably be used as a sleeping room.

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

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

1. Part or all of the feature is located in a Shoreland area.
2. The slope rises at least twenty-five feet (25') above the ordinary high-water level of the waterbody.
3. The grade of the slope from the toe of the bluff to any point twenty-five feet (25') or more above the ordinary high-water level that averages thirty percent (30%) or greater; and
4. The slope must drain toward the waterbody.

An area otherwise within a bluff with an average slope of less than eighteen percent (18%) over a distance of fifty feet (50') or more, measured on the ground, shall not be considered part of the bluff.

Bluff impact zone. A bluff and land located within twenty feet (20') from the top of the bluff.

Board of Adjustments. The Becker County Board of Adjustments.

Buffer: An area of land consisting of established perennial vegetation, excluding invasive plants and noxious weeds, designed to intercept stormwater runoff, stabilize soils, shores, and banks..

Buffer, Natural: An unmown, undisturbed natural or enhanced native perennial vegetation area, excluding invasive plants and noxious weeds, that is managed to stabilize and maintain the integrity of upland, shorelines, and stream channels, to reduce the impact of upland sources of water pollution by trapping, filtering, and converting sediments, nutrients, and other chemicals, and to supply food, cover, and thermal protection to fish and other wildlife.

Buildable Area. The minimum continuous area remaining on a lot or parcel of land after all setback requirements, bluffs, all easements and rights-of-way, and wetlands are subtracted. The buildable area

shall be accessible by public road frontage or an appropriate easement with a graded and serviceable driving surface.

Building. Any structure for the shelter, support or enclosure of persons, animals, chattel, or property of any kind. Each portion of a building separated by common walls without openings is a separate building. A structure used for essential services is not a building.

Building, agricultural. See “Agricultural building.”

Building Code. The State of Minnesota Building Code contained in Minnesota Statutes Sections 16B.59 through 735.

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

Building line. See “Building setback line.”

Building setback line. A line within a lot or other parcel of land parallel to the lot lines defining a portion of the lot between the setback line and the lot lines or on which buildings may not be placed.

Business. For the purpose of the provisions in Chapter 4, Section 10, *Individual subsurface sewage treatment Systems*, of this Ordinance, an individual or organization that conducts site evaluations or designs, installs, maintains, repairs, pumps, or inspects an individual subsurface sewage treatment system.

Campground. A parcel of land under single ownership, designed, constructed, and administrated for the placement of recreation vehicles, tents, or trailers.

Cannabis: See MN Statute 342.01.

Certificate of compliance, ISTS. A document written after a compliance inspection, certifying that an individual subsurface sewage treatment system is in compliance and signed by a qualified employee or licensee.

Certified statement. A statement signed by a licensee or qualified employee certifying that individual subsurface sewage treatment system work was completed in accordance with applicable requirements.

Cesspool. An underground pit or seepage tank into which raw sewage is discharged and from which the liquid seeps into the surrounding soil, bedrock, or other soil materials.

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

Class V Injection Well: A shallow well used to place a variety of fluids directly below the land surface, which includes a domestic SSTS serving more than 20 people. The US Environmental Protection Agency and delegated state groundwater programs permit these wells to inject wastes below the ground surface provided they meet certain requirements and do not endanger underground sources of drinking water. Class V motor vehicle waste disposal wells and large-capacity cesspools are specifically prohibited (see 40 CFR Parts 144 & 146).

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

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

Commercial planned unit development. A planned unit development that provides transient short-term lodging spaces, rooms, or parcels. For example, hotels, motels, resorts, recreational vehicle, and camping parks.

Community water and sewer systems. Utilities systems serving a group of buildings, lots, or an area of the County, with the design and construction of such utility systems approved by the County and the State of Minnesota. The system may be operated by any unit of government. In a planned unit development, the sewage water system may be managed and operated by the homeowners association or common interest community association.

Compliance inspection. Any evaluation, investigation, inspection, or other such process to make conclusions, recommendations, or statements regarding an individual subsurface sewage treatment system to reasonably assure an individual subsurface sewage treatment system is in compliance as specified under Chapter 4 Section 10. Compliance inspections must be conducted by a qualified employee or under a license independent of the owner and the installer.

Comprehensive Plan. The group of maps, charts and texts that make up the comprehensive long-range plan for the County.

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

Conservation Subdivision. See “shoreland conservation subdivision”.

Contiguous. The sharing of a common lot line or boundary or any portion of a lot line or boundary, touching at any point.

County. The County of Becker, Minnesota.

County Board. The Board of County Commissioners of Becker County.

County Board of Commissioners. See “County Board.”

County Planning Commission. The Becker County Planning Commission.

Covenants. See “Protective Covenants”.

Deck. A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached, or functionally related to a dwelling unit, principal use or site and extending at any point more than six inches (6”) above ground.

Deck, impervious. A deck that does not meet the requirements of a pervious deck as defined in “deck, pervious”.

Deck, pervious. A deck constructed under the following conditions: maximum material (board width is eight inches (8”); minimum spacing between material (boards) is one quarter inch (1/4”); and the area under the deck is pervious material.

Department. The Becker County Planning and Zoning Department unless otherwise provided herein.

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

DNR. The Minnesota Department of Natural Resources.

Depth of lot. See “Lot, depth.”

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

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

Design standards. The specifications to landowners or subdividers for the preparation of plats, both preliminary and final, indicating among other things, the optimum, minimum or maximum dimensions of such items as right-of-way, blocks, easements and lots.

Detached. Complete separation (including the complete separation of roofs, walls, and decks) or when a person travels between buildings by going outside.

Disclosure. For the purpose of the provisions in Chapter 4, Section 10, Individual subsurface sewage treatment Systems, of this Ordinance, “disclosure” means any conclusions or statements regarding an ISTS made by the owner of a property with or served by an ISTS to fulfill the requirements of Minnesota Statutes, section 115.55, subdivision 6.

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

Domestic animal. Animals typically kept as household pets, such as but not limited to cats and dogs.

Duplex, triplex, and quad. A dwelling structure that has two, three, and four dwelling units, respectively, which units are attached by common walls and have separate sleeping, cooking, eating, living, and sanitation facilities.

Dwelling. Any building or part thereof which is designed or used exclusively for residential purposes by one or more human beings, either permanently, or transiently; A mobile home or Park Home shall be considered a dwelling and a travel trailer, recreational vehicle or tent shall not be considered a dwelling for purposes of this Ordinance.

Dwelling, multiple family. A dwelling structure that has more than four dwelling units attached by common walls each of which has separate sleeping, cooking, eating, living, and sanitation facilities.

Dwelling, single family. A dwelling structure that is the sole principle structure on a lot, which has common cooking, eating, and living facilities which is operated as a single housekeeping unit as distinguished from a boarding house, club house, fraternity house or hotel.

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

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

Essential services. Overhead or underground electrical, gas, steam or water transmission distribution systems and structures, or collection, communication, supply or disposal systems and structures, used by public utilities, rural electric cooperatives, public cooperatives or governmental departments or commissions or as are required for protection of the public health, safety, or general welfare, including towers, poles, wires, mains, drains, microwave relay towers, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, and accessories in connection therewith, but not including buildings.

Expansions of non-conforming structures: Enlargement or any increase in a dimension, size, or area resulting in an increase in the livable area, any placement of a structure or part thereof where none existed before. Changes in roof pitch or structure height are not expansions as long as they do not increase livable space.

Extractive use. The removal of any sand, gravel, stone, coal, clay, peat, subsoil, topsoil, or mineral from the land for sale.

Failing system. Any individual subsurface sewage treatment system that discharges sewage to a seepage pit, cesspool, drywell, or leaching pit and any system with less than three feet of soil or sand between the bottom of the distribution medium and the saturated soil level or bedrock. In addition, any system posing an imminent threat to public health or safety shall be considered failing.

Failure to Protect Groundwater: At a minimum, a SSTS that does not protect groundwater is considered to be a seepage pit, cesspool, drywell, leaching pit, or other pit; a SSTS with less than the required vertical separation distance, described in 2012 MR Chapter 7080.1500 Subp. 4 D and E (2006 MR Chapter 7080.0060, Subp 3); and a system not abandoned in accordance with part 2012 7080.2500 (2006 7080.0176). The determination of the threat to groundwater for other conditions must be made by a Qualified Employee or an individual licensed pursuant to Section 5 hereof.

Farming. See Definition- Agriculture.

Final plat. A drawing or map of a subdivision, meeting all of the requirements of the County and in such form as required by Becker County for the purposes of recording.

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

Floor area ratio (F.A.R.). The gross floor area of all structures on a lot divided by the gross lot area.

Footing. Part of the foundation bearing directly upon the earth. For the purpose of this Ordinance, the definitions of footing and foundation may be interchanged.

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

Foundation. The lowest division of a building, wall, or the like, usually of masonry or treated wood, and partly or wholly below the surface of the ground. For the purposed of this Ordinance, the definitions of footing and foundation may be interchanged.

Fur farm. See Definitions Feedlot, Agricultural; Feedlot, Commercial.

Greywater. "Greywater" means sewage that does not contain toilet wastes.

Group care facility. A facility which provides resident services to one (1) or more individuals of whom one or more are unrelated and are handicapped, aged, or disabled, are undergoing rehabilitation, and are provided services to meet their needs. Category includes use such as homes for the physically handicapped, chemically dependent, maternity shelter and halfway houses.

Guest cottage. A structure having floor space equipped with cooking/kitchen facilities, water supply and/or sanitary disposal facilities, sleeping accommodations with any other amenities capable of providing independent human habitation. A structure that is capable of being used as a dwelling unit in addition to the primary dwelling on a lot.

Guest room. A room occupied by one (1) or more guests for compensation in which no provisions are made for cooking, but not including rooms in a dormitory primarily for sleeping purposes. In a suite of rooms without cooking facilities, each room that provides sleeping accommodations shall be counted as one (1) lodging room.

Guest quarters. A structure having floor space capable of providing for temporary human occupation, such as sleeping accommodations for short-term guest use. The incidental use of guest quarters is supplementary to the main dwelling unit.

Habitable Residential Dwelling. A structure having floor space equipped with cooking/kitchen facilities, water supply and/or sanitary disposal facilities, sleeping accommodations with any other amenities capable of providing independent human habitation.

Hazardous waste. "Hazardous waste" means any substance which, when discarded, meets the definition of hazardous waste in Minnesota Rules, chapter 7045.

Highway. Any public thoroughfare or vehicular right-of-way with a Federal, State numerical route designation; any public thoroughfare or vehicular right-of-way with a Becker County numerical route designation.

Highway, major intercity and regional. State and Federal highway routes within the County.

Highway, major arterial. The principal County highways; such arterial highways interconnect communities within Becker County and adjoining counties, and carry traffic between principal land use districts within Becker County.

Highway, minor arterial. The secondary County highways; such highways carry traffic between land use districts, but also provide ready access to private properties.

Home occupation. Any service occupation that 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 the secondary use except for a sign as allowed in Chapter 7, Section 15 of this ordinance.

Hotel. See Definition - Motel.

Ice ridge. A modification to the topographical characteristics of the shore resulting from a water basins expanding and contracting ice sheet and consisting of a linear mound of soil generally parallel to the waters edge.

Imminent Threat to Public Health and Safety: At a minimum a SSTS with a discharge of sewage or sewage effluent to the ground surface, drainage systems, ditches, or storm water drains or directly to surface water; SSTS that cause a reoccurring sewage backup into a dwelling or other establishment; SSTS with electrical hazards; or sewage tanks with unsecured, damaged, or weak maintenance access covers. The determination of protectiveness for other conditions must be made by a Qualified Employee or a SSTS inspection business licensed pursuant to Section 5 hereof.

Impervious surface. Any material that substantially reduces or prevents the infiltration of water. Impervious surfaces include, but are not limited to: streets, roofs, sidewalks, driveways, parking lots, and similar facilities and areas covered with gravel, concrete, bituminous, compacted sand, lime rock, clay or other surfaces that substantially reduce or prevent the infiltration of water.

ISTS. "ISTS" means an individual subsurface sewage treatment system as defined under "individual subsurface sewage treatment system".

ISTS professional. "ISTS professional" means a person who conducts site evaluations or designs, installs, alters, repairs, maintains, pumps, or inspects all or part of an individual subsurface sewage treatment system and is required to comply with applicable requirements.

Individual subsurface sewage treatment system. "Individual subsurface sewage treatment system" means a sewage treatment system, or part thereof, serving a dwelling, or other establishment, or group thereof that uses subsurface soil treatment and disposal. Individual subsurface sewage treatment system includes holding tanks and privies.

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

Junk. Materials including, but not limited to, used or abandoned barrels or drums; dismantled or inoperative industrial or commercial equipment or machinery; household rubbish, debris, or garbage; junk vehicles (as herein defined); and any of the following old, scrap or used items: metal, rags, paper, cardboard, plastic, rubber products, glass products, lumber products including pallets, appliances, motors, batteries and industrial or commercial fixtures.

Junk vehicles. Three or more motor vehicles or trailers which are wrecked, abandoned, dismantled, disabled, inoperative, or which do not have a valid license plate attached thereto, or parts of such motor vehicles or trailers. This definition does not include vehicles lawfully placed in storage within a completely enclosed building.

Junk yard. A site where junk (as herein defined) is bought, sold, exchanged, discarded, stored, kept, or allowed to accumulate. (This definition does not include properly licensed sanitary landfills or any location where the processing of used, discarded or salvaged materials are part of manufacturing operation located on the same property or contractors' storage yards).

Land alteration. Any change in the surface of the land.

Landscape position. "Landscape position" means the identification of the shape of the land or geomorphic setting of the soil. Terms used to describe landscape position include ridge, side slope, foot slope, closed depression or pothole, drainage way or swale, terrace, or floodplain.

Licensed family day care, Licensed group family day care, Licensed childcare center. A facility holding a license from Becker County or Minnesota pursuant to Minnesota Statutes Chapter 245A and/or Minnesota Rules Chapter 9502 or Chapter 9053, as amended.

Licensee. For the purpose of the provisions in Chapter 4, Section 10, Individual Sewage Treatment Systems, of this Ordinance, "licensee" means the person to whom a license under Minnesota Rules, part 7080.0705 is issued. The designated registered professional is subject to the same obligations as the licensee. The license must be applicable to the work being performed.

Lot. A parcel of land in separate ownership from all surrounding parcels.

Lot, accessory. A substandard size non-riparian lot permanently attached by deed to a riparian lot located within 200 feet for the purpose of, but not limited to, garages, storage sheds, gardens and septic system.

Lot area per dwelling unit. The lot area required for each dwelling unit in a dwelling structure.

Lot, buildable non riparian. A non riparian lot meeting the lot width and area requirements of the ordinance for the purpose of constructing dwellings and accessory structures.

Lot, corner. A lot having frontage on two intersecting streets. The greater dimension of a corner lot is its depth, and its lesser dimension is its width.

Lot, double frontage. An interior lot having frontage on two non-intersecting streets.

Lot, interior. A lot other than a corner lot.

Lot lines. The lines bounding a lot. A street or front lot line is a lot line adjacent to the public road frontage. On a lot with frontage on two public roads both lot lines adjacent to the public roads are the front lot lines. A rear lot line is a line opposite a front lot line. Side lot lines are lines that are not otherwise defined as rear or front lot lines.

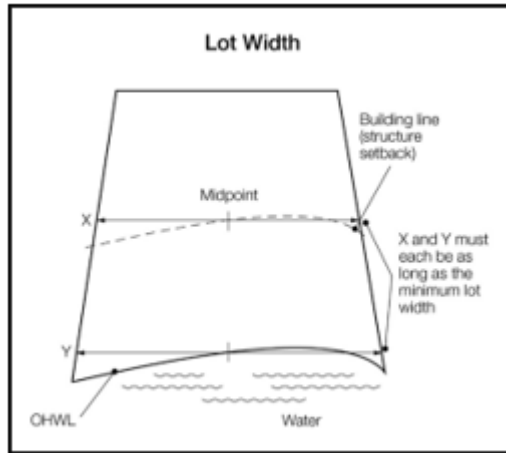
Lot of record. A lot that was buildable before the May 5, 1971 enactment of this Ordinance.

Lot, sewerred. A lot that has access to publicly owned sewer service.

Lot, unsewered. A lot that does not have access to publicly owned sewer service.

Lot width, non-riparian. The shortest distance between lot lines measured at the building setback line from the road or rear setback line if served by an easement.

Lot width, riparian. The shortest distance between side lot lines measured at the building setback line from the OHW. This shall also be the minimum width abutting the ordinary high water level of the adjacent lake or river at the side lot lines.



Maintenance and/or repair. Normal upkeep of a structure that does not involve the replacement of the main structural frame or walls, or changes in the exterior dimensions of the structure, such as, but not limited to: work performed on the interior of the structure; painting; replacement of siding, windows, doors, soffit, fascia, shingles, additional doors, or windows; new floorboards to decks. Under no conditions shall repairs and maintenance constitute replacement of the main structural frame, walls, or the exterior dimensions. Removal of the structure or any part of a structure and rebuilding on an existing slab or foundation constitutes new construction.

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

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

Manufactured home. A non-mobile housing unit that is fabricated at a central factory and transported to a building site where it is permanently affixed.

Marina. An in-land or off-shore structure for the concentrated mooring of five or more watercraft.

Mass gathering. A Mass Gathering is a gathering of people together on one (1) Site for any purpose where it is planned or may reasonably be expected that more than three hundred (300) persons attending the assembly will remain on the Site for more than eighteen (18) consecutive hours.

Metes and bounds. A method of describing property lines by their direction and distance from an easily identifiable point.

Minor. Any person under the age of eighteen (18) years.

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

Mobile home. A factory-built living unit more than eleven (11) feet in width, with over 400 square feet of living area excluding entrance, closets, and accessory buildings, equipped with the necessary service connections to be readily movable as a unit on its own running gear and designed to be used as a dwelling unit without a permanent foundation.

Mobile home park. A parcel of land under single ownership, or with individually owned lots, designed, constructed, and administered for the placement of Mobile Homes.

Modular home. See Definition - Manufactured Home.

Motel. A building containing guest rooms where, for compensation, lodging or lodging and meals are provided to ten (10) or more persons.

MPCA: Minnesota Pollution Control Agency.

Multi unit development (M.U.D.). A type of development that is characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, clustering of these units or sites to provide areas of common open space, density increases, and 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 developments 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.

Multi unit residential development (M.U.R.D.). A planned unit development for long term residential use containing more than five dwellings units or sites. See “ shoreland conservation subdivision development”.

Nonconforming structure or use. A structure or use lawfully in existence on the effective date of this Ordinance and not conforming to the regulations for the district in which it is situated.

Nudity: The showing of the human male or female genitals or pubic area with less than fully opaque covering; the showing of the female breast with less than fully opaque covering of any portion thereof below a point immediately above the top of the areola; or the depiction or showing of the coverage of male genitals in a discernibly turgid state.

Open space. Undeveloped land within the development that has been designated, dedicated, and reserved or restricted in perpetuity from further development and is set aside for the use and enjoyment by residents of the development. Open space shall not be part of unit sites. Open space shall be substantially free of structures, but may contain historic structures and archaeological sites, wetlands, subsurface sewage treatment facilities and/or such recreational facilities for residents as indicated on the approved development plan.

Ordinary high water level (OHWL). The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape. The ordinary high water level is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For water-courses, 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 shall be the operating elevation of the normal summer pool.

Other establishment. For the purpose of the provisions in Chapter 4, Section 10, Individual subsurface sewage treatment Systems, of this Ordinance, "other establishment" means any public or private structure other than a dwelling which generates sewage.

Owner. For the purpose of the provisions in Chapter 4, Section 10, Individual subsurface sewage treatment Systems, of this Ordinance, "owner" means any person having possession of, control over, or title to property with an individual subsurface sewage treatment system.

Park home. A factory-built structure, up to twelve (12) feet wide, with up to 400 square feet of living area including entrance and building additions, with the necessary service connections and constructed to be readily movable as a unit on its own running gear or trailer, and designed to be used as a seasonal dwelling unit without permanent foundation in a Recreational Vehicle Park. Also referred to as Park Models or Park Model Homes.

Parks and playgrounds. Public lands and open spaces in Becker County dedicated or reserved for recreation purposes.

Pasture. Areas where grass or other growing plants are used as feed for grazing.

Pedestrian way. A public or private right-of-way across a block or within a block to provide access for pedestrians and which may be used for the installation of utility lines.

Percentage of grade. On street centerline, means the distance vertically (up or down) from the horizontal in feet and tenths of a foot for each one hundred feet of horizontal distance.

Permit. A building, construction, sanitary, planning, zoning, or other such permit issued for new construction, replacement, repair, alteration, or extension of an individual subsurface sewage treatment system, including artificial drainage and collector systems. Permit also means a permit issued for the addition of a bedroom or bathroom on property served by an individual subsurface sewage treatment system.

Permittee. Any person who is named on a permit issued pursuant to this ordinance.

Permitting authority. Any unit of government, state agency, or any authorized representative who administers or enforces ordinances or laws or rules through permits.

Place of worship: A building or space that is principally used as a place where people of the same faith or religion regularly assemble for worship.

Planned unit development (PUD). see "Conservation Subdivision Development"

Planning Commission. The Becker County Planning Commission as defined in Minnesota Statute Section 394.30.

Plat. A tract other than one unit of a recorded plat occupied and used or intended to be improved by the erection of buildings.

Preliminary plat. A tentative drawing or map of a proposed subdivision meeting the requirements herein enumerated.

Preservation area. An area that is to be left in its natural state with soils, plants, grasses, shrubs, and trees and is to be left in and protected from alteration or development.

Private or Vacation Home Rental. Any home, cabin, condominium, bedroom, or similar building that is advertised as, or held out to be, a place where sleeping accommodations are furnished to the public on a nightly, weekly, or for less than a 30-day time period, and is not a bed and breakfast, resort, hotel, or motel.

Protective covenants. 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 library. Any library that provides free access to all residents of a city or county without discrimination and is organized under Minnesota Statutes Chapter 134.

Public park. A park reservation, playground, beach, or recreation or community center in the County owned, leased, or used wholly or in part by the city, county, state, school district, or federal government for recreational purposes.

Public waters. Any public waters or wetlands as defined in Minnesota Statutes, section 103G.005, subdivisions 15 and 19, or identified as public waters or wetlands by the inventory prepared pursuant to Minnesota Statutes, section 103G.201.

Qualified employee. For the purpose of the provisions in Chapter 4, Section 10, Individual subsurface sewage treatment Systems, of this Ordinance, "qualified employee" means an employee of state or local government who conducts site evaluations or designs; installs, maintains, pumps, or inspects individual subsurface sewage treatment systems as part of employment duties and is registered on the ISTS 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 requirement under Minnesota Rules, part 7080.0815, subpart 1, item B or C, and has been issued performance restrictions.

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

Recreation facilities. Activities occurring outdoors including, but not limited to, unpaved hiking trails, unpaved biking trails, golf courses, parks.

Recreation vehicle. A vehicle with or without motor power designed for highway travel on its own wheels, constructed and equipped as a temporary living quarters while traveling or during hunting, fishing or vacation season. The term "Recreation Vehicle" shall include camp cars, camp bus, motor homes, "5th" wheelers, and travel trailers up to eight (8) feet six (6) inches in width plus a four (4) foot expansion unit, and forty (40) feet in length.

Recreational vehicle park. A parcel of land under single ownership, or with individually owned lots, designed, constructed, and administrated for the placement of Recreation Vehicles or Park Homes.

Repairs. See Maintenance and/or repair.

Replacement. The replacement of an existing sewage tank, holding tank, dosing chamber, artificial drainage, privy, collector system, or soil treatment system.

Residential planned unit development. See "Conservation Subdivision Development".

Resort. A development of one or more buildings for lease or rent as temporary residences on one tract of land for the purpose of providing recreation and entertainment especially to vacationers.

Restaurants. "Restaurants" mean establishments that prepare and serve meals and at which multiple use dishes and utensils are washed.

Restoration area. An area that is to be brought back to its previous or original condition with native soils, plants, grasses, shrubs, and trees as determined by the DNR, local watersheds and Soil and Water Conservation.

Riparian. Bordering on a body of public water.

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

Road cul-de-sac. A minor street or road with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

Road width. The shortest distance between lines of lots delineating the road right-of-way.

Salvage yard. Land or buildings where products resulting from disassembling or wrecking of automobiles or other vehicles are purchased, sold, exchanged, stored, cleaned, packed, or handled, except that the storage of three (3) or more inoperative motor vehicles for a period in excess of three (3) months is a junk yard.

Saturated soil. The highest elevation in the soil where periodically depleted oxygen levels occur because of soil voids being filled with water. Saturated soil is evidenced by presence of soil mottling or other information.

School. A building or space that is principally used as a place where twenty-five (25) or more persons receive a full course of educational instruction. Any post-secondary or post high school educational building, including any college or other vocational technical college, shall not be deemed a school for the purpose of this Ordinance.

Seepage bed. An excavated area larger than 36 inches in width which contains drain field rock and has more than one distribution pipe.

Seepage pit, or leaching pit, or dry well. An underground pit into which a sewage tank discharges effluent and from which the liquid seeps into the surrounding soil at a loading rate greater than 1.20 gallons per day per square foot or with a hydraulic head greater than 30 inches.

Semipublic use. The use of land by a private, nonprofit organization, other than a church, to provide a public service that is ordinarily open to persons other than the organization's members.

Sensitive resource management. 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. Solids and liquids removed during periodic maintenance of an individual subsurface sewage treatment system, or solids and liquids which are removed from toilet waste treatment devices or a holding tank.

Septic tank. Any watertight, covered receptacle designed and constructed to receive the discharge of sewage from a building sewer, separate solids from liquid, digest organic matter, and store liquids through a period of detention, and allow the clarified liquids to discharge to a soil treatment system.

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

Sewage. Any water-carried domestic waste 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. Animal waste and commercial or industrial waste are not considered domestic waste.

Sewage tank. A tank used in the treatment of sewage and includes septic tanks and aerobic tanks.

Sewage tank effluent. That liquid which flows from a septic or aerobic tank under normal operation.

Sewage treatment system. A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Chapter 4, Section 10 of this Ordinance.

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

Shore impact zone. Land located between the ordinary high water level of a public water and a line parallel to and 1/2 the setback from it except that on property used for agricultural purposes the shore impact zone boundary is a line parallel to and 50 feet from the ordinary high water level.

Shoreland. Land located within the following distances from Public Waters:

- a. 1,000 feet from the ordinary high water level of a lake, pond or flowage, and
- b. 300 feet from a river or stream, or the landward extent of a flood plain designated by this Ordinance on such a river or stream, whichever is greater.

The limits of shoreland may be reduced whenever the waters involved are bounded by natural topographic divides that extend landward from the waters for lesser distance and when approved by the Commissioner of the Department of Natural Resources.

Shoreland conservation subdivision development. A planned unit development consisting of sites or units that are sold, lease for periods longer than 28 days, or any other method of transferring long term rights to lodging spaces, rooms, RV sites, or parcels shall be considered permanent.

Shore recreation area. An area for activities occurring near the shoreline including, but not limited to, swimming areas, docking area and docks, watercraft mooring area, launching ramps where structures are not permitted.

Sign. A name, identification, description, display, illustration, or device that is affixed to or represented directly or indirectly upon a building, structure, or land in view of the public which directs attention to a product, place, activity, person, institution, or business. Warning signs of less than two (2) square feet in area shall be exempt from the definition of signs.

Sign, advertising. A sign that directs attention to a business, commodity, service, activity or entertainment not conducted, sold or offered upon the premises where sign is located; a billboard.

Sign, business. A sign that directs attention to a business or profession or to a commodity, service or entertainment sold or offered upon the premises where the sign is located.

Sign, flashing. An illuminated sign on which the illumination is not stationary or constant in intensity and color at all times during use.

Sign, illuminated. Any sign that has characters, letters, figures, designs, background, or outlines illuminated by electric lights or luminous tubes as a part of the sign.

Sign, nameplate. Any sign that states the name or address, or both, of the business or occupant of the lot where the sign is placed.

Sign, rotating. A sign that revolves or rotates on its axis by mechanical means.

Sign, surface area of. The entire area within a single, continuous perimeter enclosing the extreme limits of the actual sign surface. It does not include any structural elements outside the limits of the sign that do not form 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. If the sign surface areas of a double-face or V-type sign are of different sizes, the larger of the two faces shall be used to compute surface area.

Single family dwelling. See “Dwelling, single family”.

Single family residential use. The use of the land or buildings for a single-family dwelling.

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 significant historic sites.

Site. The area bounded by the dimensions required for the proper location of the soil treatment system.

Slope. The ratio of vertical rise or fall to horizontal distance.

Soil textural classification. The soil particle sizes or textural classification as specified in the Soil Survey Manual, Agricultural Handbook No. 18, United States Department of Agriculture, 1993.

Soil treatment area. The area of trench, at-grade rock bed, or seepage bed bottom which is in direct contact with the distribution medium of the soil treatment system.

Soil treatment system. A system where sewage tank effluent is treated and disposed of into the soil by percolation and filtration, and includes trenches, seepage beds, drain fields, at-grade systems, and mound systems.

Specified anatomical areas. Anatomical areas consisting of:

- a. Less than completely and opaquely covered human genitals, pubic region or pubic hair, buttock, anus, or female breast, or breast below the point immediately above the top of the areola or any combination of the foregoing; and/or
- b. Human genitals in discernibly turgid state, even if completely or opaquely covered.

Specified Sexual Activities. Activities consisting of the following:

- a. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation or fondling of unclothed genitals, pubic region, buttock, or female breast, flagellation, or torture in a sexual relationship, and any of the following sexually oriented acts or conduct: Anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, picquerism, sapphism, sodomy, zooerasty; or
- b. Human genitals in the state of sexual stimulation, arousal, or tumescence; or
- c. Use or acts of human or animal ejaculation, sexual intercourse, sodomy, oral copulation, coitus, or masturbation; or
- d. Fondling or touching of human genitals, pubic regions or pubic hair, buttocks, female breast; or
- e. Stimulations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, who are engaged in activities involving the flagellation, torture, fettering, binding, or other physical restraint of any such person; or
- f. Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human; or
- g. Human excretion, urination, menstruation, vaginal or anal irrigation; or
- h. Any combination of the above.

SDS and NPDES permits. State Disposal System and National Pollutant Discharge Elimination System permits issued by the Minnesota Pollution Control Agency to regulate individual subsurface sewage treatment systems.

Steep slope. Land that is not suited for agricultural activity or development 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 this Ordinance. If specific information is not available, steep slopes are lands having average slopes more than 12 percent, as measured over distances of 50 feet, measured on the ground, that are not bluffs.

Storage Structure. Any building or structure used for non-residential or non-commercial use.

Story. The portion of a building included between the surface of a floor and the surface of the next floor above it or, if there is no floor above, the space between the floor and the ceiling next above it.

Storage structure. Any building or structure used for non-residential or non-commercial use.

Structure. Anything constructed, erected or placed; which includes but is not limited to houses, garages, accessory buildings, decks, driveways, sidewalks, patios, fences, retaining walls, mobile homes, dog kennels and signs.

Structural alterations. Any change in the supporting members of a building or structure such as bearing walls, columns, beams, or girders.

Subdivider. Any individual firm, association, syndicate, co-partnership, corporation, trust, or other legal entity having sufficient proprietary interests in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this Ordinance.

Subdivision. Any tract of land that is to be or which has been divided into two or more parcels.

Suitable area. The area within each tier that is calculated by excluding from the tier area all wetlands, bluffs, road right of way, easements, or land below the ordinary high water level of protected waters.

Surface water flooding. The 100-year flood plain along rivers and streams as defined by the Department of Natural Resources, or in the absence of such data, as defined by the largest flood of record; on lakes, high water levels as determined or recorded by the Department of Natural Resources or, in the case of no Department of Natural Resources record, by local records or experience. Other surface water flooding or high water areas should be determined by local information.

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

Tangent. A straight line that is perpendicular to the radius of a curve where a tangent meets a curve.

Ten-year flood. A flood which can be expected to occur, on an average, of once in ten years; or the elevation to which flood waters have a ten percent chance of rising in any given year.

Terrace. An active outdoor use area consisting of either a platformed area, earthen formed area, tiled area, or area otherwise so designated. For the purpose of this ordinance, a terrace is a structure and shall be subject to the required setbacks for the district in which it is located. Terraces as an accessory use to a farming operation shall be exempt from required setbacks.

Toe of the bluff. The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from gentler to steeper slope above. If no break in the slope is apparent, the toe of the bluff shall be the lowest point on a bluff that is the lower end of a the lowest 50 foot segment, measured on the ground, with an average slope exceeding 18 percent.

Toilet waste. Waste commonly disposed of in toilets including fecal matter, urine, toilet paper, and any water used for flushing and specifically excluding sanitary napkins, tampons, and disposable diapers.

Toilet waste treatment devices. Privies and other devices including incinerating, composting, biological, chemical, recirculating, or holding toilets.

Top of the bluff. The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler slope above. If no break in the slope is apparent, the top of the bluff shall be the highest point on a bluff that is the upper end of the highest 50-foot segment, measured on the ground, with an average slope exceeding 18 percent.

Tower facility. Any structure more than 35 feet in height erected for the purpose of supporting, elevating, or attaching one or more antennas. The term also includes, supports and accessory buildings and structures.

Treatment Level: Treatment system performance levels defined in Minnesota Rules, Chapter 7083.4030, Table III for testing of proprietary treatment products, which include the following:

Level A: cBOD5 < 15 mg/L; TSS < 15 mg/L; fecal coliforms < 1,000/100 mL.

Level B: cBOD5 < 25 mg/L; TSS < 30 mg/L; fecal coliforms < 10,000/100 mL.

Level C: cBOD5 < 125 mg/L; TSS < 80 mg/L; fecal coliforms N/A.

Trench. An area excavated from 18 to 36 inches in width, which contains drain field rock or other distribution medium.

Twin home. A duplex where each unit is on a separate lot with the lot line constituting a common wall between units. Each unit of a twin home shall be considered a single family dwelling for the purpose of computing the area and width requirements for a lot.

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

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

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

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

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

Unit site. An area controlled by owner including but not limited to structures, parking area, lawn, garden, patios, etc.

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

Use, accessory. A use clearly incidental or accessory to principal use of a lot or a building located on the same lot as the accessory use.

Variance. A modification or variation of the provisions of the Ordinance, as applied to a specific piece of property.

Vertical curve. The surface curvature on a road or highway center line located between lines of different percentage of grade.

Watercourse. 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. A small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, that, 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.

Watertight. A device constructed so that no water can get into or out of the device except through designed inlets and outlets.

Wetland. A surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39.

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

Yard, front. A yard extending across the front of the lot between the side yard lines and lying between the center line of the township or county road and from the right-of-way of any other highway, and the nearest line of the building.

Yard, rear. A yard extending across the back of a lot between the side yard lines and the lying between the back line of the lot and the nearest line of the building. On a corner lot, only one line shall be a rear yard line, in which the rear yard line shall be opposite the street address. This shall be designated by the owner at the time a building permit is applied for or when a plat is submitted.

Yard, side. A yard extending across the side of a lot between the front and back lines and the nearest line of the building.

Zoning Administrator. The Becker County Zoning Administrator.