

SECTION V. PERFORMANCE STANDARDS

The performance standards established in this section are designed to encourage a high standard of development by providing assurance that neighboring land uses will be compatible. The performance standards are designed to prevent and eliminate those conditions that may cause a blight or are detrimental to the environment. All future development in all districts shall be required to meet these standards and the standards shall also apply to existing development where so stated.

Before any land use permit is approved, the Director of Land and Resource Management, or a representative thereof, shall determine whether the proposed use will conform to the performance standards. The developer or landowners shall supply data necessary to demonstrate such conformance. Such data may include a description of equipment to be used, hours of operation, method of refuse disposal, and type and location of exterior storage.

A. SIGNS.

All signs existing or hereafter erected, altered, substantially repaired, relocated and maintained (except as erected by an official unit of government for the direction and control of traffic and information to the general public, or warning signs posted by public utilities) shall conform to the provisions of this Ordinance.

1. Permits Required.

- a. No sign shall be erected, operated or maintained without a permit from the Director of Land and Resource Management or his/her agent except as exempted by Sec. V.A.6. The permit shall be provided by the Director of Land and Resource Management or his/her agent and shall require such pertinent information as location, surface area, name of owner and occupant of the land, distance from adjoining signs and a statement that the owner has consented thereto. Permit fees therefore shall be as specified in the Douglas County Permit and License Fee Schedule.
- b. The sign for which a permit has been issued shall be erected within 12 months after the permit has been issued or a new permit will be required.
- c. A permit may be revoked by the Director of Land and Resource Management after hearing before the Planning Advisory Commission upon thirty (30) days notice if it is found that the provisions of this Ordinance have not been or are not being complied with or that the application for permit or license was false or misleading; provided that such false or misleading information has not been corrected within thirty (30) days after written notification thereof.

2. License.

- a. No sign shall be erected, operated or maintained by any person, firm or corporation engaged in the business of erecting signs who shall not have secured a business license from the Director of Land and Resource Management and who shall not have posted a bond with the Director of Land and Resource Management, in an amount as specified in the Douglas County Permit and License Fee Schedule, assuming compliance with the terms of this section. Application for such license shall be made on a form provided by the Director of Land and Resource Management, shall be renewable on January first of each year and shall be subject to approval on an annual basis.

3. Location.

- a. Signs may be permitted in commercial and industrial districts except as specifically exempted in Section V.A.6. In all other zoning districts a conditional use permit is required (a separate CUP is not required for a sign if it is included within an approved CUP).
- b. Signs shall not be located closer than fifty (50) feet from the right of way of a road.
- c. No sign except as erected by an official unit of government for the direction of traffic or necessary public information, or warning signs erected by public utilities, shall be permitted within the right-of-way of any public road.
- d. No sign shall be located in any zoning use district which borders on or is traversed by a freeway or expressway route which shall be visible from such route except as is exempted by the terms of this Ordinance. Directional signs at interchanges, turn-offs, or similar situations shall be permitted, but only in such manner, style and construction as shall first be approved by the Planning Advisory Committee.
- e. No sign shall be closer than five hundred (500) feet to another sign on the same side of the road except those erected by an official unit of government for the direction of traffic or necessary public information at intersections, turn-offs or similar situations. This section shall not be construed to prohibit the location of privately erected signs nearer than five hundred (500) feet to official signs.
- f. All sign locations shall be kept free from growth, debris and rubbish. Failure to correct such conditions after being so directed in writing by an authorized official of the County shall be cause for revocation of the existing permit and removal of the sign or signs on said location or locations.

4. Size.

a. No sign shall exceed the following standards:

- (1.) Combined surface area of one hundred (100) square feet in agricultural, commercial, and industrial zones.
- (2.) Combined surface area of sixteen square feet within Residential or Residential Shoreland Districts.
- (3.) The bottom of the sign shall not exceed 10 feet above the ground.
- (4.) Horizontal length of ten (10) feet.

b. Signs of a larger area and/or dimensions may be permitted through the issuance of a variance outside of the shore impact zone.

5. Construction and Maintenance.

a. All signs shall be constructed and maintained in a good workman-like manner and the copy thereon shall be neat and legible.

b. All signs shall be constructed, situated or landscaped in such a manner as not to present an unfinished or unsightly appearance when viewed from behind.

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

6. Exemptions.

a. In addition to those exempt by definition, the following signs shall be exempt from the provisions of this section:

- (1.) Directional signs, provided they are of such design and meet such specifications as required by the County Highway Department.
- (2.) Signs which are attached to a structure. The highest part of such signs shall not exceed the highest peak of the structure.
- (3.) For sale signs upon real property and advertising the same as being for sale or for rent.

7. General Regulations.

a. The following regulations shall apply to all signs coming under the terms of this Ordinance, including those as exempted above. No signs shall be permitted:

- (1.) In a location which would interfere with the view of any traveler on any highway or approaching vehicles or traffic control devices or signs for a distance of five hundred (500) feet along the highway.
- (2.) On rocks, trees, or other perennial plant or on any public utility pole.
- (3.) Containing a rotating beam or beam of light resembling an emergency vehicle.
- (4.) Which simulates any official, directional or warning sign erected or maintained by the State, County, municipality or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.
- (5.) Which permits light rays there from to shine into or on a highway.
- (6.) Which interferes with public utility facilities or the maintenance thereof.
- (7.) Which obstructs any window, door, fire escape, stairway or opening essential to the provision of light, air, ingress or egress for any building.
- (8.) Within two hundred (200) feet of a church or school.
- (9.) Which contain more than two (2) surface areas of facing.

b. The following regulations shall apply to all signs for water oriented needs servicing commercial, public or semi-public uses. Land uses that have patrons arriving by watercraft may use signs with lighting to convey needed information and are subject to the following 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.) Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct

illumination out across public waters. This does not preclude use of navigational lights.

- c. In addition to the above, all signs must be in compliance with State and Federal sign regulations.

B. OUTDOOR STORAGE.

In all zoning use districts, all materials and equipment shall be stored within a building or fully screened so as not to be visible from adjoining properties and/or a public road except for the following: operable equipment for recreational use and equipment being temporarily used on the premises, agricultural equipment and materials if they are used or intended for use on the premises, off-street parking of operable passenger automobiles and pick-up trucks and storage of firewood for home heating.

C. REFUSE.

In all zoning use districts, the fee title owner shall be responsible for keeping such land free of the following waste material, debris, discarded or inoperable machinery, and other refuse.

1. Inoperable Automobiles.

- a. Any inoperative or unlicensed automobile, truck or other machinery shall be kept in an enclosed building or screened in such a manner as not to be visible from any public road or street or adjacent properties. This provision shall include but not be limited to auto salvage yards, implement yards and equipment yards.
- b. Any inoperative automobiles, trucks, implements or equipment not so screened shall be deemed abandoned and shall be ordered removed within a specified time by the Director of Land and Resource Management.

2. Solid Waste.

- a. The current edition of the Douglas County Solid Waste Ordinance as, from time to time, amended by the Douglas County Board of Commissioners is hereby adopted by reference and made a part of this Ordinance as if fully set forth herein. In addition, the following shall apply to all solid waste generators in any zoning use district established by this Ordinance:

- (1.) All solid waste shall be kept in a closed container until it is delivered to a County and State approved final disposal site.

- (2.) The occupant of all properties shall be responsible for the proper handling of all said waste containers taken to the road, street or alley for pick up by a licensed collector.
 - (3.) All solid waste containers shall be placed in the location designated by the licensed collector not more than twelve (12) hours before collections. All containers shall be removed from the pick up location within twelve (12) hours after collection.
 - (4.) All generators of solid waste shall be responsible for legally disposing of the material either by directly depositing the material either by directly depositing the material at a licensed facility or by contracting with a licensed collector. No generator of solid waste shall combine solid waste with another generator.
 - (5.) The incineration of all solid waste at an unauthorized waste processing facility is prohibited. This includes, but is not limited to “burning barrels.”
 - (6.) All incinerated ash will be disposed of in an approved landfill. The transportation and management plan must be approved by the Land and Resource Management Department.
- b. All demolition material shall be disposed of in an approved demolition landfill or recycled.

3. Nuisances.

- a. The following are declared to be nuisances affecting public health or safety:
- (1.) The effluent from any cesspool, septic tank, drainfield or human sewage disposal system discharging upon the surface of the ground, or dumping the contents thereof at any place except as authorized.
 - (2.) The pollution (point or nonpoint) of any public well or cistern, stream or lake, canal or body of water by sewage, domestic animal waste runoff, industrial waste or other substances.
 - (3.) The ownership, possession or control of any unused refrigerator or other container, with doors which fasten automatically when closed, of sufficient size to retain any person, to be exposed and accessible to the public without removing the doors, lids, hinges or latches, or providing locks to prevent access by the public.

D. SCREENING.

Where any business or industry (i.e., building, parking or storage) is located adjacent to property zoned for residential use or where residential housing exists or where it is located adjacent to a public or private institution or park and recreational area, that business or industry shall provide appropriate screening along the boundary of the residential property. Screening shall also be provided where a business or industry is across the street from a residential zone or residential housing.

The screening required in this section shall consist of earth mounds, berms or ground forms; fences and walls; landscaping (plant materials) or landscaped fixtures (such as timbers) used in combination or singularly so as to block direct visual access to an object. The use of discarded tires is an inappropriate form of screening material.

E. PARKING REQUIREMENTS.

1. Minimum Size Regulations

- a. Each space shall contain a minimum area of not less than three hundred (300) square feet, including access drives, a width of not less than eight and one-half (8-1/2) feet and a depth of not less than twenty (20) feet. Each space shall be adequately served by access drives.

2. Reduction and Use of Parking Space.

- a. On-site parking facilities existing at the effective date of this Ordinance shall not be reduced to an amount less than that required under this Ordinance for a similar new building or use. On-site parking facilities provided to comply with the provisions of this Ordinance shall not be reduced below the requirements of this Ordinance. Such required parking space shall not be used for the storage of goods or for storage of vehicles that are inoperable or for sale or rent.

3. Computing Requirements.

- a. In computing the number of parking spaces required, the following rules shall govern:
 - (1.) Floor space shall mean the gross floor area of the specific use.
 - (2.) When fractional spaces result, the parking spaces required shall be construed to be the nearest whole number.

- (3.) The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of similar nature, as determined by the Director of Land and Resource Management or the County Planning Advisory Commission.

4. Sale of Parking Areas.

- a. Property that constitutes required off-street parking may not be separated through sales or other means from the property containing the principal use for which the parking area is required.

5. Yards.

- a. On-site parking requirements shall not be subject to front, side and rear yard regulations for the district in which parking is located, except that:

In the Commercial (C) and Industrial (I) Districts, no parking shall be located within ten (10) feet of any property line that abuts any Residential (R) Residential Shoreland (RS) or Agricultural (A) District.

6. Buffer Fences and Planting Screens.

- a. On-site parking areas near or abutting Residential and Shoreland Districts shall be screened by a buffer fence of adequate design or a planting buffer screen. Plans of such screen or fence shall be submitted for approval as part of the site plan, and such fence or landscape shall be installed as a part of the initial construction.

7. Required Number of On-Site Parking Spaces.

- a. On-site parking area of sufficient size to provide parking for patrons, customers, suppliers, visitors and employees shall be provided on the premises for each use. The minimum number of required on-site parking spaces for the following uses shall be as follows:

<u>Land Use</u>	<u>Number of Parking Spaces</u>	<u>Unit Measure</u>
Residential Dwelling Units	2	Unit
Offices, Service, Research or Testing Uses	1	200 Sq.Ft. Floor Area
Automotive, Trailer or Marine Sales and Service	1	800 Sq.Ft.
Elementary and Junior High Schools	1 +1	Classroom 50 Student Capacity
High School, College, Private and Day and Church Schools	1 +1	7 Students 3 Classrooms
Public or Religious Assembly, Auditoriums or Exhibition Halls	1	4 Seats in Main Area
Automotive Service Stations	4 +2	Service Bay
Bowling Alleys	5	Bowling Lane
Fast Food	1	15 Sq.Ft. Service Floor Area
Motel, Hotel	1 +1 +1	Rental Unit Each 10 Units Employee on Shift
Restaurant, Cafe, or Night Clubs	1 +1	40 Sq.Ft. Seating Floor Area 80 Sq.Ft. of Kitchen Area
Retail Sales and Service Establishments	1	200 Sq.Ft. Floor Area
Storage, Wholesale and Warehousing.	That space which is solely used as office shall comply with the office use requirements.	

	+1	750 Sq. Ft. Floor Area
	+1	Company owned Truck (if not stored inside building).
Manufacturing and Processing.	1	350 Sq. Ft. Floor Area
	+1	Company Owned Truck (if not stored inside building).

8. Loading and Unloading Requirements.

- a. Loading and unloading areas for goods, supplies and services shall be sufficient to meet the requirement for each use.

F. NONCONFORMITIES.

Within the districts established by this Ordinance or amendments that may later be adopted, there will exist lots, structures and uses of land and structures which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated or restricted under the terms of this Ordinance or future amendment. It is the intent of this Ordinance to permit these nonconformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after passage of this Ordinance

To avoid a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance, and upon which actual construction has been diligently carried on the construction may continue. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed actual construction, provided that work shall be diligently carried on until completion of the building involved.

1. Nonconforming Uses of Land.

- a. Where, at the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is made no longer permissible under the terms of this Ordinance as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:
- (1.) No such nonconforming use shall be increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.
 - (2.) If a nonconforming use ceases to be used for a period of twelve (12) consecutive months, or is changed to a conforming use, any subsequent use shall meet the requirements of the zoning use district wherein located.
 - (3.) A nonconforming use shall not be moved to any other part of its site or to another site where it would still constitute a non-conforming use.
 - (4.) An otherwise permissible nonconforming use may be subject to additional restrictions for reasons of public health and safety.
- b. This subsection does not apply to recreational equipment as it must be licensed and all provisions of Section V.K. are in full force and effect thirty (30) days from the date of the adoption of this Ordinance by the Douglas County Board of Commissioners.

2. Nonconforming Structures.

- a. Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
- (1.) No such structure may be enlarged or altered in any way which increases its nonconformity without a variance, except for:
 - a. Additions to nonconforming structures, if such additions standing alone, would meet all setbacks of the ordinance.
 - b. Additions which comply with the "string test" as defined in Section VII of this Ordinance and meet the requirements of Section III.D.8.d.(2.)(e.)i.

- (2.) Should such structure be destroyed by fire or other peril to an extent of more than fifty (50) percent of the assessor's market value at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance. The fifty (50) percent replacement valuation must be calculated as a cumulative total for the life of the individual nonconforming structure. It is not the intent of this Ordinance to allow multiple construction projects on the individual nonconforming structure to manipulate the fifty (50) percent replacement valuation.
- (3.) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
- (4.) Alterations may be made to a residential structure when they will improve the livability of the building provided that they do not alter the dimensions of the exterior structure, including height, or increase the number of dwelling units, provided that setbacks are met, and that such alteration does not increase the nonconformity of the structure.
- (5.) All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of this Ordinance. Any deviation from these requirements must be authorized by a variance.

3. Nonconforming Uses of Structures.

- a. If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this Ordinance, that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:
 - (1.) No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
 - (2.) A nonconforming use may be extended throughout a building which was manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.

- (3.) If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use by the County Board, upon recommendation of the Planning Advisory Commission. In permitting such change, the County Board may require appropriate conditions and safeguards in accord with the provisions of this Ordinance.
- (4.) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.
- (5.) When a nonconforming use of a structure is discontinued or abandoned for 12 consecutive months, the structure or structure and premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located.
- (6.) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

5. CONSTRUCTION ON NONCONFORMING LOTS OF RECORD.

- a. Lots of record in the office of the County Recorder on the date of enactment of the Zoning Ordinance that do not meet the requirements of Section III of this Ordinance may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this Ordinance are met.
- b. A variance from setback requirements must be obtained before any use, sewage treatment system, or land use permit is issued for a lot. In evaluating the variance, the Board of Adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.
- c. If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of Section III of this Ordinance, the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of Section III of this Ordinance as much as possible. Husband and/or wife will be considered same ownership.

- d. A subdivision of a nonconforming lot shall not be approved where a later variance from one or more standards in the official controls would be needed to use the lots for their intended purpose.

G. SANITATION.

The purpose of the Sanitation section of this ordinance shall be to provide minimum standards for and regulation of individual sewage treatment systems (ISTS) and septage disposal including location, design, construction, operation, maintenance and repair to protect surface water and groundwater from contamination by human sewage and waterborne household and commercial waste; to protect the public's health and safety, and eliminate or prevent the development of public nuisances pursuant to the authority granted under Minnesota Statutes Chapters 115. The County hereby adopts, by this reference, Minnesota Rules Chapter 7080, including sections 7080.0020, 7080.0060-7080.0176, 7080.0178, 7080.0179, and 7080.0600, along with any future amendments.

- 1. Sewage Treatment. Any premises used for human occupancy must be provided with an adequate method of sewage treatment. "Other establishments" must meet the requirements of the Douglas County Sanitarian in addition to the sanitation requirements of this Ordinance.
 - a. Publicly-owned sewer systems must be used where available. Availability to be determined by the Township Board.
 - b. All private sewage treatment systems must meet or exceed applicable rules of the Minnesota Department of Health, the Minnesota Pollution Control Agency, specifically Chapter 7080 for Individual Sewage Treatment Systems and any applicable local government standards.
 - c. Sewage treatment systems installed according to all applicable local standards at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with soil treatment area separations that are less than three (3) feet above the highest known groundwater table or seasonally saturated soil conditions or bedrock, as required by the Minnesota Rules Chapter 7080 for Design of On-Site Sewage Treatment Systems shall be considered nonconforming.
 - d. Douglas County shall implement programs to identify and upgrade sewage treatment systems that are inconsistent with the sewage treatment system design criteria identified in item C, exclusive of the appropriate setback from the ordinary high water level. These programs shall require reconstruction within a timeframe not to exceed two years or ten months if such system is declared to be an imminent public health threat.

2. Douglas County shall conduct:
 - a. A systematic review of existing records to determine which systems in their jurisdiction are nonconforming.
 - b. A systematic onsite inspection program including all properties where adequate record of conformance does not exist, identifying nonconforming or illegal systems.
 - c. An education program that is oriented toward convincing substantial numbers of property owners to evaluate their sewage treatment systems and voluntarily upgrade the sewage treatment systems.
 - d. Once an onsite sewage treatment system is identified to be nonconforming, the Director of Land and Resource Management Department or designee shall require such system to be brought into conformance with the provisions of Minnesota Rules Chapter 7080 within a timeframe not to exceed two years or ten months, if such system is declared to be an imminent public health threat.
3. Licensing Requirements.
 - a. No person, firm, or corporation shall design, install, construct, repair, or pump onsite sewage treatment systems or haul liquid waste within Douglas County without first obtaining a license to carry on such occupation from the Minnesota Pollution Control Agency. A homeowner self-installing or repairing an onsite sewage treatment system at the homeowners property shall be exempt from the license requirement.
4. Permits.
 - a. The fee title owner of property or legal representative thereof shall be responsible for obtaining a permit from the Douglas County Director of Land and Resource Management for the installation, alteration, or extension of an on-site sewage treatment system. No person, contractor, firm, or corporation shall install, alter, or extend an on-site sewage treatment system in the County until such a permit has been issued by the Director of Land and Resource Management.
 - b. Applications for permits shall be made in writing by the fee title owner or agent upon a form furnished by Douglas County and pay a fee as listed in the Douglas County Permit and License Fee Schedule. Such permit shall be valid for a period of twelve (12) months from the date of issue unless extended by the Director of Land and Resource Management.

5. Construction Requirements.

- a. All on-site sewage treatment systems installed, altered or extended shall conform to the standards of the code herein adopted by reference.

6. Administration.

- a. The Douglas County Land and Resource Management Department shall have the following duties and responsibilities:

- (1). To review all applications for ISTS.
- (2). To review all proposals for the land application of septage.
- (3). To issue all permits required by this section.
- (4). To inspect work in progress to determine its conformance with this section.
- (5). To investigate complaints regarding ISTS and septage disposal.
- (6). To perform and/or require compliance inspections.
- (7). To issue certificates of compliance and notices of noncompliance where appropriate.
- (8). To issue Stop Work Orders pursuant to this section.
- (9). To refer violations of this section to the County Attorney as necessary.
- (10). To maintain proper records for ISTS and septage disposal including site evaluation records, design records including calculations and summaries for all system component sizing and as-builts.
- (11). To submit annual reports to the MPCA to demonstrate enforcement of the local ordinance per Chapter 7080.0310.

7. Inspection.

- a. The Director of Land and Resource Management shall cause such inspection or inspections as are necessary to determine compliance with this Ordinance. It shall be the responsibility of the installer of the system to notify the Director of Land and Resource Management that the job is ready for inspection or re-inspection, and it shall be the duty of the Director of Land and Resource Management to cause the indicated

inspection to be made within twenty-four (24) hours after such notice has been given, excluding weekends and holidays. It shall be the duty of the owner and occupant of the property to give the Director of Land and Resource Management or agent free access to the property at reasonable times for the purpose of making such inspections.

- b. No part of the system shall be covered until it has been inspected and accepted by Land and Resource Management unless prior arrangements have been made.
 - c. If proper notice is given and the inspector does not appear for an inspection within two hours after the inspection time is set, the permittee may complete the installation. The permittee shall then file a signed as-built, including photographs of the system prior to covering, with the Land and Resource Management within five working days. The as-built shall include a certified statement that the work was installed in accordance with submitted design and permit conditions and that it was free from defects.
 - d. Existing system compliance inspections. An ISTS shall require a compliance inspection when any one of the following conditions occur:
 - (1). Any time that a permit is applied for in a Shoreland Management Area.
 - (2). Addition of a dwelling on the property, or a variance issued in accordance with Minnesota Rules Chapter 7080.0305 Subp. 3 (General Requirements for Local Units of Government).
 - (3). At any time the Department deems appropriate such as upon receiving a complaint or other information of system failure.
 - e. Neither the issuance of permits, certificates of compliance or notices of noncompliance as requested or issued shall be construed to represent a guarantee or warranty of the system's operation or effectiveness. Such certificates signify that the system in question is or has been designed and installed in compliance or non-compliance with the provisions of these standards and regulations at the time of inspection.
8. Additional Standards. The following standards shall also apply:
- a. Point of Sale/Transfer Certification Requirements. No owner or other person acting with legal authority on behalf of an owner of a tract of land upon which a dwelling is located which is served by an individual sewage

treatment system, or a tract of land upon which a structure which is required to have an individual sewage treatment system is located, shall convey to another party said tract of land, unless the following requirements are met:

- (1.) For compliant systems:
 - (a) A Certification issued by a State Licensed ISTS Inspector shall be provided by the seller to the buyer at or before the closing date or, in the alternative, funds shall be placed in escrow in accordance with Section 8.a.(2.) below.
 - (b) The compliance portion of the Certification shall be completed by a State Licensed ISTS Inspector and shall be valid for three years from the date of completion for existing systems and five years from the date of completion for new systems, unless evidence is found identifying an imminent threat to public health and safety, in which event the system shall be brought into compliance within ten (10) months following the discovery of such evidence.
 - (c) The Certification shall be filed with the Department concurrently with the recordable documents relating to the transaction, unless funds are placed in escrow in accordance with Section 8.a.(2.).
- (2.) If the tract of land contains a non compliant system or if a tract of land has not been certified in accordance with Section 8.a.(1.) to contain a compliant system, the system must be certified compliant or brought into compliance in accordance with the following:
 - (a) \$5,000.00 shall be placed in escrow with the closing agent at the real estate closing to cover the cost of updating the system if such updating is found to be necessary, and the closing agent shall file with the Department at closing a signed statement confirming the escrow of such funds, which statement shall also be executed by the seller and buyer in accordance with Section 8.a.(2.)(b).
 - (b) The responsibility for the completion of the inspection by the State Licensed ISTS Inspector and the responsibility for the completion of any mandated updating to provide a compliant system, including the responsibility for costs in excess of the \$5,000 escrow amount, shall be established by a written statement executed by the seller and the buyer and filed with the Department concurrently with the documents relating to the transaction. Such written statement shall also identify the

party to whom any excess escrow monies will be refunded following the issuance of Certification of a compliant system.

The signed statement to be executed by seller and buyer shall be on the form provided by the Department or, in the alternative, shall contain all information as required by this Section 8.a.

- (c) The system shall be inspected by a State Licensed ISTS Inspector within two (2) months following the date of closing or, if frozen ground conditions exist within such two (2) month period or if the closing otherwise occurs during frozen ground conditions, such inspection shall occur by the following July 1. If the system is found to be compliant, the State Licensed ISTS Inspector shall execute the Certification as provided for in Section 8.a.(1.)(a) above and shall provide such Certification to the Department upon completion of such inspection.
 - (d) If the State Licensed ISTS Inspector finds the system to be non compliant, the system shall be updated so as to be compliant with the provisions of Minnesota Rule Chapter 7080 within two (2) years following the date of closing the real estate transaction unless evidence is found identifying an imminent threat to public health and safety, in which event the system shall be updated within ten (10) months following the closing of the transaction, and a State Licensed ISTS Inspector shall provide the Department with Certification of compliance within such two (2) year or ten (10) month period, as the case may be.
- b. Any system no longer in use must be abandoned in accordance with Minnesota Rule Chapter 7080.0176.
 - c. Alternative, other, performance, new technology or a warrantied system is allowed in an area where a standard system cannot be properly installed or by approval of the Director of Land and Resource Management.
 - d. A monitoring plan is required for alternative, other, performance, new technology, and warrantied systems and is the responsibility of the ISTS designer. The monitoring plan shall provide information as to:
 - 1. What is the modification from a standard system.
 - 2. What type of monitoring and parameters for monitoring should be conducted to assure the change will protect public health and the environment, including the frequency of monitoring and who is responsible for doing the monitoring and reporting.

3. A mitigation plan detailing what will be done if the system does not meet the performance criteria established by the monitoring plan requirements.
 4. The monitoring results shall be submitted in accordance with the approved monitoring plan to Land and Resource Management.
- e. Soil treatment area requirements:
1. All designs require a minimum of two soil borings and one percolation test to be conducted within the soil treatment area for each change. When cold weather and/or frost is encountered, a pit must be dug and the designer must characterize the soil profile and assure there is acceptable area for a drainfield site.
 2. In accordance with Minnesota Rule Chapter 7080, lots created after January 23, 1996, must include an area that can support the installation of an additional standard system.
 - (a.) Design requirements for the additional soil treatment site are the same as those required for the primary site, except that only one soil boring is required. If this soil boring indicates a change in soil texture or structure that would require a design change, a percolation test must also be conducted in the secondary site. When cold weather and/or frost is encountered, a pit must be dug on each lot and the designer must characterize the soil profile and assure there is acceptable area for two drainfield sites on the lot.
- f. Holding Tanks.
1. Holding tanks shall only be used as corrective action for sewage disposal for pre-existing uses when a soil treatment system cannot be installed.
 2. Undeveloped lots of record on which a holding tank is the only practical means of sewage disposal are unsuitable for residential use.
 3. A holding tank designed to service a recreational vehicle may be installed and used on an undeveloped lot of record if:
 - a. a design, completed by a licensed designer, is submitted that states the lot has an acceptable area to accommodate a

- standard soil treatment system, and;
- b. the designated future soil treatment area is protected from compaction and/or development.
4. Holding tanks must have a visual or audio alarm for the prevention of overflow.
 5. Holding tanks must be maintained by a licensed pumper in accordance with Chapter 7080. A monitoring and disposal contract signed by the owner and a licensed pumper must be submitted before a permit is issued. The contract must guarantee the removal of the tank contents prior to overflow or any discharge.
- g. Standard systems shall take priority for new construction and on upgrades where those systems can be reasonably installed. If a non-standard system is installed on a site where more than one sewer site is available and a standard system could be installed, a design for a standard system must also be included and that site must be reserved for that system.
 - h. Whenever any work is being done contrary to the provisions of this section, the Department may order the work stopped by verbal or written notices personally served upon the installer or owner of the land. All installation and construction shall cease and desist until subsequent authorization to proceed is received from the Department. Any installation, design, construction, alteration or repair of an ISTS by a licensed person or any pumping and disposal of septage by a licensed pumper or hauler done in violation of this section shall be cause for notification to the Minnesota Pollution Control Agency.
 - i. Requirements For Land Application of Septage Are As Follows:
 1. Domestic septage disposal and treatment standards shall comply with U.S. Environmental Protection Agency rules as found in 40 CFR Part 503 entitled “Standards for the Use or Disposal of Sewage Sludge,” and Minnesota Pollution Control Agency guidelines as stated in “Septage and Restaurant Grease Trap Waste Management Guidelines.”
 2. Land application sites must be approved by the Land and Resource Management Department.

H. ABANDONMENTS

No use, structure, sign, building, vehicle, machine, or any other piece or article of real estate or personal property may be abandoned or permitted in any public or private place, because of disuse or neglect, to become unsightly or offensive to the public.

1. Removal and Restoration.

- a. Any nonconforming use or use authorized by this Ordinance, when abandoned or discontinued, shall be removed or restored to as near its original state as is practicable. Non-use for a period of twelve (12) months shall be presumptive evidence of intention to abandon or discontinue.

2. Enforcement.

- a. The penalty for such offense shall be the obligation to remove or correct such unsightly or offensive thing or condition or remove or restore such abandoned or discontinued use within a time to be fixed by the Director of Land and Resource Management. The same may be ordered, removed, or corrected and the cost thereof assessed against the owner of such property or the real estate on which the same is found to exist, together with all costs of prosecution.

I. MINING AND EXTRACTION.

1. Purpose and Intent.

Modern lifestyles create a continuing demand for the various subsurface resources used throughout this county. These resources are unevenly and sometimes sparsely distributed, thus creating a continual shortage of some materials. In the past, excavation of these resources has presented conflicts with adjacent land uses, caused rapid soil erosion and left unsightly scars upon the landscape.

By requiring restoration of the mined areas, it is the intent of this Ordinance to minimize conflicts with adjacent land uses, prevent soil erosion of the mined areas and reduce the scarring of the landscape.

2. Jurisdiction.

The removal, crushing, washing, refining, stockpiling and/or processing of gravel or rock in any area shall be governed by this section unless such removal is being performed pursuant to a validly issued construction permit.

3. Permits.

- a. A conditional use permit shall be required for all mining operations and storage/recycling facilities except for temporary mining areas as defined by this section.
- b. A mining and extraction permit shall be required for temporary mining operations which meet the specifications of Section V.I.4.
- c. Owners of existing mining operations shall apply to the county for a conditional use permit within one (1) year of adoption of this Ordinance or cease operation. Operators may continue operations during permit applications and review process. The failure of an owner to acquire a permit as required by this Ordinance in no way absolves that owner of the reclamation responsibilities under this Ordinance.
- d. Permitted mining operations shall be subject to an administrative review by the Director of Land and Resource Management Department every five (5) years. This review shall not require payment of a fee.

4. Information Required.

- a. The following information shall be provided by the applicant requesting the permit:
 - (1.) Name and address of person or agency requesting the mining permit.
 - (2.) A copy of the recorded deed of the property.
 - (3.) A map of the proposed operation showing the following:
 - i. Structures to be erected.
 - ii. Location of sites to be mined, showing depth of proposed excavation.
 - iii. Description of stationary machinery to be used in the mining operation.
 - iv. Approximate location of storage and mined materials.
 - v. Location of access roads and local routes to truck routes.
 - vi. Approximate location of storage and mined materials.
 - vii. All setbacks from roads and property lines.
 - viii. Location of adjacent residences.

- ix. All lakes, streams and wetlands on property.
 - x. Extent of vegetation in buffer area.
 - xi. Location of explosives storage, if applicable.
- (4.) A plan for dust, storm water run off and noise control.
 - (5.) A full and adequate description of the proposed operation to include an estimate of the duration of the mining operation, location and acreage of each stage, and time schedule of completion.
 - (6.) Reclamation plan and cost estimate of reclamation.
 - (7.) For all pits developed for the extraction or mining of sand, gravel, stone or other nonmetallic minerals, other than peat, which will excavate 40 or more acres of land to a mean depth of ten feet or more during its existence, an Environmental Assessment Worksheet completed at the owner's expense pursuant to Minnesota Rules 4410.4300, Subd. 12B.
 - (8.) Any other information requested by the Planning Advisory Commission or County Board of Commissioners.

5. Performance Standards.

All mining operations, whether they are in operation at the time of this Ordinance adoption or are proposed shall follow the standards set forth in this section.

- a. Operators shall utilize all practical means to reduce the amount of dust caused by the operation. In no case shall the amount of dust or other particulate matter exceed the standards established by the Minnesota Pollution Control Agency.
- b. All entrances and exits shall be constructed so as not to create a safety hazard.
- c. It shall be the responsibility of the pit operator and/or fee title owner to control activity within the pit area and to clean up any debris or other material left on site.
- d. Excavation below the water table is permitted provided there is no adverse impact upon the quality and quantity of nearby surface water or nearby wells.
- e. All barriers installed at the operators discretion which control access to a gravel pit such as gates, etc., shall be clearly visible to prevent safety hazards

to snowmobiles and other members of the public. The use of cable, chain or similar types of barriers is prohibited.

- f. To minimize problems with dust and noise and to shield mining operations from public view, a screening barrier may be required between the mining site and adjacent properties and/or between the mining or processing operation. The screening barrier shall be constructed or planted in accordance with the recommendations of the County Board and can include, but is not limited to, trees or shrubs adequately shielding the operations.
- g. Any operations within three hundred (300) feet of two (2) or more residential structures may be required to install safety fencing around all or portions of the mining operation.
- h. Processing of minerals shall not be conducted closer than one hundred (100) feet from the property line nor closer than one hundred (100) feet from any residential, commercial or industrial structures without the written consent of all owners and residents of said structures.
- i. All buildings, structures and plants used for the production of sand and gravel shall be maintained in such a manner as is practical and according to acceptable industrial practice as to assure that such buildings, structures and plants shall not become dangerously dilapidated.
- j. Weeds and any other unsightly or noxious vegetation shall be cut or trimmed as may be necessary to preserve a reasonably neat appearance.
- k. No storage of concrete and/or bituminous shall be allowed unless it meets the requirements of Section V. of this ordinance.
- l. The provisions of this Ordinance apply to any acreage mined after June 28, 1988.

6. Reclamation Plan.

Before any permit is issued, the applicant must submit a reclamation plan for approval by the County.

For all mining operations, the reclamation plan shall contain a description of planned after-use of affected areas and the nature and extent of reclamation. A detailed reclamation map drawn at a scale of 1" = 100' or larger shall be provided designating which parts of the land shall be reclaimed for forest, pasture, crop, homesite, recreational, industrial, or other uses including food shelter and ground cover for wildlife. The reclamation plan and map shall contain:

- a. The planned contours of the land when the mineral removal operations are completed; based upon the best information available.
- b. Proposed depth of topsoil, if applicable.
- c. Location and nature of any structures to be erected in relation to the after-use plan.
- d. Type of fill, if fill is proposed.
- e. Type of planting or reforestation. Planting shall be in accordance with the desires of the property owner. If no active planting or reforestation is proposed, the natural vegetation shall be monitored and any noxious weeds sprouting shall be cut and/or controlled.
- f. A written statement containing an explanation of the character of the site to be mined and/or the character of the surrounding territory and explanation of the reclamation plan; and an explanation of the schedule of development which shall include phase development. If a development schedule can not feasibly be prepared, it shall be so stated and written reasons submitted.
- g. In the event the operator finds the characteristics of the mining area to be different than what was previously determined, changes may be made in the original reclamation plan by mutual consent of the operator and the County Planning Advisory Commission. Such change shall preserve as substantially as possible, the original reclamation plan, and shall also provide for the previously unknown variables.
- h. To assure the reclamation plan approved by the Planning Advisory Commission and County Board is being followed, Land and Resource Management staff may make those field measurements deemed necessary.
- i. The Board of County Commissioners may require either the applicant or the owner or user of the property on which the mining operation is located to post a bond, in such form and sum as the Board shall determine, not to exceed \$50,000 with sufficient surety running to the County, to comply with all the requirements of this Ordinance and to pay any expense the County may incur by reason of doing anything required to be done by any applicant to whom a Conditional Use Permit is issued.

7. Land Reclamation Standards.

Reclamation shall be a continuing operation occurring as quickly as possible after the mining operation has moved sufficiently into another part of the extraction site.

Reclamation activities shall progress on a phased basis, that is, prior to opening additional mining area, an exhausted mining area of equal or larger area shall be reclaimed.

- a. The peaks and depressions of the area shall be graded and backfilled to a surface which result in a gently rolling topography and substantial conformity to the land area immediately surrounding, and which will minimize erosion due to rainfall.
- b. All banks and slopes shall be left in accordance with the reclamation plan submitted with the permit application.
- c. Reclaimed areas shall be surfaced with a soil quality at least equal to the topsoil which existed prior to the mining operation. Such required topsoil shall be planted with legumes and grasses. Trees and shrubs may also be planted by not as a substitute for legumes and grasses. Such planting shall adequately retard soil erosion.
- d. Excavations completed to a water producing depth need not be backfilled if the banks are sloped to the waterline.
- e. The finished grade shall be such that it will not adversely affect the surrounding land or future development of the site upon which excavation operations have been conducted. The finished plan shall restore the excavation site to a condition whereby it can be utilized for the type of land use proposed to occupy the site after excavation operations cease.
- f. After the applicant has completed the reclamation project, he shall notify the County. Upon notification the Land and Resource Management Director shall inspect the site to determine if it is in accordance with the approved reclamation plan. If the site is not in accordance with the reclamation plan, the County shall notify the applicant of its deficiencies and the applicant shall correct the deficiencies. If the site is in accordance with the plan, the County shall issue a letter of acceptance of the site to the applicant.

8. Temporary Mining Permit.

The temporary use of real estate property for uses customarily incidental to the construction of public roads and bridges may be allowed upon approval of a temporary mining operation permit by the Douglas County Land and Resource Management Director. Violations of the provisions of the temporary mining operation permit shall be cause for revocation or refusal to extend duration of such permit and in such event the permittee shall be given a hearing to show cause why such permit should not be revoked or refused. Notice of the time, place and purpose of such hearing shall be in writing.

A temporary mining operation is a permitted use within the Agricultural District by permit, providing the following criteria and provisions are complied with:

- a. The applicant shall specify the volume of material intended to be excavated or processed for specified construction.
- b. The applicant shall file with the Director of Land and Resource Management a plan. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation, maintenance of haul roads, anticipated vegetative and topographic alterations along with any actions that will be taken to minimize and/or mitigate adverse impact to the area.
- c. All temporary mining permits issued shall be valid for only the duration of the particular construction project, not to exceed 180 days. One extension, not to exceed 90 days in the subsequent construction season, may be granted by the Director of the Land and Resource Management.
- d. A temporary hot mix and/or concrete plant may be allowed in conjunction with the temporary mining operation.
- e. The operator shall provide traffic control devices in the area proximate to the operation as necessary.
- f. Processing machinery must be located consistent with setback standards for structures.
- g. The applicant shall file with the Director of Land and Resource Management a reclamation plan.

9. Concrete and Bituminous Storage/Recycling Facility Permit.

Concrete and bituminous material resulting from, but not limited to, the demolition, or construction of, buildings, roads and other manmade structures (hereafter "recyclable demolition materials") may be stored for recycling purposes at sites other than an MPCA permitted demolition landfill, for a period of up to two (2) years, subject to annual review, once the site has been approved by the Minnesota Pollution Control Agency, if applicable, the Douglas County Planning Advisory Commission and the Douglas County Board of Commissioners. This storage/recycling facility shall be subject to the following requirements:

- a. A conditional use permit shall be required prior to the depositing of any recyclable demolition materials at the proposed site.

- b. A conditional use permit to allow a concrete and bituminous storage/recycling facility may only be granted in conjunction with permitted ready mix plants, permitted mining operations and/or permitted hot mix plants.
- c. All unprocessed demolition recyclable material accumulated onsite during the permitted two (2) year storage timeframe shall be recycled or removed and deposited in an approved demolition landfill or other approved site within the subsequent twelve (12) month period. The responsibility for this removal shall rest with the party that originally was granted the permit for said site. The Douglas County Land and Resource Managements department shall be notified upon completion of recycling.
- d. All concrete stockpiles shall be screened from public view and shall maintain a neat, piled appearance until such time as they are recycled or removed from site.
- e. The permittee shall provide to Douglas County a bond for \$100,000 conditioned upon satisfactory recycling or upon removal and disposal of recyclable demolition material in the event of permittees' unwillingness or inability to recycle or to remove and dispose of such material.
- f. Each site shall be subject to an annual inspection to assure conformance with Section V.I.5.
- g. Permitted concrete and bituminous storage/recycling facilities shall be subject to an annual administrative review by the Director of Land and Resource Management. This review shall not require payment of a fee.

J. ACCESSORY BUILDING

To provide a higher development standard and to control the size and number of accessory buildings in a residential setting. This section shall be applicable to all parcels of land within Residential or Residential Shoreland Districts that contain five acres or less.

1. General Provisions.

- a. No detached accessory structure shall be utilized for human habitation.
- b. A garage not exceeding 1200 square feet shall be considered an integral part of the principal building if it is attached to the principal building or is connected to it by a covered passageway. As such, an attached garage is not included as an accessory building and is exempt from the provisions in this subsection.

- c. The floor area of all accessory structures shall not exceed 1500 square feet total.
- d. No permit shall be issued for the construction of more than two (2) accessory buildings, even if the total allowable square footage (1500 square feet) has not previously been exceeded.
- e. The maximum sidewall height of an accessory building shall not exceed twelve (12) feet.
- f. The roof pitch is not to exceed 6/12.
- g. Galvanized surfaces shall be prohibited on all accessory buildings.
- h. No detached accessory structure shall be over one story in height.

K. RECREATIONAL EQUIPMENT (Recreational Vehicle)

To provide standards for recreational equipment utilized as temporary living quarters during recreational/vacation or other activities without the infringement upon and/or depreciation of neighborhood or adjacent properties.

The parking of uninhabited recreational equipment for strictly storage purposes is allowed and is subject to the general provisions of this subsection.

The parking of recreational equipment by a guest on the property of a permanent dwelling shall be allowed for a period not to exceed thirty (30) consecutive days and is subject to the general provisions K.2a 2-5 of this subsection.

1. This section applies to the following types of recreational equipment:

- a. Travel Trailer - A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses, permanently identified "travel trailer" by the manufacturer of the trailer.
- b. Pick Up Coach - A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.
- c. Motor Home - A portable, temporary structure to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.
- d. Camping Trailer - A folding structure, mounted on wheels and designed for travel, recreation and vacation uses.

- e. Slip-In Campers - A structure designed to be mounted into a pickup truck in the pickup box, either by bolting through the floor of the pickup box or firmly clamping to the side of the pickup box.
- f. Park Trailers - A structure not exceeding 8.5 feet in width but which is no larger than 400 square feet when the collapsible components are fully extended or at maximum horizontal width that is licensed for over the road and that is used for temporary living quarters except that in planned unit developments only, the directives in Section V.K.1.f. (1) shall control.
 - (1) In planned unit developments only, park trailers or park models may exceed 8.5 feet in width and need not be licensed for over the road but must contain no more than 400 square feet on the main level when the collapsible components are fully extended, must be no greater than fifteen (15) feet in height from the ground to the peak of the roof and must be used as temporary living quarters only.

2. General Provisions.

- a. The following criteria for recreational equipment shall apply to all applicable zoning districts:
 - (1.) Only one (1) recreational equipment unit shall be allowed per lot.
 - (2.) Recreational equipment shall maintain minimum building setbacks as required by Ordinance for the applicable zoning district.
 - (3.) Recreational equipment shall comply with the sanitation standards set forth in this Ordinance.
 - (4.) Recreational equipment shall display and maintain the current year and class of vehicle license in accordance with State regulations.
 - (5.) All tires necessary for safe highway transport must remain mounted and inflated at all times.
- b. Section V. F.1. does not apply to this subsection regarding recreational equipment and all provisions in this subsection are in full force and effect thirty (30) days from the date of the adoption of this Ordinance by the Douglas County Board of Commissioners.

L. ADDITIONAL PROVISIONS WITHIN THE RESIDENTIAL SHORELAND DISTRICT.

1. Design Criteria for Structures.

- a. High Water Elevations. Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:
- (1.) For lakes, by placing the lowest floor at a level at least three (3) feet above the highest known water level, or three feet above the ordinary high water level, whichever is higher.
 - (2.) For rivers and streams, by placing the lowest floor at least three (3) feet above the flood of record, if data is available. If data is not available, by placing the lowest floor at least three (3) feet above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with the Ordinance governing the management of floodplain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities.
- b. Stairways, Lifts, and Landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts require a shoreland alteration permit and must meet the following design requirements:
- (1.) Stairways and lifts must not exceed four (4) feet in width on residential lots, there is only to be one set of steps for access. Wider stairways may be used for commercial properties, public open space recreational properties, and planned unit developments.
 - (2.) Landings for stairways and lifts on residential lots must not exceed thirty-two (32) square feet in area. Landings larger than thirty-two (32) square feet may be used for commercial properties, public open space recreational properties, and planned unit developments.
 - (3.) Landings for stairways and lifts shall be allowed no more than one (1) landing per six (6) vertical feet.
 - (4.) Canopies or roofs are not allowed on stairways, lifts, or landings.

- (5.) 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.
 - (6.) Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical.
 - (7.) Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of sub-items (1) to (5) are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.
- c. Significant Historic Sites. No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.
 - d. Steep Slopes. The Director of Land and Resource Management must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

2. Alterations Within The Shoreland.

- a. Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat.
 - (1.) Removal or alteration of vegetation is allowed with a shoreland alteration permit and is subject to the following standards:
 - (a.) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the Soil and Water Conservation District in which the property is located.

- (b.) In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, beach and watercraft access areas. This limited clearing cannot exceed twenty five (25) feet or twenty five percent (25%) of the shoreline frontage, whichever is the lesser of the two provided that:
 - the screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced.
 - along rivers, existing shading of water surfaces is preserved.
 - the above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.
- (3.) Public roads and parking areas are regulated by Section V.4. of this Ordinance.
- (4.) No excavation for walkout basements shall be allowed within a bluff impact zone.
- (5.) A shoreland alteration permit shall be required for:
 - (a.) The movement of less than ten (10) cubic yards of material on steep slopes or within shore and/or bluff impact zones, if the Department of Land and Resource Management determines that the potential for erosion exists.
 - (b.) The movement of more than fifty (50) cubic yards of material located outside of steep slopes and shore and/or bluff impact zones unless the Director of Land and Resource Management determines that there is a potential for erosion necessitating a conditional use permit.
 - (c.) Any alteration with erosion potential, as determined by the Director of Land and Resource Management.

- (6.) In addition to the above, a shoreland alteration permit shall also be required for all of the following, within the shore impact zones, and shall be done in accordance with the applicable restrictions.
- (a.) Ice ridge removal - maximum width not to exceed 10 feet, maximum height not to exceed 2 feet.
 - (b.) Sand beach, or patio or combination - maximum size of 200 square feet. The retaining wall necessary to retain the rear wall not to exceed 3 feet in height. The cut must be a minimum of 12 inches above the ordinary high water level. The sand must be washed and cleaned and free of pollutants and nutrients.
 - (c.) Retaining walls - may be allowed where there is a demonstrated need, the design is consistent with the existing uses in the area, and is not an aesthetic intrusion upon the land. The height of new retaining walls should not exceed three (3) feet in height, some existing walls are higher than three (3) feet and these may be reconstructed with a shoreland alteration permit. If greater heights are needed for new retaining walls they may be granted with a conditional use permit.
 - i. within steep slopes, bluff and/or shore impact zones retaining wall construction may be allowed where erosion problems preclude the use of vegetation or natural rock.
 - ii. the repair and reconstruction of existing walls may be allowed subject to review by the Land and Resource Management Department.
 - (d.) Permanent docks, piers, and boardwalks – may be allowed and if destroyed can only be repaired or replaced one (1) time, thereafter a seasonal dock must be used.
- (7.) A conditional use permit shall be required for:
- (a.) The movement of more than ten (10) cubic yards of material on a steep slope or within a shore or bluff impact zone.
 - (b.) The movement of more than fifty (50) cubic yards of material located outside of steep slopes and shore and/or bluff impact zones, if the Department of Land and Resource Management determines that the potential for erosion exists.

- (c.) Any alteration with erosion potential, as determined by the Director of Land and Resource Management.
- (8.) Shoreland alteration permit: A shoreland alteration permit shall be issued upon the order of the Department of Land and Resource Management.
 - (a.) Application for a shoreland alteration permit shall be accompanied by a fee designated by the appropriate fee schedule, shall be on a form prescribed by the Land and Resource Management Department and may require an erosion control plan as specified in Section V.L.2.a.(10.) of this Ordinance.
 - (b.) No alteration or excavation shall be undertaken prior to the issuance of the permit. Such permit shall be posted in a conspicuous location and shall be visible from the water.
 - (c.) The permit shall require that the alteration or excavation be conducted in compliance with the restrictions and requirements of this ordinance. The Land and Resource Management department may establish restrictions to govern the alteration/excavation actively consistent with the provisions of the Ordinance. The department may require that an applicant submit an erosion control plan. The special restrictions shall be set forth in the permit and shall be binding upon the land owner.
- (9.) Application for a conditional use permit as required by Section L. 7. above shall be accompanied by a fee designated by the appropriate fee schedule, shall be on a form prescribed by the Land and Resource Management Department and shall include an erosion control plan as specified in Section V.L.2.a.(10.) of this Ordinance.
- (10.) An erosion control plan shall include at least the following:
 - (a.) A location map drawn to a scale of not less than two hundred (200) feet to one inch showing the relationship of the site to its general surroundings.
 - (b.) A plan of the site drawn to an appropriate scale showing:
 - i. The boundary lines of the site on which the work is to be performed, including the approximate acreage of the site.

- ii. Existing topography including, but not limited to, existing streams, water bodies, wetlands, structures, road and vegetative cover of the site and on land adjacent to the site.
- iii. Existing contours with intervals of not more than ten (10) feet where the slope is twenty percent (20%) or greater, and not more than five (5) feet where the slope is from ten percent (10%) to twenty percent (20%) and not more than two (2) feet where the slope is less than ten percent (10%). In any event, the drainage pattern will be indicated.
- iv. Proposed improvements of the site, including present development and future use, if known, proposed changes to the land surface and vegetative cover, and areas of cuts and fills.
- v. A stormwater removal system, including culverts, piping, ditches, sediment basins, diversions, or other devices, any non-vegetative protection or support including paving, rip-rap, walls or other structures or surfaces, any vegetative measures in connection with, or as part of, the proposed work.
- vi. Title, scale, north arrow, date and name of person preparing the plan.
- vii. A timing schedule and sequence of operations, stating the expected starting and completion dates of the development sequence.
- viii. The estimated time of exposure of each area prior to the completion of effective erosion and sedimentation control measures and other related data such as seeding mixtures and rates, types of sod, seed bed preparation, lime and fertilizer application and mulching.
- ix. A general description of the predominant soil types on the site.

(11.) The following considerations and conditions must be adhered to during the issuance of construction permits, land use permits, grading and filling permits, shoreland alteration permits, conditional use permits, variances and subdivision approvals:

(a.) Grading or filling in any type 1, 2, 3, 4, 5, 6, 7, or 8 wetland must be evaluated to determine if allowable under the Wetland Conservation Act and how extensively the proposed activity would affect the following functional qualities of the wetland.

- i. Sediment and pollutant trapping and retention.
- ii. Storage of surface runoff to prevent or reduce flood damage.
- iii. Fish and wildlife habitat.
- iv. Recreational use.
- v. Shoreline or bank stabilization.
- vi. Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

*This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state, or federal agencies such as a watershed district, Soil and Water Conservation Districts, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers. The applicant will be so advised.

(b.) Special Wetland Provisions for Natural Environment Lakes. Within 1000 feet of an NES lake, no filling of Type 3-8 wetlands is allowed. In addition, within 1000 feet of an NES lake, Type 1 and Type 2 wetlands may be filled only for the purpose of establishing or maintaining infrastructure.

(c.) Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible.

- (d.) Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible.
 - (e.) Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.
 - (f.) Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service.
 - (g.) Fill or excavated material must not be placed in a manner that creates an unstable slope.
 - (h.) Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater.
 - (i.) Fill or excavated material must not be placed in bluff impact zones.
 - (j.) Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner under Minnesota Statutes, Section 105.42.
 - (k.) Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties.
 - (l.) Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is allowed if the finished slope does not exceed three (3) feet horizontal to one (1) foot vertical, the landward extent of the riprap is within five (5) feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three (3) feet.
- (12.) Application of fertilizer, herbicides, pesticides, animal wastes or other chemicals within shorelands must be done in such a way as to eliminate impact on the shore impact zone of public water by the use of earth or vegetation. Use of fertilizer containing phosphorus is prohibited within 50 feet of the ordinary high water level of a public water.

(13.) Burning shall be prohibited within 100 feet of the ordinary high water level of a general development and recreational development lake. A wood burning campfire less than three feet in diameter, designed to enclose ash for removal would be exempt from this rule as well as agricultural zoned lands.

c. Connections to Public Waters. Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, must be controlled by local shoreland controls. Permission for excavations may be given only after the Commissioner has approved the proposed connection to public waters.

3. Placement and Design of Roads, Driveways, and Parking Areas.

a. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

b. Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.

c. Public watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetation screening and erosion control conditions of this sub-part are met.

4. Storm Water Management.

a. The following general and specific standards shall apply:

(1.) General Standards.

(a.) When possible, existing natural drainageways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain storm water runoff before discharge to public waters.

(b.) Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as

soon as possible and facilities or methods used to retain sediment on the site.

- (c.) When development density, topography features, and soil and vegetation conditions are not sufficient to adequately handle storm water runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.
- (d.) Landowners may only drain surface water upon neighboring land if they act in good faith and;
 - i. there is a reasonable necessity for the drainage;
 - ii. care is taken to avoid unnecessary injury to the neighboring land;
 - iii. the utility or benefit accruing to the drained land outweighs the gravity of the harm resulting to the burdened land; and
 - iv. the drainage is accomplished by reasonably improving and aiding the natural drainage system, or if, in the absence of a practical natural drain, a reasonable and feasible artificial drainage system is adopted.

(2.) Specific Standards.

- (a.) Impervious surface coverage of lots must not exceed twenty-five (25) percent of the lot area or twenty (20) percent of the lot area in Natural Environment Shoreland Zoning. For the purposes of this section, twenty-five (25) percent of the total area covered by pervious paver systems designed to allow the infiltration of water between pavers may be considered pervious by conditional use permit provided that:
 - i. The pervious pavement system shall be designed and certified by a registered engineer or landscape architect and installed by someone qualified in the particular system used, or the installation shall be overseen by a product representative to ensure its proper long-term function;

- ii. The pervious pavement designer shall include maintenance instructions to the property owner along with a maintenance schedule, with a copy to the Land & Resource Office to be filed along with the permit;
- (b.) When constructed facilities are used for storm water management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.
 - (c.) New constructed storm water outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.
 - (d.) Impervious Surface Replacement.
 - i. Purpose: The purpose of the regulations in this subsection is to prevent excessive amount of runoff that will be generated during a rainstorm by an enlarged impervious area. Such excessive runoff causes erosion and transport of pollutants to public waters thereby degrading water quality. Existing properties exceeding the standards for impervious surface coverage present a distinct management challenge from that of newly developed properties and there is a need to establish clear and consistent guidelines for how re-development of these lots may occur.
 - ii. Standards: Parcels that exceed the maximum allowed impervious surface may construct additional impervious surfaces without a variance or conditional use permit if the proposed new impervious surface meets all setback, height and other regulations of this ordinance and if one of the two following conditions are met:
 - 1. The applicant removes existing impervious surfaces at a ratio of one and one-half (1.5) square feet removed for every one (1) square foot added and restores these areas to a permeable surface.
 - a. Permeable pavement systems are encouraged in the management of sites currently over the impervious surface limit and shall be credited as twenty-five (25) percent pervious for these sites when

installed according to the requirements of Section V.L.4.a.(2).(d.)iii. Applicants are encouraged to replace existing impervious surfaces with natural vegetation at the 1.5 to 1 ratio listed above, however, permeable pavement systems may also be used. In these cases they are to replace existing impervious surfaces at a ratio of at least four (4) square feet converted for every one (1) square foot of new impervious surface being added;

2. The applicant removes existing impervious surfaces at a 1:1 ratio and restores those areas to a permeable surface and in addition, submits a comprehensive stormwater management plan that emphasized infiltration and onsite retention of stormwater for at least the two year 24-hour storm even through a combination of methods including buffer strips, swales, rainwater gardens, permeable pavement systems and other low impact development methods. The stormwater management plan must be designed by a registered engineer or landscape architect and installed as designed by a qualified professional.
 - a. Permeable pavement systems may be considered as 100% pervious when submitted as part of a stormwater management plan consistent with this section.

iii. Specific Requirements: The applicant must provide the following evidence, in conjunction with meeting one of the two standards listed in (d).ii. above:

1. A survey shall be submitted showing calculations of the exact dimensions of all existing impervious surfaces and of the lot before and after completion of the project. This survey must be submitted and approved by the Land & Resource Director before any work may begin on the project;
2. In replacing existing impervious surfaces with surfaces designed to be permeable or porous, the applicant must give priority to replacing those surfaces closest to the lake or those surfaces

where the replacement is most likely to improve storm water management;

3. No pervious or porous pavement systems shall be allowed in a bluff impact zone or shore impact zone unless specifically approved otherwise by the Land & Resource Director when restoration to natural vegetation would not be practical or advised by a qualified engineer. These areas shall be maintained or restored to natural vegetative buffer whenever feasible;
4. A pervious pavement system shall be designed and certified by a registered engineer or landscape architect and installed by someone qualified in the particular system used, or the installation shall be overseen by a product representative to ensure that is proper long-term function;
5. A pervious pavement system shall be set back from structures having basements, septic system leach fields, steep slopes and wells at least 10 feet unless otherwise designed by a registered engineer so as to prevent impacting these features;
6. A pervious pavement designed shall include maintenance instructions to the property owner along with a maintenance schedule, with a copy to the Land & Resource Office to be filed along with the permit;
7. All best management practices must be compatible with local stormwater management plans and NPDES Phase II stormwater permits, where required.
8. If, in the removal of existing impervious surfaces, the total lot coverage falls below the maximum coverage allowed by this ordinance, the applicant must thereafter conform to the standards of this ordinance.

5. Special Provisions for Agricultural Uses.

- a. Agricultural uses within shorelands existing at time of adoption of this Ordinance may continue provided the following standards are met:
 - (1.) General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local soil and water conservation districts or the United States Soil Conservation Service, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.

6. Water Supply.

- a. Water Supply.
 - (1.) Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.

7. Standards for Commercial, Public and Semi-public Uses.

- a. Surface water-oriented commercial, public or semipublic uses with similar needs to have access to and use of public waters may be located on parcels with frontage on public waters. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions. Those with water-oriented needs must meet the following standards:
 - (1.) In addition to meeting impervious coverage limits, setbacks and other zoning standards set forth in this Ordinance the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures.
 - (2.) Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need.

- (3.) Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:
 - (a.) No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff.
 - (b.) Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters.
 - (c.) Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

8. Guest Cottage.

- a. One guest cottage may be allowed with a conditional use permit on a riparian lot only, meeting or exceeding the following lot area and width dimensions and conditions set forth in this section.

		<u>Lot Area Requirements and Regulations</u>			
		Unsewered		Sewered	
		Area	Width	Area	Width
		<u>Sq. Ft.</u>	<u>Ft.</u>	<u>Sq. Ft.</u>	<u>Ft.</u>
(1.)	Natural Environment Lake	120,000	300	70,000	225
(2.)	Recreational Development Lake	80,000	225	50,000	150
(3.)	General Development Lake	40,000	180	26,000	135

(4.) Transition River	90,000	375	90,000	375
(5.) Agricultural River	60,000	225	60,000	225
(6.) Tributary River	45,000	150	35,000	115

b. A guest cottage must meet the following standards:

- (1.) The guest cottage must be located within the smallest lot area that could be created including the principal dwelling unit.
- (2.) The guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height from ground to peak.
- (3.) The guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.

9. Controlled Access Lots.

a. Lots intended as controlled accesses to public waters or as recreation areas for use by owners of non-riparian lots within subdivisions may be allowed by a conditional use permit and must meet or exceed the following standards.

- (1.) They must meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots.
- (2.) If docking, mooring, or over-water storage of more than six (6) watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by the percent of the requirements for riparian residential lots for each watercraft beyond six, consistent with the following table:

Controlled Access Lot Frontage Requirements	
Ratio of lake size to shore length (<u>acres/mile</u>)	Required increase in frontage (<u>percent</u>)
Less than 100	25
100-200	20
201-300	15
301-400	10
Greater than 400	5

- (3.) They must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of non-riparian lots in the subdivision who are provided riparian access rights on the access lot.
- (4.) Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the non-significant conflict activities include swimming, sunbathing, or picnicking. The covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They must also require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

M. BED AND BREAKFAST FACILITIES.

1. Facilities used for the purposes of providing lodging with breakfast being served to transient guests for compensation may be allowed by conditional use permit and shall meet or exceed the following standards.
 - a. The lot must meet the minimum lot size standard of the applicable zone.
 - b. The property owner, manager or operator must reside in the facility.
 - c. A maximum of five (5) guest rooms are allowed for each facility.
 - d. The occupants shall include registered guests, the owner, manager or operator, and not more than two (2) employees.
 - e. All guest rooms must be contained in the principle building.
 - f. Dining facilities are not open to the public but limited to residents, employees and registered guests.
 - g. No cooking facilities shall be allowed in the guest rooms.
 - h. The facility must be inspected by the State Fire Marshal.

- i. A license from the health department, obtained from the Pope/Douglas Environmental Health Department, as a food, beverage and lodging facility must be maintained in good standing.
- j. Signage is limited to one wall or pylon sign not exceeding eight (8) square feet in size and hooded if lighted.
- k. Any exterior lighting must be concealed, hooded or screened from adjoining properties.
- l. The parking area must be screened from adjacent properties.
- m. The facility shall have at least one (1) parking stall per guest room, one (1) parking stall per employee and two (2) parking stalls for the owner, manager or operator.

N. FISH HOUSE AND DARK HOUSE STORAGE.

- 1. A fish house and/or a dark house is allowed to be stored on a tract of land without obtaining a land use permit. For the purposes of definition, a fish house and/or a dark house is not considered to be an accessory building. The following standards shall apply:
 - a. A fish house and/or dark house shall maintain minimum building setbacks as required by this Ordinance.
 - b. A fish house and/or dark house shall maintain licensing requirements set forth by the Minnesota Department of Natural Resources Fishing Regulations.

O. LAND APPLICATION OF PETROLEUM CONTAMINATED SOILS.

1. General Requirements.

The Minnesota Pollution Control Agency (MPCA) requires that excavated petroleum contaminated soil be treated or disposed of in an environmentally safe manner. Incorporation of petroleum contaminated soil into the top six (6) inches of native soil can be an effective treatment option. This method takes advantage of naturally occurring soil microorganisms to biodegrade petroleum. Some volatilization of petroleum hydrocarbons does result.

This Ordinance provision outlines suitable site and soil characteristics, land application procedures, soil sampling requirements, management, reporting, and necessary approval requirements for land application sites receiving a single, one-time application of petroleum contaminated soil. These requirements are in addition to all applicable Federal and State regulations. It is the applicant's responsibility to

meet these requirements prior to applying for a conditional use permit pursuant to Section VI.G. for any land application of petroleum contaminated soil in Douglas County.

2. Site and Soil Characteristics at Land Application Site.

a. General.

- (1.) Only land zoned Agricultural District (A) zone may be used for land application of petroleum contaminated soil.
- (2.) Land application of petroleum contaminated soil is prohibited within a floodplain. A floodplain is the area adjoining a watercourse which has been or may be covered by the 100-year flood.
- (3.) The land at the proposed application site must be tillable.
- (4.) A land application site is an area which accepts no more than one thousand five hundred (1,500) cubic yards per one-quarter (1/4) section of land. In addition, a land application site must not be closer than one-quarter (1/4) mile to any other land application site.

b. Specific.

The following site and soil characteristics will be used to evaluate the suitability for land application sites. Published soil survey information, available through the Douglas County Soil Conservation Office, provides a reference regarding some of the necessary site information such as site slope, depth to ground water, and soil type. Soil boring or trenching may be required to evaluate the proposed land application site.

- (1.) Site Slope: No portion of the land application site may have a slope greater than four percent (4%).
- (2.) Minimum distance to an intermittent stream, drainage ditch, or tile drain inlet or the ordinary high water level of a stream, river, pond, wetland or flowage: five hundred (500) feet.
- (3.) Minimum distance to sinkhole, exposed bedrock, or known underground cave: two hundred (200) feet.
- (4.) Minimum distance to a private water supply well: five hundred (500) feet.
- (5.) Minimum distance to any public water supply well: one thousand (1,000) feet.

- (6.) Minimum distance to a place of habitation: two hundred (200) feet.
- (7.) Minimum distance to a residential development or recreational area: five hundred (500) feet.
- (8.) Minimum distance to property lines: two hundred (200) feet.
- (9.) Minimum depth to seasonal high water table or bedrock: four (4) feet for most native mineral soils with permeability of size (6) inches or less per hour.
- (10.) Minimum distance to a tile line: one hundred (100) feet.
- (11.) Filter Strips. Douglas County Board of Commissioners may require that land treatment site have a downgradient filter strip (i.e. a strip or area of perennial vegetation) or berm.
- (12.) Run-on prevention: A land application site must have adequate controls to minimize run-on. For sites in which a potential for run-on exists, the options for run-on prevention include construction of a diversion upgradient of the site or cropping of the land upgradient of the site prior to soil spreading. A diversion is a channel constructed across the slope with a supporting ridge on the lower side.

3. Contaminated Soil Characteristics and Sampling Requirements.

- a. Soil samples must be taken to evaluate and document the contamination levels in the soil to be treated. Samples must either be taken from the stockpile generated during excavation or from soil borings conducted in locations representative of the soil contaminated by the release.

If samples are from borings, the samples must be collected from portions of the borings that represent soil that will be excavated. For analysis parameters requiring grab samples (not composite samples), a minimum of two grab samples must be collected from a minimum of two different soil borings. The number of samples required are as follows based on cubic yards of soil:

<u>Cubic Yards</u>	<u>Number of Samples</u>
0 - 50	1
51 - 501	2
501 - 1,000	3
1,001 - 2,000	4
2,001 - 4,000	5
Each additional 2,000	1 additional sample

Sampling must also follow procedures in Minnesota Pollution Control Agency Fact Sheet #13 "Excavation of Petroleum Contaminated Soil."

- b. No contaminated soil containing polychlorinated-biphenyl (PCB) may be land applied.
4. Land Application Procedure. The following procedures for land application of petroleum contaminated soil must be followed.
- a. Climatic Conditions.
 - 1. Petroleum contaminated soil may only be applied when the land is not frozen, is free of snow and ponded water, or is otherwise tillable.
 - b. Application Period.
 - 1. Petroleum contaminated soil may not be applied before June 1 or after September 15.
 - c. Site markings.
 - 1. The proposed land application site shall be marked with stakes and/flags. The site shall be easily identifiable and the surveyor will be able to reset stakes if necessary.
 - d. Permitted Application Thickness.
 - 1. In no case shall application thickness exceed two (2) inches or two hundred seventy (270) cubic yards per acre.
 - e. Prohibition of mixing or repeated use.
 - 1. Petroleum contaminated soil originating from separate releases must not be combined or spread on the same site. Plots within an approved land application site previously used for land treatment of petroleum contaminated soil may not receive repeat application of petroleum contaminated soil. The Douglas County Zoning Administrator shall keep records of all land application sites and applications.
 - f. Removal of large rocks and debris.
 - 1. Rocks larger than four (4) inches in diameter and debris must be removed from petroleum contaminated soil prior to incorporation into the native soil. Debris includes pieces of plastic, bricks, metal, and wood, or other non-organic materials.

- g. Soil Testing.
 - 1. All contaminated soil must be tested prior to land application and issuance of a permit. This testing must be done by a certified soil testing laboratory. All samples must include analysis of the following substances: TPH ppm, benzene ppm, ethyl benzene ppm, toluene ppm, xylene ppm, MTBE ppm and lead ppm.

- h. Fertilizer Application.
 - 1. An evaluation to determine the need for nitrogen and/or phosphorus and potassium addition must be done for soil with an average total petroleum hydrocarbon (TPH) concentration of two thousand (2000) ppm or greater spread two (2) inches thick. This evaluation does not require that specific nutrients be tested in the native soil.

- i. Application spreading and incorporation of petroleum contaminated soil. Petroleum contaminated soil must be spread uniformly. Petroleum contaminated soil must be incorporated into the upper four (4) to six (6) inches of native soil as soon as feasible, but in no event longer than twenty-four (24) hours after spreading. In order to minimize soil moisture loss and volatile loss of the petroleum contaminants, initial incorporation must be conducted only to the degree that most soil clods are broken up and petroleum contaminated soil and native soil mixing occurs. For most land treatment applications, one or two passes with a tillage implement will result in adequate incorporation during a single tillage cycle.

- j. Tillage.
 - 1. Unless the site has been seeded to a crop, tillage of the soil following the initial incorporation must be done in monthly cycles, until all soil monitoring samples are less than ten (10) ppm TPH. Tillage of the soil must be delayed until the soil moisture is increased if the soil lacks moisture such that tillage would cause wind erosion or decreased microbial activity.

- k. Cropping.
 - 1. Following the initial incorporation of petroleum contaminated soil into the native soil, the site may be seeded to a crop. No root crops or crops for direct human consumption may be grown during the period of time when soil monitoring is performed. If seeding is delayed, the tillage schedule in paragraph k, above must be followed until seeding can be done.

5. Monitoring and Reporting Requirements.

a. Monitoring Samples.

1. Periodic soil sampling following soil spreading, must be done for each area of the land treatment site. The number of composite soil samples for monitoring is the same as the number of soil samples required for characterizing the soil prior to treatment.
2. Monitoring in the year of spreading must be done at the times specified below, until all soil analytical results in a single sampling round are ten (10) ppm total petroleum hydrocarbons (TPH) or less.

<u>Soil Spreading Date</u>	<u>Soil Sampling in First Calendar Year</u>
Before July 1	Once in August and once in October
July 1 to September 15	Once in October
After September 15	None

3. Monitoring in subsequent years must continue for those plots in which all soil analytical results are ten (10) ppm TPH or more. Sampling must be done in June, August and October.
4. A trained county representative must be present when monitoring samples are taken. The Town Board in which the site is located must be notified so a township representative may be present as desired.

6. Stockpiling Contaminated Soil.

Petroleum contaminated soil may be stockpiled at the site from which it is removed or at an approved land application site, only for that period of time from removal to the nearest authorized application date (June 1). All stockpiled soils must be stored on a water impervious surface and all stockpiles must be covered with a waterproof cover. It will be the joint responsibility of the owner of the land upon which the soil is stored and the contractor responsible for stockpiling to notify the Director of Land and Resource Management of the existence of the stockpile. If the integrity of the cover is not maintained, the Director of the Douglas County Land and Resource Management Department, or his/her agent, shall provide the appropriate cover at the applicant's and contractor's expense.

7. Application Process.

a. Applications.

A conditional use permit (CUP) is required before any petroleum contaminated soil may be land applied in Douglas County. The application form entitled, Douglas County permit application for the single application of petroleum contaminated soil must be completed and submitted to the Douglas County Land and Resource Management office with the conditional use permit application.

These applications will be submitted to the Douglas County Planning Advisory Commission and the Douglas County Board of Commissioners in compliance with the conditional use process set out in Section VI.G. of this ordinance. An applicant must also have the necessary approval of the applicable municipality or town as set out in paragraph 7.e. below.

b. Bond and Monitoring Costs.

Before a conditional use permit for land application of petroleum contaminated soil will be approved by the Douglas County Board of Commissioners, the applicant (or the applicant's contractor, if different from the applicant), must post a Surety Bond or other form of financial assurance in an amount to be determined by the County Board to insure that all work will be done in accordance with this ordinance. The bond or other financial assurance, is to remain in force until such a time as the monitoring results indicate that the petroleum residues in the soil are less than ten (10) ppm and all road repairs required in paragraph 7.c. below are completed. Upon approval of the application and the posting of a surety bond, or other financial assurance, the applicant's contractor will be issued a permit allowing the movement of petroleum contaminated soils onto the site. The Douglas County Director of Land and Resource Management or his or her designee, will monitor the land application process, progress and results, with all monitoring costs to be assessed against the applicant.

c. Roadway Repairs.

Any applicant who obtains approval of his or her conditional use permit for land application of petroleum contaminated soils shall be responsible, at the applicant's expense, for restoring to its original condition any roadway that is damaged as a result of hauling and other land application activities, and for utilizing roadway dust control measures.

d. Maps.

The applicant shall furnish with the application the following maps:

(1.) Map Requirements.

A map identifying the exact site proposed for the deposition of contaminated soil, and containing the following:

- (a.) location of all water courses, wetlands, water bodies, surface drainage, existing wells and drainage systems and buildings within one thousand (1,000) feet of the perimeter of the site (affected area).
- (b.) a topographical map of the site containing two (2) foot contour elevations or grid elevations of the proposed site including a one hundred (100) foot area surrounding the proposed site.

(2.) Soils Map and Tests.

A soils map of the site and soil tests (soil borings) to minimum required depth.

e. Relationship to other Ordinances.

Enforcement. Any municipality or town within Douglas County that enacts a land application of petroleum contaminated soil ordinance, pursuant to its statutory authority to enact land regulations for its jurisdiction, that is more restrictive than the provisions of this Douglas County Ordinance, must approve an application to land apply petroleum contaminated soil before an application can be submitted to Douglas County. If an application is ultimately approved, the municipality or town will be responsible for any necessary enforcement action unless the municipality or town contracts with Douglas County for enforcement services.

TABLE 1
GASOLINE CONTAMINATED SOIL
Average Total Petroleum Hydrocarbons (TPH) as Gasoline (p.p.m.)

Minimum organic matter	Permeability (inches per hour)	Minimum thickness of suitable soil within treatment zone		
		<u>2 feet</u>	<u>3 feet</u>	<u>4 feet</u>
2%	less than 6	NA	NA	1,000
	less than 0.6	NA	1,000	2,500
4%	less than 6	NA	1,000	2,500
	less than 0.6	1,000	2,500	5,000

TABLE 2
CONTAMINATED SOIL CHARACTERIZED AS FUEL OIL
Total Petroleum Hydrocarbons (TPH) as Fuel Oil (p.p.m.)

Minimum Organic matter	Permeability (inches per hour)	Minimum thickness of suitable soil within treatment zone		
		2 feet	3 feet	4 feet
2%	less than 6	NA	NA	2,000
	less than 0.6	NA	2,000	5,000
4%	less than 6	NA	2,000	5,000
	less than 0.6	2,000	5,000	10,000

NOTE: In these tables, "NA" means that petroleum contaminated soil may be spread under the specified conditions; "minimum thickness of suitable soil" means the total soil thickness within the application zone having a permeability as listed in these tables. Petroleum concentrations are based on average total petroleum hydrocarbon (TPH) concentration in the soil in parts per million (p.p.m.)

P. ANIMAL FEEDLOT REGULATIONS.

1. Policy and Intent.

An adequate supply of healthy livestock, poultry and other animals is an essential component to the well being of Douglas County citizens and the entire State of Minnesota. These domesticated animals provide us with a daily source of meat, milk, eggs and fiber. The efficient, economic and healthy production of these animals must be a concern to all consumers if we are to have a continued abundance of high quality, wholesome food and fiber at reasonable prices.

These regulations have been promulgated to reduce risk of pollution of our natural resources from feedlots.

These regulations address production sites. These regulations comply with the policy and purpose of the State of Minnesota statutes and rules regarding control of pollution. The goals of these regulations are to address economic and environmental needs as they specifically relate to necessary regulation of animal feedlots and to optimize the general welfare of the citizens of Douglas County.

2. Jurisdiction.

The provisions of these regulations shall apply to all animal feedlots in Douglas County.

3. Existing Feedlot Standards.

- a. Existing feedlots are exempt from the setback requirements listed in Table 1 of this section, Existing feedlots must follow all other provisions of the Douglas County Zoning Ordinance.
 - (1.) Expansions of feedlots located within the shoreland are prohibited.

4. New Feedlot Requirements.

- a. A Certificate of Compliance and a Conditional Use Permit shall be required by Douglas County for all feedlots over 50 animal units regardless of location.
- b. All feedlot related Certificate of Compliance and Conditional Use applications shall include the following information:
 - (1.) A map or aerial photo showing the dimensions of the feedlot, showing all existing homes, buildings, lakes, ponds, water courses, wetlands, roads, wells, contour and surface water drainage within 1,000 feet of the feedlot.
 - (2.) A description of the geological conditions, soil types and seasonal high water table located within 1,000 feet of the feedlot.
 - (3.) A plan indicating operational procedure, the location and specifics of proposed animal waste facilities and the quantity and type of effluent to be discharged from the site.
 - (4.) A plan for disposal of dead animals consistent with the Minnesota Board of Animal Health Regulations.
 - (5.) Verification that the proposed operation is in compliance with, or is in the actual process of coming into compliance with, all Minnesota Pollution Control Agency requirements.
 - (6.) Any other information deemed necessary by the Minnesota Pollution Control Agency, Director of Land and Resource Management department, Planning Advisory Commission, NRCS, Department of Natural Resources or other agency.
- c. New feedlots located within the shoreland are prohibited.
- d. The following shall be the minimum setback requirements for new animal feedlots.

TABLE #1

New Manure Storage Structures and Animal Feedlot Setbacks		
	TIER 1 & TIER 2	TIER 3
Setbacks measured from:	50-999 AU	1000 - 2500 AU
Neighboring Residential Dwelling not owned by family or employee of animal feedlot	1000 feet	1/2 mile
Cities and Towns	1000 feet	1/2 miles
Churches, Schools or FAA Approved Airports	1000 feet	1/2 mile
OHWL of Protected Waters and Protected Waters Wetlands	1/2 mile	1 mile
OHWL of Stream or River	500 feet	1000 feet
Property Lines	100 feet	1000 feet
R.O.W. of Federal, State or County Highway or township road	100 feet	1000 feet
Wetland types 3, 4 and 5 that are not Protected Waters Wetlands	300 feet	300 feet
Floodplain	prohibited	prohibited

5. Feedlot Setbacks and Separations.

- a. No residential dwellings, not owned by a family member or employee of the feedlot operation, shall be built or placed within 1000 feet of a Tier 1 or Tier 2 feedlot or within 2 mile of a Tier 3 feedlot. Notwithstanding issues of ownership, no more than two residential dwellings shall be built or placed within 1000 feet of a Tier 1 or Tier 2 feedlot or within 2 mile of a Tier 3 feedlot.

6. Animal Waste Storage Facilities.

- a. Animal Liquid Waste Storage Facilities.

- (1.) All new liquid manure holding structures for animal waste shall have a minimum storage capacity of thirteen months and shall meet the minimum construction standards required by the Minnesota Pollution Control Agency. All of these structures shall be in compliance with the Minnesota Pollution Control Agency requirements.

- b. Animal Waste Earthen Storage Basins.
 - (1.) In addition to any other requirements imposed by the law, all animal waste earthen storage basins and lagoons shall be in compliance with the Minnesota Pollution Control Agency requirements. All plans for earthen storage basins and lagoons shall be prepared and approved by a registered professional engineer or NRCS job authority.

7. Manure Transportation.

The owner or operator of an animal feedlot who spills manure on a public road shall be responsible for cleaning the roadway as soon as practical after a spill to ensure the safe passage of traffic. If the owner or operator of a feedlot does not clean the roadway in a timely manner, the County's Public Works Department may clean the roadway with their own equipment and assess the owner or operator for their services. If the assessment is not paid, the County Board may certify to the County Auditor by November 30 all unpaid, outstanding assessments and a description of the lands against which the assessment arose. It shall be the duty of the County Auditor, upon order of the County Board, to extend the assessments with interest not to exceed the interest rate provided for in Minnesota Statutes, Section 279.03, Subd. 1 or successor statutes, upon the tax roles of the County for the taxes of the year in which the assessment is filed, into the tax becoming due and payable in January of the following year, and shall be enforced and collected in the manner provided for the enforcement and collection of real and/or personal property taxes in accordance with the provisions of the laws of the State of Minnesota. The assessment, if not paid, shall become delinquent and be subject to the same penalties and the same rate of interest as the taxes under the general laws of the State of Minnesota.

8. Feedlot Closure.

- a. The landowner, owner and operator of any feedlot shall be responsible for the ongoing management of manure and the final closure of the feedlot including the cleaning of buildings and the emptying and proper disposal of manure from all manure storage structures.
- b. The closure plan shall be completed in accordance with the Minnesota Pollution Control Agency's Guidelines for Closure.
- c. Landowners, individual feedlot owners or operators or other business entities controlling, taking part in or sharing in the profits from a feedlot will be liable for clean up costs if the closure provisions of this ordinance are not complied with.

9. Abandonment.

- a. Owners and operators of feedlots shall have joint liability for clean-up, closure or remediation of abandoned feedlot sites.

- b. Clean up costs after abandonment, if not otherwise paid, shall be assessed to the fee title holder.

Q. WIRELESS TELECOMMUNICATION TOWERS AND ANTENNAE.

1. Purpose.

In order to accommodate the communication needs of residents and businesses while protecting the public health, safety, and general welfare of the community, the County finds that these regulations are necessary in order to:

- a. Facilitate provision of wireless communications services to the residents and businesses of the county;
- b. Minimize adverse visual effects of towers through careful design and siting standards;
- c. Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements;
- d. Maximize the use of existing and approved towers and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the community; and
- e. Minimize the adverse effects on aviation safety.

2. In making siting decisions for new towers, applicants should:

- a. Be sensitive to placement of towers near densely settled residential areas.
- b. Be aware that the location of these facilities in shoreland districts is not permitted.
- c. Select a site with a Crop Equivalency Rating (CER) of 50 or less, see Douglas County Soil Survey.
- d. Select a site which will not adversely affect aviation safety, considering, amongst other things, the traffic zone within a five (5) mile radius of the Alexandria airport, the extended areas and clear zones from the approach end of each runway, and the various instrument landing and departure procedures.

3. Co-location requirements – All wireless telecommunication towers erected, constructed, or located within the County shall comply with the following requirements:

- a. Documentation must be provided showing the area to be served including maps demonstrating size search rings for the antenna location. This documentation is to include a narrative describing a search ring of not less than a one (1) mile radius for the requested site, clearly explaining why the site was selected, what existing structures were available, and why they are not suitable as locations or co-locations.

- b. Documentation must also be provided showing that the communications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within the search ring of the service area due to one or more of the following reasons:
 - (1.) The planned equipment would exceed the structural capacity of the existing or approved tower or building as documented by a qualified professional radio frequency (RF) engineer, and the existing or approved tower cannot be reinforced or modified to accommodate planned equipment at a reasonable cost, or
 - (2.) The planned equipment would cause interference with other existing or planned equipment, at the tower or building as documented by a qualified professional radio frequency (RF) engineer, and the interference cannot be prevented at a reasonable cost; or
 - (3.) No existing or approved towers or commercial/industrial buildings within one (1) mile radius meet the radio frequency (RF) design criteria, or
 - (4.) Existing or approved towers and commercial/industrial buildings within a one (1) mile radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified professional radio frequency (RF) engineer.
 - (5.) Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.

- c. A statement showing that a good faith effort was made to co-locate on existing towers and structures within a one (1) mile radius, but an agreement could not be reached.

4. Standards for telecommunication towers.
 - a. All telecommunication towers erected within Douglas County shall be freestanding towers. No guyed telecommunication towers will be allowed.
 - b. The tower shall be setback a distance equal to the tower height from all property lines and said setback shall not cross a public right of way. All accessory structures shall be setback a minimum of fifty (50) feet from all side yard and rear yard property lines and one hundred (100) feet from all public right of ways.
 - c. Proposed commercial wireless telecommunication service towers are to be designed, structurally, electrically, and in all respects to accommodate the applicants antennas and comparable antennas for at least three additional users if the tower is over 100 feet in height, or for at least one additional user if the tower is less than 100 feet in height. Towers must be designed to allow for future rearrangement of antennae upon the tower and to accept antennas mounted at varying height. An agreement shall be signed by the applicant and the property owner and shall be attached to, and become a part of the permit. Note that any prohibition of additional users on a tower will be considered a violation of the permit and County policy.
 - d. All towers shall utilize 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. Metal towers shall be constructed of, or treated with, corrosive resistant materials.
 - e. Towers and their antennae shall not be illuminated by artificial means, except for camouflage purposes or the illumination is specifically required by the Federal Aviation Administration or other authority.
 - f. All towers shall be reasonably protected against unauthorized climbing. The area around the base of the tower shall be enclosed by a fence with a minimum height of a six (6) foot chain link fence with a locked gate. A minimum of three (3) strands of barbed or razor wire shall be installed on top of the chain link fencing.
 - g. No part of any tower or its appurtenances shall at any time extend across or over any part of the right of way, platted street, private road or sidewalk.

- h. No advertising or identification of any kind intended to be visible from the ground or other structures is permitted, except applicable warning and equipment information signage required by the manufacturer or by Federal, State, or local authorities.
 - i. All obsolete or unused towers and accompanying accessory facilities shall be removed within six (6) months of the cessation of operations at the site unless a time extension is approved by the County Board. After the facilities are removed, the site shall be restored to its original or an improved state. Electronic equipment shall not be removed in advance of removal of obsolete or unused towers. Failure to remove the structure shall be cause for the County to remove the tower and associated equipment and assess the cost against the property for collection with the real estate taxes.
 - j. Applicant must submit proof of liability and workers compensation insurance.
 - k. Towers must be designed and inspected by a qualified and licensed professional engineer (at the applicants expense). The towers and their antenna must conform to applicable state structural building standards and/or all other applicable reviewing agencies, including but not limited to electrical engineering methods and practices as specified in the National Electrical Code.
 - l. Applicants must obtain FCC licensure and approval as required for various communications applications. No interference with local television and radio reception will be allowed.
 - m. A statement must be filed not more than thirty (30) days before the application is filed with the County showing that the applicant has notified the Federal Aviation Agency of the intent to file such application, further that the applicant has provided a copy of such application to the Federal Aviation Agency. No conditional use permits shall be granted prior to approval of the FAA.
 - n. Zoning permits shall be applied for and issued before any construction is started.
5. Minimum requirements for wireless telecommunication conditional use permit submittal shall include the following:
- a. A completed Douglas County conditional use permit application, such application is to be signed by the property owner and any lease agreements must be included with the application.

- b. A site plan showing:
 - 1. North arrow.
 - 2. Graphic scale of the plan, not less than one inch to twenty (20) feet.
 - 3. Location and size of the proposed tower facility, support structures, accessory buildings and access driveways.
 - 4. Vicinity map showing land uses and existing residences and businesses within one-half mile of the proposed tower.
 - 5. Dimensions of the property (all property corners must be identified).
 - 6. Setback distances from all property lines, roads and lakes.
 - 7. Elevations.
 - 8. Proposed locations for tower, fence and accessory structures.
 - 9. Topography and drainage.
 - c. Plans for fencing and a gate for around the tower to protect from unauthorized climbing.
 - d. Co-location information.
 - e. Documentation providing FCC approval.
 - f. Documentation providing FAA approval (or application for approval) for said tower.
 - g. A signed agreement between the property owner and applicant providing for the removal of the tower at the end of its use.
6. Conditions which preclude the issuance of a permit:
- a. No permit shall be issued if the Federal Aviation Administration or the County finds that such proposed tower would pose a hazard, in any way, to air navigation.

7. Effect of Ordinance on existing towers and antennas:

Antenna and towers in existence as of the date of the adoption of this Ordinance, which do not conform to or comply with this Ordinance are subject to the following provisions:

- a. Towers may continue in use for the purpose now used and as now existing but may not be replaced or structurally altered without complying in all respects with this Ordinance.

8. Statement of Operation and Abandonment and removal.

- a. The owner of an existing tower facility or any tower facility erected or constructed after the passage of this Ordinance shall file an annual “statement of operation” on or before January 10 of each year following the construction of the tower. This “statement of operation” shall certify that the tower is operational and shall include a summary of the current antenna configuration on the tower. If the statement is not filed by January 10 of any year, the County shall notify the owner in writing of failure to file. Failure to file a statement within sixty (60) days of receiving a notice of failure to file shall be prima facie evidence that the tower facility is no longer in use and may be considered abandoned. If it is determined to be abandoned the County may contract for the removal of the obsolete tower and assess the fee title owner for the charges to be assessed against the property.

R. EROSION CONTROL AND STORMWATER MANAGEMENT.

1. Purpose and Intent.

The Douglas County Board of Commissioners finds that construction site erosion and uncontrolled stormwater runoff from land disturbing and land development activities have significant adverse impacts upon regional water resources and the health, safety and general welfare of the community, and diminish the public enjoyment and use of natural resources. The purpose of this section of the ordinance is to set requirements for construction site erosion control and stormwater management that will diminish threats to public health, safety, public and private property and natural resources of Douglas County.

This section is intended to regulate construction site erosion and stormwater runoff to accomplish the following objectives:

- a. Promote local stormwater management;

- b. Minimize sedimentation, water pollution from nutrients, heavy metals, chemical and petroleum products and other contaminants, flooding and thermal impacts to the water resources of Douglas County;
- c. Promote infiltration and groundwater recharge;
- d. Protect functional values of natural water courses and wetlands;
- e. Provide a single, consistent set of performance standards for Douglas County;
- f. Protect public and private property from damage resulting from runoff or erosion.

The Douglas County Board of Commissioners finds that effective sediment and stormwater management depends on proper planning, design, and timely installation of conservation and management practices and their continuing maintenance.

2. Jurisdiction and Administration.

- a. This section of the ordinance shall become effective on January 1, 2004 in unincorporated areas of Douglas County. Areas in the County under the jurisdiction of a Joint Powers Board, formed for orderly annexation purposes, are not included.
- b. Douglas County hereby adopts, by reference, the standards put forth in the Minnesota Pollution Control Agency's (MPCA) General Permit-Authorization To Discharge Stormwater Associated With Construction Activity Under The National Pollutant Discharge Elimination System Permit Program, also known as the NPDES Phase II Permit, along with any future amendments.
- c. Units of local government must notify Douglas County Land and Resource Management of land disturbing activities that require coverage under the NPDES Phase II Permit Program. A separate permit issued by Douglas County is not required.
- d. The Director of Land and Resource Management, in consultation with the Douglas County Environmental Analyst, shall be responsible for administration and enforcement of this Ordinance.
- e. Where the standards of this ordinance differ or conflict with applicable local subdivision, zoning, shoreland zoning or other applicable local ordinances or state regulations, the more restrictive standards shall apply.

3. Permit Coverage and Limitations.
 - a. Standard Permit. A standard permit shall be required, and all construction site erosion control provisions of this permit shall apply, to land disturbing activities associated with construction activity and small construction activity, as defined below, in Douglas County.
 - (1.) Construction activity includes clearing, grading and excavation, that disturbs land of equal to or greater than five (5) acres and includes the disturbance of less than five (5) acres of total land area that is part of a larger common plan of sale or development or sale if the larger common plan will ultimately disturb five(5) acres or more.
 - (2.) Small construction activity includes clearing, grading and excavation, that disturbs land of equal to or greater than one (1) acre, and includes the disturbance of less than one (1) acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five (5) acres.
 - (3.) For drainage ditches, small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.
 - (4.) The fee for this permit will be set by the Douglas County Commissioners.
4. Stormwater Pollution Prevention Plan: Permits and Administration.
 - a. No activity meeting the requirements for either a standard or simplified permit shall occur and until a permit is issued by the Douglas County Land and Resource Management Department.
 - b. The applicant must provide the following when requesting a permit:
 - c. Completed application form;
 - d. Copy of the Storm Water Pollution Prevention Plan (SWPPP) prepared for the MPCA NPDES Phase II Permit Program;
 - e. Copies of permits or permit applications or approvals required by any other governmental entity, including documents sent to the state administered NPDES Phase II Permit program; and

f. A proposed timetable and schedule for completion and installation of all elements of approved erosion control and stormwater management plans and a proposed schedule for completion of construction.

g. Appropriate fee as set forth in the Douglas County Fee Schedule.

5. Approval Process.

a. The Land and Resource Management Department shall verify that the permit application is complete. The Land and Resource Management Department shall review the plan(s) for compliance with the standards, which are identified in the Minnesota Pollution Control Agency's NPDES Phase II construction site stormwater permit.

b. Within seven (7) days, the Land and Resource Management Department shall either approve the submitted plan or notify the applicant or representative of any deficiencies.

6. Permit conditions.

a. The plan shall be implemented prior to the start of any land disturbing activity and shall be maintained over the duration of the project. Permanent stormwater components of the plan shall be maintained in perpetuity.

b. The permittee is responsible for successful completion of the SWPPP. The permittee shall be liable for all costs incurred, including environmental restoration costs, resulting from noncompliance with an approved plan.

c. Application for a permit shall constitute express permission by the permittee and landowner for the local approval authority to enter the property for purposes of inspection or curative action. The application form shall contain a prominent provision advising the applicant and landowner of this requirement.

d. Where installed stormwater practices will be privately-owned, an affidavit which describes the property by legal description, notifying future prospective purchasers of the existence of a stormwater practice and applicable maintenance plan, shall be recorded with the Douglas County Register of Deeds prior to issuance of a permit.

7. Inspections.

a. Application for a permit under this ordinance shall constitute permission by the applicant and landowner for the Douglas County Land and Resource Management Department to enter upon the property and inspect during the

construction phase prior to the inspections pursuant to paragraphs (d) and (f), as necessary to confirm compliance with the requirements of this ordinance.

- b. Within 10 days after installation of all practices in an approved erosion control plan and achievement of soil stabilization, the permittee shall notify the Douglas County Land and Resource Management Department.
- c. The Douglas County Land and Resource Management Department shall inspect the property to verify compliance with the submitted SWPPP within 10 days of notification of soil stabilization.
- d. Within 10 days after installation of all practices in an approved SWPPP, the permittee shall notify the local approval authority and submit drawings documenting construction. The person who designed the SWPPP for the permittee shall submit as-built certification to ensure that constructed stormwater management practices and conveyance systems comply with the specifications included in the approved plans. At minimum, as-built certification shall include a set of drawings comparing the approved SWPPP with what was constructed.
- e. Douglas County shall inspect the property to verify compliance within 10 days of notification.
- f. Maintenance is the responsibility of the owner, and facilities are subject to inspection and orders for repairs.

8. Permit Transfer.

When the owner or operator changes, (e.g., an original developer sells portions of the property to various homebuilders), the new owner or operator must submit to Douglas County, a copy of the change of ownership/subdivision short form application that was sent to the MPCA Phase II Permit Program.

9. Plan or Permit Amendments.

Any major modifications to approved plans, construction schedules or alterations to accepted sequencing of land disturbing site activities shall be approved by the Land and Resource Management Department prior to implementation of said changes.

10. Fees.

The permit fee shall be payable at the time an application for a permit is submitted.

11. Termination of Coverage.
 - a. Permittee(s) wishing to terminate coverage under this permit must submit, to Douglas County, a copy of the Notice of Termination (NOT) sent to the MPCA. Compliance with this permit is required until a NOT is submitted.

12. Technical Standards and Specifications.
 - a. BMPs. The design of all best management practices designed to meet the requirements of this section shall comply with the following technical standards:
 - b. Minnesota Pollution Control Agency's "Protecting Water Quality in Urban Areas", or its successor;
 - c. Natural Resources Conservation Service's "Field Office Technical Guide, Chapter 4", or its successor;
 - d. Any other technical methodology, providing they are at least as effective and stringent as MPCA best management practices.

13. Storm Water Discharge Design Requirements.
 - a. Storm water discharge design requirements for Douglas County are the same as those set forth in the NPDES Phase II permit program as promulgated by the MPCA.
 - b. In addition, the identity of the entity responsible for long-term maintenance of the permanent storm water practices, along with the maintenance plan and schedule, must be submitted to Douglas County Land and Resource Management.

14. Construction Activity Requirements.
 - a. Construction activity requirements for Douglas County are the same as those put forth in the NPDES Phase II permit program as promulgated by the MPCA.

15. Additional Provisions for the Natural Environment Shoreland Zoning Classification.
 - a. Temporary erosion and sediment control measures must be inspected, maintained, and remain functional until final stabilization has occurred on disturbed areas.

- b. The creation of a half (.5) acre up to one (1) acre of new impervious surface shall require permanent stormwater structures for water quality treatment. Said structures are to be designed and inspected by a licensed professional engineer.
- c. Multiple cell stormwater ponds are required if one (1) or more acres of new impervious surface is created.

16. Permit Fees.

- a. Douglas County will establish a fee schedule for the standard permit.
- b. Local government units, charged with maintaining public roads, are exempt from the fee requirements of the ordinance when performing those duties.

S. SENSITIVE FEATURES

1. Purpose and Intent.

The purpose of this section is to identify environmentally or culturally sensitive features which serve important ecological or other purposes to the people of Douglas County. Areas identified as sensitive features are based on the best available data and are general in nature in terms of exact locations and boundaries. The County intends that the data be used to provide additional information to landowners, developers, staff and the Planning Commission so that the sensitive nature of the resources is considered as land is developed and/or altered. Properties where development or alteration is proposed are encouraged to avoid alteration of or impacting sensitive features or to mitigate potential negative impacts on sensitive features as much as is reasonably possible. In reviewing applications where sensitive features may be impacted, the Planning Commission may impose conditions as necessary to protect such features, including requirements to determine exact boundaries, avoidance of sensitive features during development or alteration, or specific practices intended to mitigate potential negative impacts.

Natural features considered by Douglas County to be sensitive features are listed below. Maps depicting these features will be available at the Land & Resource Office and are intended to be updated as new or improved data become available from the relevant data source.

Category	Sensitive Feature	Source of Data
Shallow Groundwater	1. Shallow and hydric soils (soils classified as “poorly drained” and “very poorly drained”)	Soil Survey Geographical Data Base (SSURGO Douglas County Minnesota)
	2. Wetlands	National Wetland Inventory, U.S. Fish and Wildlife Service
Topography	1. Steep slopes (slope of 12% or greater)	Soil Survey Geographical Data Base (SSURGO Douglas County Minnesota)
	2. Bluffs	As identified by the Douglas County Soil during onsite mapping of Bluffs (data is stored at the Douglas County GIS Department)
Aquatic Resources	1. Aquatic vegetation	Minnesota Department of Natural Resources, Section of Fisheries, Lake Survey Reports.
	2. Fish spawning areas (emergents - hardstem bulrush and cattails, and; floating-leaf plants - yellow and white waterlily)	Minnesota Department of Natural Resources
Habitat	1. Areas of High Ecological Significance	Minnesota Department of Natural Resources – County Biological Survey
	2. Areas of Moderate Ecological Significance	Minnesota Department of Natural Resources – County Biological Survey