

TRAVERSE COUNTY LAND USE ORDINANCE

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

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

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SECTION 1 TITLE

1.00 TITLE

1.00 Title.

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

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SECTION 2 INTENT AND PURPOSE

2.00 INTERPRETATION AND APPLICATION

2.01 Interpretation and Application.

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

1. protecting the public health, safety, morals, comfort, convenience and general welfare.
2. protecting and preserving economically viable agricultural land.
3. promoting orderly development of the residential, commercial, industrial, recreational and public areas.
4. conserving the natural and scenic beauty and attractiveness of the county.
5. conserving and developing natural resources in the county.
6. providing for the compatibility of different land uses and the most appropriate use of land throughout the county.
7. minimizing environmental pollution.

2.02 Purpose of Adult Use Regulations.

The purpose and intent of the adult use regulations set forth in this Ordinance is to serve a substantial government interest by attempting to preserve the quality and vitality of neighborhoods, curtail the depression of property values, restrain increased criminal activity and slow the spread of sexually transmitted diseases.

Adult Use Establishments, as defined by this Ordinance, because of their very nature, are recognized as having serious objectionable operational characteristics that have a deleterious effect upon the use and enjoyment of adjacent areas. These secondary effects are especially evident where such uses are concentrated.

One of the Ordinance's objectives is to disperse the adult uses through separation requirements from other adult uses and from other significantly incompatible uses.

The ordinance allows adult uses only in C-I Commercial-Industrial Districts and only within certain areas of that District. Those areas are located throughout the County and provide opportunity for sites with good visibility and access to major streets and highways.

The secondary effects associated with adult uses include an increased level of criminal activity, increased risk of exposure to sexually transmitted diseases, depression of property values and a significant change in the character of surrounding neighborhoods.

However, it is recognized that such regulations cannot de facto approach prohibition. Otherwise, a protected form of expression would vanish. The adult use regulations set forth in this Ordinance represent a balancing of competing interests: reduction of objectionable secondary effects through the regulation of adult uses versus the protected rights of the owners, operators, performers and patrons of those adult uses.

SECTION 3 APPLICATION OF THIS ORDINANCE

3.00 APPLICATION OF THIS ORDINANCE

3.01 Application.

1. **Jurisdiction.** The jurisdiction of this Ordinance shall apply to all the area of Traverse County outside of incorporated municipalities that have adopted zoning controls.
2. **Other Laws.** Where the conditions imposed by any provision of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.
3. **Districts.** No land use shall be permitted in any manner which is not in conformity with this Ordinance. This Ordinance divides the County into zoning districts in which only specified permitted and conditionally permitted uses are allowed. Land uses are further regulated with standards relating to some activities and most physical development. Provisions are provided for amending the regulations and for variances to some provisions.
4. **Permits.** Zoning Permits, Conditional Use Permits, and Variances are issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized, shall be deemed a violation of this Ordinance.
5. **Compliance.** No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance. Existing uses and structures will be allowed to continue and may be enlarged, expanded and rebuilt as provided for in Section 6 of this Ordinance.
6. **Severability.** If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid the remainder of this Ordinance will remain in full force and effect.

SECTION 4 RULES

4.00 RULES

4.01 Rules.

1. For the purpose of this Ordinance, words used in the present tense shall include the future; words used in the singular shall include the plural, and the plural the singular.
2. The word “building” shall include “structures” of every kind, regardless of similarity to buildings.
3. The word “person” shall include a firm, association, organizations, partnership, trust, company or corporation as well as an individual.
4. The words “shall” and “must” are mandatory and not discretionary.
5. The words “may” and “should” are permissive.
6. The word “lot” shall include the word “plot”, “place”, and “parcel”.

SECTION 5 DEFINITIONS

5.01 Definitions.

The following definitions shall apply throughout the entirety of the “Traverse County Land Use Ordinance” except that where a word or phrase is defined differently in Sections 21 (Floodplain) or Section 22 (Shoreland), the definition in Section 21 or 22 shall apply within each of those sections respectively.

1. **“Accessory Use or Structure”** means a building, structure or use on the same lot with and of a nature customarily incidental and subordinate to the principal building or use.
2. **“Administrator, Zoning”** means the duly appointed person charged with enforcement of this Ordinance.
3. **“Adult Arcade”** means an establishment where, for any form of consideration, one or more motion picture projectors, slide projectors, or similar machines for viewing by five or fewer persons each are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
4. **“Adult Bookstore”** means an establishment that has as a substantial portion of its stock- in-trade and offers for sale, for any form of consideration, any one or more of the following: 1) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or 2) instruments, devices or paraphernalia that are designed for use in connection with specified sexual activities.
5. **“Adult Cabaret”** means a nightclub, bar, restaurant, or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, slides, or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
6. **“Adult Motion Picture Theater”** means an establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.
7. **“Adult Theater”** means a theater, concert hall, auditorium, or similar establishment characterized by (activities featuring) the exposure of specified anatomical areas or by specified sexual activities.
8. **“Adult Use Establishments”** include, but are not limited to: adult arcade, adult bookstore, adult cabaret, adult motion picture theater, adult theater, or sexual encounter establishment.
9. **“Agricultural Processing Plant”** means a facility or collection of structures, buildings or other improvements constructed for the cooking, dehydrating, refining, bottling, canning, compressing or other treatment of agricultural products which physically, chemically or otherwise changes the naturally grown or produced product for wholesale or consumer use as food, textiles, construction material, fuel or other material.
- 9.10. **“Agriculture”** The means the use of land for agricultural purposes, including farming, windfarming, dairying, pasturage, agriculture, horticulture, floriculture and animal and poultry husbandry and the necessary accessory uses for packing, treating or storing the produce; provided, however, that the operation of any such accessory use shall be secondary to that of the normal agricultural activities.

~~10.11.~~ **“Agricultural Use”** means the use of land for the growing and/or production and processing for local use of field crops, livestock and livestock products for the production of income including but not limited to the following:

- i. Field crops, including but not limited to: barley, soy beans, corn, hay, oats, potatoes, rye, sorghum, sunflowers, and wheat and tree farming.
- ii. Livestock, including but not limited to: dairy and beef cattle, buffalo, goats, horses, sheep, hogs, poultry, game birds, ponies, deer, rabbits, mink, lamas, elk, emus, ostriches, and other exotic animals.
- iii. Aquaculture.
- iv. Livestock products, including but not limited to: milk, butter, cheese, eggs, meat, fur and honey.
- v. The definition includes sale of raw products, but not processing or sale of processed goods. This definition does not include animal feedlots which are defined and regulated separately.

~~11.12.~~ **“Animal Feedlot”** means a lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of these parts, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots under these parts.

~~12.13.~~ **“Animal Manure”** means poultry, livestock or other animal excreta, or a mixture of excreta with feed, bedding and other materials.

~~13.14.~~ **“Animal Unit”** shall be as defined by Minnesota Rules 7020.0300, Subd. (5).

~~14.15.~~ **“As-Built”** means drawings and documentation specifying the final in-place location, size and type of all system components. These records identify the results of materials testing and describe conditions during construction. As-builts contain a certified statement.

~~15.16.~~ **“Assisted Living Facility”** means a building which contains multiple dwellings and which provides meals, supervision, or other daily living assistance services to residents.

~~16.17.~~ **“Basement”** means any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

~~17.18.~~ **“Bed & Breakfast”** means a building other than a motel or hotel where, for compensation and by prearrangement for definite periods, meals and lodgings are provided.

~~18.19.~~ **“Bedroom”** means any room used principally for sleeping purposes, an all-purpose room, a study, or a den. A room planned and intended for sleeping.

~~19. “Bluff” means a topographic feature such as a hill, cliff, or embankment having all of the following characteristics:~~

- ~~i. Part or all of the feature is located in a shoreland area;~~
- ~~ii. The slope rises at least 25 feet above the ordinary high water level of the water body;~~
- ~~iii. The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater; and~~
- ~~iv. The slope must drain toward the water body.~~

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

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

~~21. “Bluff line” means a line along the top of a slope connecting the points at which the slope becomes less than 12%. This applies to those slopes within the land use district(s) which are beyond the setback provisions from the ordinary high water mark.~~

~~22.~~20. “Board” means the board of County Commissioners.

~~23.~~21. “Board of Adjustment” means the board established pursuant to Minnesota Statutes Chapter 394.

~~24.~~22. “Boathouse” means a structure designed and used solely for the storage of boats or boating equipment.

~~25.~~23. “Building” means a structure having a roof which may provide shelter or enclosure of persons, animals, or property of any kind and when said structures are divided by party walls without openings, each portion of such building so separated shall be deemed a separate building.

~~26.~~24. “Building Height” or “Height of Building” means the vertical distance between the highest adjoining ground level at the building or ten feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.

~~27.~~25. “Building Line” means a line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.

~~28.~~26. “Building Setback” means the minimum horizontal distance between the building and a lot line.

~~29.~~27. “Bulk Storage (Liquid)” means bulk storage of oil, gasoline, liquid fertilizer, chemicals & similar liquids in excess of ~~2,500~~40,000 gallons per ~~tank~~site.

~~30.~~28. “Business” means any occupation, employment or enterprise wherein merchandise is exhibited or sold, or where services are offered for compensation.

~~31.~~29. “Cabin” means a limited use, low investment, overnight shelter and lodging in a hunting area, fishing area or wildlife area. Cabins may not be used for continuous occupation.

~~32.~~30. “Certificate of Compliance, ISTS” means a document from a licensed sewage treatment inspector fully licensed by the State of Minnesota or a qualified employee provided to the owner of property on which a dwelling is located which is required to have an ISTS and to the LUG, indicating that said ISTS is not a failing system nor an imminent threat to public health or safety and, for new construction and replacement, is constructed in compliance with Minnesota Rules, Chapter 7080, as amended.

~~33.~~31. “Channel” means a natural or artificial depression of perceptible extent, with definite bed and banks to confine and conduct flowing water either continuously or periodically.

~~34.~~32. “Church or Place of Worship” means a building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

- ~~35.33.~~ **“Commercial Planned Unit Developments”** means typical uses that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are commercial planned unit developments.
- ~~36.34.~~ **“Commercial Use”** means the principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.
- ~~37.35.~~ **“Commissioner”** means the Commissioner of the Department of Natural Resources.
- ~~38.36.~~ **“Community Water and Sewer Systems”** means utilities systems serving a group of buildings, lot, or any area of the community, with the design and construction of such utility systems as approved by the community and the State of Minnesota.
- ~~39.37.~~ **“Compliance Inspection”** means any evaluation, investigation, inspection, or other such process to make conclusions, recommendations, or statements regarding an individual sewage treatment system to reasonably assure an individual sewage treatment system is in compliance as specified under part 7080.0060. Compliance inspections must be conducted by a qualified employee or under a license independent of the owner and the installer.
- ~~40.38.~~ **“Comprehensive Plan”** means the policies, statements, goals, and interrelated plans for private and public land and water use, transportation, and community facilities including recommendations for plan execution, documented in texts, ordinances and maps which constitute the guide for the future development of the county or any portion of the county.
- ~~41.39.~~ **“Conditional Use”** means a land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that (1) certain conditions as detailed in the zoning ordinance exist, and (2) the use or development conforms to the comprehensive land use plan of the county and (3) is compatible with the existing neighborhood.
- ~~42.40.~~ **“Conservation District”** means shoreland located between the ordinary high water level of a lake, pond, flowage river or stream and an elevation of 983.00 feet mean sea level datum (1912 adjustment).
- ~~43.41.~~ **“County”** means Traverse County, Minnesota.
- ~~44.42.~~ **“County Board”** means the Traverse County Board of Commissioners.
- ~~45.43.~~ **“Cutting, Clear”** means the removal of an entire stand of vegetation.
- ~~46.44.~~ **“Cutting, Selective”** means the removal of single scattered trees.
- ~~47.45.~~ **“Deck”** means a horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than three feet above ground.
- ~~48.46.~~ **“Department”** means the Traverse County Environmental Services or other designated agent who is a qualified employee or licensee.
- ~~49.47.~~ **“Dike”** means an embankment or ridge of either natural or synthetic materials used to prevent the movement of liquids, sludges, solids, or other materials.
- ~~50.48.~~ **“Duplex,” “Triplex,” and “Quad”** means a dwelling structure on a single lot, having two, three, and four units respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.
- ~~51.49.~~ **“Dwelling”** means a residential building or portion thereof intended for occupancy by a single family, but not including hotels, motels, boarding or rooming houses or tourist homes.

~~52.50.~~ **“ Dwelling Attached ”** means a dwelling which is joined to another dwelling at one or more sides by a party wall or walls.

~~53.51.~~ **“ Dwelling Detached ”** means a dwelling which is entirely surrounded by open space on the same lot.

~~54.52.~~ **“ Dwelling Site ”** for Shoreland & Floodplain purposes means a designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

~~55.53.~~ **“ Dwelling Unit ”** for Floodplain & Shoreland purposes means any structure or portion of a structure, or other shelter designed as short or long-term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.

~~56.54.~~ **“ Earthen Storage Manure Basin ”** means a dike or excavated structure, often lined with clay or synthetic liner, in which manure is stored. They are considered manure storage areas for purposes of this Ordinance.

~~57.55.~~ **“ Easement ”** means a grant by a property owner for the use of a strip of land by the public or any person for any specific purpose or purposes.

~~58. “ E n e r o a c h m e n t L i n e s ” m e a n s t h e l a t e r a l l i m i t s o r l i n e s d r a w n a l o n g e a c h s i d e a n d g e n e r a l l y p a r a l l e l t o a s t r e a m o r a n o t h e r b o d y o f w a t e r , w h i c h d e l i n e a t e s t h e f l o o d w a y a n d w i t h i n w h i c h t h e f l o o d c a r r y i n g c a p a c i t y o f t h e s t r e a m o r o t h e r b o d y o f w a t e r i s t o b e p r e s e r v e d . T h e i r l o c a t i o n , i f a l o n g a s t r e a m , s h o u l d b e s u c h t h a t t h e f l o o d w a y b e t w e e n t h e m w i l l e f f e c t i v e l y c a r r y a n d d i s c h a r g e a f l o o d n o t l e s s t h a n t h e r e g i o n a l f l o o d .~~

~~59. “ E q u a l D e g r e e o f E n e r o a c h m e n t ” m e a n s a m e t h o d o f d e t e r m i n i n g t h e l o c a t i o n o f e n e r o a c h m e n t l i n e s s o t h a t f l o o d p l a i n l a n d s o n b o t h s i d e s o f a s t r e a m a r e c a p a b l e o f c o n v e y i n g a p r o p o r t i o n a t e s h a r e o f f l o o d f l o w s . T h i s i s d e t e r m i n e d b y c o n s i d e r i n g t h e e f f e c t o f e n e r o a c h m e n t o n t h e h y d r a u l i c e f f i c i e n c y o f t h e f l o o d p l a i n a l o n g b o t h s i d e s o f a s t r e a m f o r a s i g n i f i c a n t r e a c h .~~

~~60.56.~~ **“ Erosion Control and Wildlife Developments ”** means structures, water control developments, and ponds which are installed to control soil erosion or increase the habitat for wildlife, including but not limited to; erosion control structures, dams, diversions, terraces, waterways, culverts, pits and ponds.

~~61.57.~~ **“ Essential Services ”** means overhead or underground electric, gas, communication, sewage, steam or water transmission or distribution systems and structures, by public utilities or governmental departments or commissions or as are required for protection of the public health, safety, or general welfare, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, and accessories in connection therewith, but not including buildings.

~~62.58.~~ **“ Existing Feedlot ”** means an existing feedlot which was in operation on August 4, 1998, or within the previous 5 years.

~~63.59.~~ **“ Exterior Storage (includes open storage) ”** means the storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.

~~64.60.~~ **“ Extraction Area ”** means any non-agricultural artificial excavation of earth exceeding fifty square feet of surface area of two feet in depth, excavated or made by the removal from the natural surface of the earth, or sod, soil, sand, gravel, stone or other natural matter, or made by turning, breaking or undermining the surface of the earth.

~~65.61.~~ **“ Extractive Use ”** means the use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes, sections 93.44 to 93.51.

~~66.62.~~ **“Failed Sewage System”** means any system uncovered by flood waters, leaking or discharging into public waters or groundwater, leaking or discharging to ground surface or requiring any maintenance that exceeds 25% of the system’s original cost; excepting pumping from holding tanks.

~~67.63.~~ **“Failing System”** means any ISTS that discharges sewage to a seepage pit, cesspool, dry well or leaching pit and any system with less than three feet of soil or sand between the bottom of the distribution medium and the saturated soil level or bedrock. In addition any system posing an imminent threat to public health or safety as defined in MN RULES 7080.0020 Subp. 19a shall be considered failing.

~~68.64.~~ **“Family”** means an individual, or two or more persons related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit or 4 or less unrelated persons living together in a single housekeeping unit.

~~69.65.~~ **“Farm”** means a tract of land, which is principally used for agricultural activities such as the production of crops, and/or animals. A farm may include agricultural dwellings and accessory buildings and structures necessary to the operation of the farm and must meet the definition of “farm” under Minnesota’s Green Acres Law Minnesota Statutes Chapter 273.111, as amended.

~~70.66.~~ **“Farmstead”** means a development area designed and arranged to support farm activities. A variety of structures, storage area, and other facilities, including adjacent windbreaks and shelter belts, typically comprise a farmstead. The area may contain one or more Farm Dwellings. A livestock Feedlot may be present within the defined area of a Farmstead, but for the purpose of this Ordinance, Livestock Feedlots shall not be considered to be part of a Farmstead. A Farmstead has boundaries which can be approximately defined and differentiated from surrounding fields and pastures and the Administrator shall determine such boundaries as necessary.

~~71.67.~~ **“Feedlot”** see definition for “Animal Feedlot”.

~~72.68.~~ **“Feedlot, Existing”** means an existing feedlot which was in operation on August 4, 1998, or within the previous 5 years.

~~73.69.~~ **“Feedlot, New”** means an animal feedlot constructed and operated on a site where no animal feedlot existed previously or where a pre-existing animal feedlot has been abandoned or unused for a period of five (5) years or more.

~~74.70.~~ **“Feedlot Operator”** means an individual, corporation, a group of individuals, a partnership, joint venture owner or any other business entity having charge or control of one or more livestock feedlots, poultry lots or other animal lots.

~~75.71.~~ **“Fence”** means any partition, structure, wall or gate erected as a dividing marker, barrier or enclosure and located along the boundary, or within the required yard.

~~76. “Flood” means a temporary rise in stream flow or stage which results in inundation of the areas adjacent to the channel.~~

~~77. “Flood Frequency” means the average frequency, statistically determined, for which it is expected that a specific flood stage or discharge may be equaled or exceeded. By strict definition, such estimates are designated “exceedence frequency,” but in practice the term “frequency” is used. The frequency of a particular stage or discharge is usually expressed as having a probability of occurring once within a specified number of years.~~

~~78. “Flood Fringe” means that portion of the floodplain outside of the floodway.~~

~~79. “Flood Peak” means the highest value of stage or discharge attained during a flood event; thus peak stage or peak discharge.~~

80. ~~“Floodplain” means the areas adjoining a watercourse or water basin that have been or may be covered by the regional flood.~~
81. ~~“Floodplain Management” means the full range of public policy and action for ensuring wise use of the floodplains. It includes everything from collection and dissemination of flood control information to actual acquisition of floodplain lands, construction of flood control measures, and enactment and administration of codes, ordinances, and statutes regarding floodplain land use.~~
82. ~~“Floodplain Regulations” means the full range of codes, ordinances, and other regulations relating to the use of land and construction within floodplain limits. The term encompasses zoning ordinances, subdivision regulations, and sanitary and building codes.~~
83. ~~“Flood Profile” means a graph or a longitudinal plot of water surface elevations of a flood event along a reach of a stream or river.~~
84. ~~“Floodproofing” means a combination of structural provisions, changes or adjustments to properties and structures subject to flooding primarily for the reduction or elimination of flood damages to properties, water and sanitary facilities, structures, and contents of buildings in a flood hazard area.~~
85. ~~“Flood Stage” means, as commonly used by the U.S. Weather Bureau and others, that stage, at a particular river gauge, where overflow of the natural banks of the stream results in significant flood damage in any portion of the reach for which the gauge is a representative index.~~
86. ~~“Floodway” means the channel of the watercourse, the bed of water basins, and those portions of the adjoining floodplains which are reasonably required to carry and discharge floodwater and provide water storage during a regional flood.~~
- 87.72. **“Forest Land Conversion”** means the clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.
- 88.73. **“Frontage”** means that boundary of a lot which abuts an existing or dedicated public street.
- 89.74. **“Garage”** means an accessory building or accessory portion of the principal building which is intended for and used to store the private passenger vehicles of the family or families resident upon the premises.
- 90.75. **“Governing Body”** means a town board of supervisors, the council of a municipality, or board of county commissioners.
- 91.76. **“Government Survey”** a survey which was conducted by the United States of America in dividing the land into congressional townships, sections, and subdivisions thereof.
92. ~~“Guest Cottage” means a structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.~~
- 93.77. **“Hardship”** as used in connection with the granting of a Variance means the property in question cannot be put to a reasonable use if used under the conditions allowed by the official controls; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the Variance, if granted will not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of this Ordinance. A variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located.
- 94.78. **“Height”** for the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the Zoning Map, the datum shall be mean sea level elevation unless otherwise specified.
- 95.79. **“Highway”** means any public thoroughfare or vehicular right-of-way with a federal, state or county numerical route designation.

~~96.80.~~ **“Home Occupation”** means any occupation or profession carried on by a member of a family residing on the premises in connection with which there is used no sign other than one (1) non-illuminated nameplate measuring not more than one (1) by one and one-half (1 ½) feet in area attached to the building entrance provided that:

- i. No commodity is sold upon the premises.
- ii. No person is regularly employed other than a member of the immediate family residing on the same premises.
- iii. No more than twenty-five percent (25%) of the total floor area of the home (including finished basements but not garages) is to be used for said home occupation.

~~97.81.~~ **“Horse Stable”** means a horse raising and breeding operation that involves traffic of persons living offsite in connection with horse training, riding lessons, shows and boarding.

~~98.82.~~ **“Horticulture”** means horticultural uses and structures designed for the storage of products and machinery pertaining and necessary thereto.

~~99.83.~~ **“Hotel”** means a building which provides a common entrance, lobby, halls and stairway and in which twenty or more people are, for compensation, lodged with or without meals.

~~100.84.~~ **“Incorporated”** means when manure is surface mechanically applied and mechanically incorporated within forty-eight (48) hours of application.

~~101.85.~~ **“Incorporation”** means the mixing of manure or septage with the topsoil, concurrent with the application or immediately thereafter, by means such as discing, plowing, rototilling, injection or other mechanical means.

~~102.86.~~ **“Individual Sewage Treatment System (ISTS)”** means a sewage treatment system, or part thereof, serving a dwelling, or other establishment, or group thereof, and using sewage tanks or advance treatment followed by soil treatment and disposal. Individual sewage treatment system includes holding tanks and privies.

87. **“Industrial Agriculture” means the use of land and buildings for the processing, packaging or storing of agricultural projects that are primarily generated on other properties.**

~~103.88.~~ **“Industrial Use”** means the use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

~~104.89.~~ **“Injected”** means when manure is mechanically injected or tilled into the soil during the manure application.

~~105.90.~~ **“Inspector”** means an individual qualified to review proposed plans and inspect ISTS and who meet the licensure and registration requirements of the Minnesota Pollution Control Agency.

~~106.91.~~ **“Intensive Vegetation Clearing”** means the complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

~~107.92.~~ **“Kennel, Dog/Cat”** means any structure or premises on which four (4) animals over four (4) months of age are kept for sale, breeding, profit, etc.

~~108.93.~~ **“Landfill, Solid Waste”** means a place for the disposal of solid waste including garbage, refuse and other discarded solid materials resulting from residential, commercial, industrial and community activities.

~~109.94.~~ **“Landfill, Demolition”** means a place for the disposal of demolition wastes including waste building materials, packaging, and rubble resulting from construction, remodeling, repair and demolition.

- ~~110~~.95. **“Landscaping”** means plantings such as trees, grass, and shrubs.
- ~~111~~.96. **“Land Spreading”** means the placement of septage or human waste from septic or holding tanks on or into the soil surface and the placements of petroleum contaminated soils on or into the soil surface.
- ~~112~~.97. **“Land Use”** means any activity that involves use of the land or environmental quality involving structures, alteration of the land form or alteration of land, air or water quality. This includes, but is not limited to, buildings, essential services, agriculture, natural resource harvesting, commerce, industry, residential development and storm water systems.
- ~~113~~.98. **“Land Use Development Application”** means, including, but not limited to applications for the following: construction permits, ISTS Permits, vegetative alteration permits, topographic alterations permits, or other types of zoning permits, conditional use permits, amendments to this Ordinance, variances from the provisions of Ordinance, and the subdivision of real estate. The application is not considered complete and will not be accepted by the Environmental Services Department unless all fees are paid, preliminary reviews and approvals completed, submitted with associated supporting information and documents, and such other informational required by the Environmental Services Department.
- ~~114~~.99. **“Landing Area”** means the area of the airport used for the landing, taking off or taxiing of aircraft.
- ~~115~~.100. **“Local Governmental Unit”** means a county, statutory or home rule charter city, town, watershed district or lake improvement district.
- ~~116~~.101. **“Lot”** means a parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.
- ~~117~~.102. **“Lot Area”** means the area of a lot in a horizontal plane bounded by the lot lines.
- ~~118~~.103. **“Lot Area, Buildable”** means that contiguous portion of a lot remaining after the deletion of any floodplain, road rights-of-way, setback areas, wetlands, slopes of twelve (12) percent or greater and protected waters.
- ~~119~~.104. **“Lot Depth”** means the mean horizontal distance between the front lot line and the rear lot line of a lot.
- ~~120~~.105. **“Lot Line”** means the property line bounding a lot except that where any portion of a lot extends into the public right-of-way. The right-of-way line shall be the lot line for applying this Ordinance.
- ~~121~~.106. **“Lot Line, Front”** means that boundary of a lot which abuts an existing or dedicated public street, and in the case of a corner lot it shall be the shortest dimensions on a public street. If the dimensions of a corner lot are equal, the front line shall be designated by the owner.
- ~~122~~.107. **“Lot Line, Rear”** means that boundary of a lot which is opposite the front lot line. If the rear line is less than ten feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten feet in length within the lot, parallel to, and at the maximum distance from the front lot line.
- ~~123~~.108. **“Lot Line, Side”** means any boundary of a lot which is not a front lot line or a rear lot line.
- ~~124~~.109. **“Lot Width”** means the shortest distance between lot lines measured at the midpoint of the building line.
- ~~125~~.110. **“Manufactured Home”** means living quarters designed for transportation after fabrication on streets and highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy, except for minor and

incidental unpacking and assembly operations, location on jacks or permanent foundations, connection to utilities and the like. A manufactured home will be defined by reference to the latest publication of the Federal Manufactured Home Construction and Safety Standards Act of 1974 and Minnesota Statutes, Chapter 327.

- ~~126.~~111. **“Manufactured Home Park”** means any site, lot, field, or tract of land under single ownership, designed, maintained or intended for the placement of two (2) or more occupied manufactured homes. “Manufactured Home Park” shall include any buildings, structure, vehicle, or enclosure intended for use as part of the equipment of such manufactured home park.
- ~~127.~~112. **“Manufactured Home Stand”** means the part of an individual manufactured home lot which has been reserved for placement of the manufactured home, appurtenant structures, or additions.
- ~~128.~~113. **“Metes and Bounds”** is a method used to describe property which does not rely on descriptions in the platted townsites or upon the U.S. Government survey, but rather identifies the property by reference to distances, angles, direction, objects, or a combination of two or more.
- ~~129.~~114. **“Migratory Labor Camp”** means temporary facilities provided by the employer on his own land for the housing of workers who for seasonal purposes are employed in the planting, harvesting, or processing of crops.
- ~~130.~~115. **“Mitigation”** means the act of alleviating the effects of floods and flooding by moderating or reducing the severe damages resulting from floods through structural and nonstructural flood management measures.
- ~~131.~~116. **“Mitigation Measures”** means structural or nonstructural flood management measures, or both.
- ~~132.~~117. **“Motel”** means a building or group of detached, semi-detached, or attached buildings containing guest rooms or dwellings, with garage or parking space conveniently located to each unit, and which is designed, used or intended to be used primarily for the accommodation of automobile transients.
- ~~133.~~118. **“Mottling”** as applied to soils, means a zone of chemical and reduction activity, appearing as splotchy patches of red, brown, or gray in the soil.
- ~~134.~~119. **“MPCA”** means the Minnesota Pollution Control Agency.
- ~~135.~~120. **“Multiple Family Dwelling”** means three (3) or more dwelling units in one structure including townhomes, apartment buildings, etc.
- ~~136.~~121. **“Municipality”** means a city however organized.
- ~~137.~~122. **“Non-Conforming Use”** means use of land, buildings or structures legally existing at the time of adoption of this Ordinance which does not comply with all the regulations of this Ordinance or any amendments hereto governing the zoning district in which such use is located.
- ~~138.~~123. **“Nonconformity”** means any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date it was established, recorded or authorized.
- ~~139.~~124. **“Non-Farm Dwelling”** means any dwellings located on a parcel of land contiguous to or surrounded by farm land which is under separate ownership and whose occupants do not derive their predominant income from agricultural activities on the farm.

~~140.~~125. **“Nonstructural Flood Management Measures”** means action in floodplains designed to reduce the damaging effects of floods on existing and potential users of floodplains, without physically altering the flood behavior. Nonstructural flood management measures include:

- i. public acquisition of floodplain lands;
- ii. relocation of public and private structures and facilities;
- iii. floodproofing of public and private facilities;
- iv. installation and operation of flood warning systems and evacuation procedures;
- v. adoption and enforcement of land use control ordinances and building codes;
- vi. installation of signs and other notifications in regional flood areas; and
- vii. provision of flood insurance and public education.

~~141.~~126. **“NRCS”** means the National Resources Conservation Service.

~~142.~~127. **“Nursery”** means a tract of land that is principally used for the planting and growing of trees, flowering and decorative plants and shrubs for experimental purposes or for transplanting.

~~143.~~128. **“Nursing Home”** means a building with facilities for the care of children, the aged, infirm, or place of rest for those suffering bodily disorder. Said nursing home shall be licensed by the State Board of Health as provided for in Minnesota Statute, Section 144.50.

~~144.~~129. **“Obstruction”** means any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

~~145.~~130. **“Off-Street Loading Space”** means a space accessible from a street, alley, or driveway for the use of trucks or other vehicles while loading or unloading merchandise or materials. Such space shall be of size as to accommodate one vehicle of the type typically used in the particular business.

~~146.~~131. **“Official Control”** means legislatively defined and enacted policies, standards, precise detailed maps, and other criteria, all of which control the physical development of a municipality or a county or any part thereof or any detail thereof, and are the means of translating into ordinances all or any part of the general objectives of the comprehensive plan. Such official controls may include but are not limited to ordinances establishing zoning, subdivision controls, site plan rules, sanitary codes, building codes, housing codes, and official maps.

~~147.~~132. **“Official Map”** means a map adopted in accordance with Minnesota Statutes Section 394.361 which may show existing county roads and county state aid highways, proposed future county roads and highways, the area needed for widening existing county roads and highways, and existing and future state trunk highway rights-of-way. An official map may also show the location of existing public land and facilities and other land needed for future public purposes, including public facilities such as parks, playgrounds, schools, and other public buildings, civic centers, and travel service facilities. When requested in accordance with Minnesota Statutes Section 394.32, subdivision 3, an official map may include existing and planned public land uses within incorporated areas.

~~148.~~133. **“Official Newspaper”** means the newspaper which has been designated by the County Board as the official newspaper of the County.

~~149.~~134. **“Open Fences”** means wire or rail or other fences so constructed that they do not hold or restrict snow.

~~150.~~135. **“Open Sales Lot (Exterior Storage)”** means any land used or occupied for the purpose of buying and selling any goods, materials, or merchandise and for the storing of same under the open sky prior to sale.

~~151.~~ **“Ordinary High Water Level (OHWL) or Ordinary High Water Mark”** means the boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

~~152.~~136. **“Owner”** means any individual, firm, association, syndicate, partnership, corporation, trust or other legal entity having sufficient property interest in a property to commence and maintain proceedings under this Ordinance, or the owner of record.

~~153.~~137. **“Parking Space”** means a suitable surfaced and permanently maintained area on privately owned property either within or outside of a building of sufficient size to store a standard automobile.

~~154.~~138. **“Pastures”** means areas where grass or other growing plants are used for grazing and where the concentration of animals is such that a vegetative cover is maintained during the growing season except in the immediate vicinity of temporary supplemental feeding or watering devices.

~~155.~~139. **“Permitted Use”** means a public or private use which of itself conforms with the purposes, objectives, requirements, regulations and performance standards of a particular district.

~~156.~~140. **“Person”** means any individual, firm, partnership, corporation, company, association, joint stock association or body politic; including any trustee, receiver, assignee, or other similar representative thereof.

~~157.~~141. **“Pipeline”** means an essential service that involves underground piping of flammable or hazardous material, not including distribution of natural gas to area users (service lines).

~~158.~~ **“Planned Unit Development”** means a type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time share condominiums, cooperatives, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, campgrounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.

~~159.~~142. **“Planning Commission”** means the Planning Commission of Traverse County.

~~160.~~143. **“Platted Areas”** means such plots where a plat has been filed with the County Recorder in the County of Traverse, State of Minnesota, as subscribed by Minnesota Statute Section 505.08.

~~161.~~144. **“Principal Structure or Use”** means one which determines the predominant use as contrasted to accessory use or structure.

~~162.~~145. **“Property Line”** means the legal boundaries of a parcel of property which may also coincide with a right-of-way line of a road, cartway, and the like.

~~163.~~146. **“Public Land”** means land owned or operated by municipal, school district, county, state or other governmental units.

~~164.~~ **“Public Water”** means any waters as defined in Minnesota Statutes, Section 103G.005, Subdivisions 14 and 15. A body of water capable of substantial beneficial public use. This shall be

construed to mean, for the purposes of this Ordinance, any body of water which has the potential to support any type of recreational pursuit or water supply purpose. The term “protected water” is synonymous with the term “public water” for the purpose of this Ordinance.

~~165. “Public Waters” means any waters as defined in Minnesota Statutes, Section 105.37, Subdivisions 14 and 15. However, no lake, pond, or flowage of less than ten acres in size in municipalities and 25 acres in size in unincorporated areas need be regulated for the purposes of parts 6120.2500 to 6120.3900. A body of water created by a private user where there was no previous shoreland may, at the discretion of the local government, be exempted from parts 6120.2500 to 6120.3900. The official determination of the size and physical limits of drainage areas of rivers and streams shall be made by the commissioner.~~

~~166.~~147. **“Qualified Employee”** means an individual licensed and registered by the MPCA who conducts site evaluation or design; installs, maintains, pumps, or inspects individual sewage treatment systems as part of employment duties and is registered on the ISTS professional register with specialty area endorsements applicable to the work being conducted. A qualified employee may be an apprentice if the individual has specialty area endorsements applicable to the work to be completed, has fulfilled the contractual requirements under Chapter 7080, and has been issued performance restrictions.

~~167.~~148. **“Quarter/Quarter Section”** means a division of a section of land according to the survey and rules of the original United States Government Land Survey containing approximately 40 acres.

~~168.~~149. **“Reach”** means the hydraulic engineering term used to describe longitudinal segments of a stream or river influenced by a natural or human-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would typically constitute a reach.

~~169.~~150. **“Recreation, Commercial”** means including all uses relating to outdoor recreation uses such as campgrounds, hunting & shooting camps, shooting ranges, driving ranges, golf courses that are privately owned and operated with the intention of earning a profit by providing entertainment for the public. The definition does not include movie theaters, bowling alleys or lodging facilities that are unrelated to an outdoor recreational activity.

~~170.~~151. **“Recreation Equipment”** means playing apparatus such as swing sets and slides, sandboxes, poles for nets, unoccupied boats and trailers not exceeding twenty (20) feet in length, picnic tables, lawn chairs, barbecue stands, and similar equipment or structures but not including tree houses, swimming pools, play houses exceeding twenty-five (25) square feet of floor area, or sheds utilized for storage of equipment.

~~171.~~152. **“Recreation, Public”** means including all uses such as tennis courts, ball fields, picnic areas, and the like that are commonly provided for the public at parks, playgrounds, community centers, and other sites owned and operated by a unit of government for the purpose of providing recreation.

~~172.~~153. **“Recurrence Interval”** means the average interval of time, based on a statistical analysis of actual or representative stream flow records, which can be expected to elapse between floods equal to or greater than a specified stage or discharge. The recurrence interval is generally expressed in years. See also flood frequency.

~~173. “Regional Flood” means a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval.~~

~~174. “Registered Land Survey” means a survey map of registered land designed to simplify a complicated metes and bounds description, designating the same into a tract or tracts of a Registered Land Survey Number. See Minnesota Statutes 508.47.~~

- ~~175.~~ **“Regulatory Flood Protection Elevation”** means an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.
- ~~176.~~154. **“Residence”** for purposes of the application of the feedlot ordinance means any dwelling which is currently occupied or has been occupied for a period of ninety (90) days within one (1) year of the permit application.
- ~~177.~~155. **“Residential Planned Unit Development”** means a use where the nature of residency is nontransient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential planned unit developments.
- ~~178.~~156. **“Residential Property”** means property which is either zoned for residential use or developed with single family or multiple family residential use including assisted living facilities.
- ~~179.~~157. **“Road”** means a public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land, place or however otherwise designated. Ingress and egress easements shall not be considered roads.
- ~~180.~~158. **“Road, Private”** means an unplatted access to more than one lot or parcel, including leased or rental properties where public access is limited.
- ~~181.~~159. **“Rural Areas”** means all areas not included under urban areas, such as agricultural, forest, and undeveloped areas.
- ~~182.~~160. **“Salvage Yard”** means an open area where used or secondhand materials are bought, sold, exchanged, stored, baled, packed, disassembled, recycled or handled, including but not limited to: motor vehicles, scrap iron and other metals, paper, rags, rubber, tires, and bottles. This definition does not include solid waste or demolition landfills.
- ~~183.~~161. **“Saturated Soil”** (or seasonal high water table) means the highest elevation in the soil where all voids are filled with water, as evidenced by presence of soil mottling or other information.
- ~~184.~~162. **“Screening”** means opaque fencing or dense landscaping using evergreen trees or shrubs.
- ~~185.~~163. **“Semipublic Use”** means the use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.
- ~~186.~~164. **“Sensitive Resource Management”** means the preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.
- ~~187.~~165. **“Septage”** means solids and liquids removed during periodic maintenance of an ISTS, or solids and liquids which are removed from toilet waste treatment devices or a holding tank.
- ~~188.~~166. **“Setback”** means the minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.
- ~~189.~~167. **“Sewage”** means any water-carried domestic waste, exclusive of footings and roof drainage, from any industrial, agricultural, or commercial establishment, or any dwelling or any other structure. Domestic waste includes liquid waste produced by toilets, bathing, laundry, culinary operations, and the floor drains associated with these sources, and specifically excludes animal waste and commercial or industrial wastewater.

~~190.~~168. **"Sewer system"** means pipelines or conduits, pumping stations, and force main, and all other constructions, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

~~191.~~169. **"Sexual Encounter Establishment"** means an establishment other than a hotel, motel, or similar establishment offering public accommodations, which, for any form of consideration, provides a place where two or more persons may congregate, associate, consort in connection with specified sexual activities or the exposure of specified anatomical areas. This definition does not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in sexual therapy.

~~192.~~ **"Shore Impact Zone"** means land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback.

~~193.~~ **"Shoreland"** means land located within the following distances from public water: 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and 300 feet from a river or stream, or the landward extent of a flood plain designated by ordinance on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the commissioner.

~~194.~~170. **"Shoreland Setback"** means the minimum horizontal distance between a structure and the normal high water mark.

~~195.~~171. **"Sign"** means a name, identification, description, display, illustration or device which is affixed to or represented directly or indirectly upon a building, structure or land in view of the general public and which directs attention to a product, place, activity, person, institution, or business.

~~196.~~172. **"Sign, Advertising or Billboard"** means a sign which directs attention to a business, commodity, service, activity or entertainment which is not sold or offered upon the premises where the sign is located or which is only an incidental item or activity offered at that premises where the sign is located.

~~197.~~173. **"Sign, Business"** means a sign which directs attention to a business or profession or to a commodity, service or entertainment sold or offered upon the premises where such a sign is located.

~~198.~~174. **"Sign, Flashing"** means any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use.

~~199.~~175. **"Sign, Illuminated"** means any sign which has characters, letters, figures, designs or outlines illuminated by electric lights or luminous tubes as a part of the sign.

~~200.~~176. **"Sign, Name Plate"** means any sign which states the name or address or both of the business or occupant of the lot where the sign is placed.

~~201.~~177. **"Sign, Pylon"** means a freestanding sign erected upon a single pylon or post, which is in excess of ten (10) feet in height with the sign mounted on the top thereof.

~~202.~~178. **"Sign, Rotating"** means a sign which revolves or rotates on its axis by mechanical means.

~~203.~~179. **"Sign, Surface Area Of"** means the entire area within a single, continuous perimeter enclosing the extreme limits of the actual sign surface. It does not include any structural elements outside the limits of such sign and not forming an integral part of the display. Only one side of a double face or V-type sign structure shall be used in computing total surface area.

~~204.~~180. **"Significant Historic Site"** means any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under

the provisions of Minnesota Statutes, section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

~~205.~~181. **“Slope”** means an incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude.slope = 3:1 = 3 ft. horizontal to 1 ft. vertical

~~206.~~182. **“Solid waste”** means garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludges, in solid, semisolid, liquid, or contained gaseous form, resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include hazardous waste; animal waste used as fertilizer; earthen fill, boulders, rock; sewage sludge; solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents or discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended, dissolved materials in irrigation return flows; or source, special nuclear, or by-product material as defined by The Atomic Energy Act of 1954, as amended.

~~207.~~183. **“Specified Anatomical Areas”** means and includes any of the following: 1) less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolae; or 2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

~~208.~~184. **“Specified Sexual Activities”** means and includes any of the following: 1) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; 2) sex acts, actual or simulated, including intercourse, oral copulation, or sodomy; 3) masturbation, actual or simulated; or 4) excretory functions as part of or in connection with any of the activities set forth in subdivisions 1 through 3 of this definition.

~~209.~~185. **“Standard Project Flood”** means the flood that may be expected from the most severe combination of meteorological and hydrological conditions that is considered reasonably characteristic of the geographical area in which the drainage basin is located, excluding extremely rare combinations. Such floods are intended as practicable expressions of the degree of protection that should be sought in the design of flood control works, the failure of which might be disastrous.

~~210.~~186. **“Steep Slope”** means land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of these regulations. Where specific information is not available, steep slopes are lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, that are not bluffs.

~~211.~~187. **“Story”** means that portion of a building included between the surface of any floor and the surface of the floor next above. A basement shall be counted as a story.

~~212.~~188. **“Street”** means a public right-of-way which affords primary means of access to abutting property, and shall also include avenue, highway, road, or way.

~~213.~~189. **“Structure”** means any building or appurtenance, including decks, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles, smoke stacks and other supporting facilities. The term “structure” for purposes of the Airport Zoning restrictions includes overhead transmission lines.

- ~~214.~~190. **“Structural Alteration”** means any change, other than incidental repairs, which would prolong the life of the supporting members of a building, such as bearing walls, columns, beams, girders or foundations.
- ~~215.~~191. **“Structural Flood Management Measures”** means physical actions taken to modify the behavior and extent of floods and flooding, including the construction of dams, dikes, levees, flood bypass channels, floodwater storage and retardation structures, excluding deepening or straightening of existing stream channels.
- ~~216.~~192. **“Subdivision”** means land that is divided for the purpose of sale, rent, or lease, including planned unit development.
- ~~217.~~193. **“Surface Water-Oriented Commercial Use”** means the use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts, and restaurants with transient docking facilities are examples of such use.
- ~~218.~~ **“Toe of the Bluff”** means the lower point of a 50-foot segment with an average slope exceeding eighteen (18) percent.
- ~~219.~~ **“Toilet Waste Treatment Devices”** means privies and other devices including incinerating, composting, biological, chemical, recirculating, or holding toilets.
- ~~220.~~ **“Top of the Bluff”** means the higher point of a 50-foot segment with an average slope exceeding eighteen (18) percent.
- ~~221.~~194. **“Tower”** means any ground or roof mounted pole, spire, structure, or combination thereof exceeding fifteen (15) feet in height, which is intended primarily for the purpose of mounting an antenna, meteorological device or similar apparatus above grade. Tower includes supporting lines, cables, wires, braces and masts which are attached to or part of a Tower.
- ~~222.~~195. **“Township”** means any township.
- ~~223.~~196. **“Transfer of Property”** means the Act of a party by which a title to property is conveying from one person to another. The sale and every other method, direct or indirect, of disposing or parting with property, or with an interest therein, or with the possession thereof, absolutely or conditionally, voluntarily or involuntarily, by or with judicial proceedings, as a conveyance, sale, mortgage, gift, or otherwise.
- ~~224.~~197. **“Traverse ways”** for the purpose of determining height limits as set forth in this ordinance shall be increased in height by 17 feet for interstate highways; 15 feet for all other public roadways; 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for private roads; 23 feet for railroads; and for waterways and all other traverse ways not previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it.
- ~~225.~~198. **“Urban Areas”** means the area within the present corporate limits plus the adjoining areas that are or could be under the statutory extraterritorial zoning jurisdiction of any city or village.
- ~~226.~~199. **“Use”** means the purpose or activity for which the land or building thereon is designated, arranged or intended, or for which it is occupied, utilized or maintained.
- ~~227.~~200. **“Variance”** means any modification or variation of official controls where it is determined that, by reason of exceptional circumstances, the strict enforcement of the official controls would cause unnecessary hardship.
- ~~228.~~201. **“Vehicle”** means car, truck, motorcycle, recreation vehicle or similar equipment which is permitted by license to operate on public roads.

~~229.~~202. **“Waiver”** means the intentional or voluntary written relinquishment of a landowner’s right under this Ordinance, which Waiver would negate the necessity of a Variance hearing for any feedlot proposing to be built within two thousand (2,000) feet from a neighboring residence under this Ordinance. Such properly signed and notarized Waiver would have the same effect as a decision of the Board of Adjustment.

~~230.~~203. **“Waterbasin”** has the meaning given it by Minnesota Statutes Section 1036.005, Subdivision 16.

~~231.~~ **“Watercourse”** means a channel in which a flow of water occurs either continuously or intermittently in a definite direction. The term applies to either natural or artificially constructed channels.

~~232.~~ **“Water-Oriented Accessory Structure or Facility”** means a small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.

~~233.~~204. **“Water surfaces”** for the purpose of this Ordinance shall have the same meaning as land for the establishment of protected zones.

~~234.~~205. **“Waterway”** means a natural or constructed channel that is shaped or graded and is established in sustainable vegetation for the stable conveyance of run-off.

~~235.~~206. **“Wetland”** means a surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 edition), which is hereby incorporated by reference, is available through the Minitex interlibrary loan system, and is not subject to frequent change, and refers to land which is annually subject to periodic or continual inundation by water and commonly referred to as a bog, swamp, marsh or slough.

~~236.~~207. **“Wildlife Management Area”** means a lot or lots where the main land use is for promotion of wildlife through raising of feed or provision of environmental conditions.

~~237.~~208. **“Yard”** means an open space on a lot which is unoccupied and unobstructed from its lowest elevation upward, except as otherwise permitted.

~~238.~~209. **“Yard, Front”** means that portion of the yard located between the front lot line, the side lot lines, and the front building line.

~~239.~~210. **“Yard, Rear”** means that portion of the yard located between the rear building line, side lot lines, and the rear lot line.

~~240.~~211. **“Yard, Side”** means that portion of the yard located between the front and rear yards and between the side building lines and side lot lines.

~~241.~~212. **“Zoning District”** means an area or areas within the limits of the County for which the regulations and requirements governing use are uniform.

SECTION 6 NON-CONFORMING USES AND STRUCTURES

6.00 NON-CONFORMING USES AND STRUCTURES

6.01 Non-conforming Structures or Uses.

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

1. No such use shall be expanded, changed, altered or enlarged except by variance in conformity with the provisions of this Ordinance, nor shall such expansion, change, alteration or enlargement increase the nonconformity.
 - a. Increases in roof pitch up to no more than 6/12 shall not be considered an expansion, provided that no additional living space is created by the increase in roof pitch.
2. If a non-conforming use is discontinued for a period of more than five (5) one (1) years, further use of the structures or property shall conform to this Ordinance.
3. If a non-conforming structure is destroyed by any cause (including floods), to an extent exceeding fifty (50) percent of its fair market value as indicated by the records of the County Assessor, the structure may not be rebuilt except in conformity with this Ordinance.
4. Normal maintenance of a dwelling or other structure containing or related to a lawful non-conforming use is permitted, including necessary repairs and incidental alterations which do not extend or intensify the non-conforming use.
5. In the case of a non-conforming use or structure within a Floodplain District, additional conditions will apply as set out in the Floodplain Ordinance (Section 21 of this Ordinance).
6. In the case of a non-conforming use or structure within a Shoreland District, additional conditions will apply as set out in the Shoreland Ordinance (Section 22 of this Ordinance).
7. In the case of a non-conforming use or building relating to a feedlot additional conditions will apply as set out in the Feedlot Ordinance (Section 23 of this Ordinance).

SECTION 7 ADMINISTRATION

7.00 ADMINISTRATION

7.01 Zoning Administrator.

The County Board shall appoint a Zoning Administrator who shall administer and enforce the provisions of this Ordinance (with the exception of those duties delegated to the Environmental Officer by the Feedlot Ordinance). The County Board may authorize the Zoning Administrator to appoint such assistants as are necessary and to designate their power and duties with the limits of this Ordinance.

7.02 Zoning Administrator Powers and Duties.

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

1. To receive and review applications for permits and issue permits if such permit request is in full conformance with the provisions of this Ordinance.
2. To receive and review application requests for action by the Board of Adjustment and/or Planning Commission and provide such information, data and testimony as may be necessary for action to be taken.
3. To make inspections to discover violations and check for compliance with this Ordinance. If violations of this Ordinance are discovered the Administrator must notify the violators and take such other steps as are necessary to correct the violation.
4. To maintain records of all actions taken pursuant to the provisions of this Ordinance.
5. To assist the public in complying with and understanding their responsibilities and rights under this Ordinance.
6. To identify and locate jurisdiction and zoning district boundaries and public waters by on site-investigation, interpretation of official maps and other appropriate methods.

7.03 Environmental Officer.

The County Board shall appoint an Environmental Officer, who shall administer and enforce the provisions of Section 23 of this Ordinance (Feedlots). The County Board may authorize the Environmental Officer to appoint such Assistant Environmental Officer(s) as are necessary and to designate their power and duties within the limits of Section 23 of this Ordinance.

7.04 Environmental Officer Powers and Duties.

The Environmental Officer shall have the following powers and duties and may delegate them to the Assistant Environmental Officer(s).

1. To receive and review applications for permits and issue permits only if such permit request is in full conformance with the provisions of Section 23 of this Ordinance.
2. To receive and review application requests for action by the Board of Adjustment and/or the County Planning Commission and provide such information, data and testimony as may be necessary for action to be taken.
3. To make inspections to discover violations and check for compliance with Section 23 of this Ordinance. If violations of Section 23 of this Ordinance are discovered, the Administrator shall notify the violator(s) and take such other steps as are necessary to correct the violation.
4. To maintain records of all actions taken pursuant to the provisions of Section 23 of this Ordinance.

5. To assist the public in complying with and understanding their responsibilities and rights under Section 23 of this Ordinance.
6. To identify and locate jurisdiction and zoning district boundaries and public waters by on-site investigation, interpretation of official maps and other appropriate methods.

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SECTION 8 ESSENTIAL SERVICES CONDITIONAL USE PERMIT

8.00 ESSENTIAL SERVICES CONDITIONAL USE PERMIT

8.01 Purpose and Intent.

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

8.02 Title.

This ordinance shall be known and cited and referred to as the Traverse County Essential Services Ordinance.

8.03 Validity.

Should any section or provision of this Ordinance be declared invalid, that decision will not affect the validity of this Ordinance as a whole or any other part of the Ordinance, other than that part declared to be invalid.

8.04 Jurisdiction and Scope.

The jurisdiction of this Ordinance shall apply to all areas of Traverse County outside the incorporated limits of municipalities. From and after the effective date of this Ordinance, the use of all land in the county shall be in conformity with the provisions of this Ordinance.

8.05 Essential Service Conditional Use Permits.

Essential Service Conditional Use Permits may be issued for and only the uses or purposes for which such permits are required by the provisions of this Ordinance.

An application for an Essential Service Conditional Use Permit shall be filed with the Zoning Administrator in a form prescribed by the Board of the County Commissioners. The application shall be accompanied by such plans and evaluations and site plans as prescribed by the County Planning Commission. The notification for public hearing shall conform to Minnesota Statute Section 394.26.

8.06 Findings.

In passing upon an Essential Service Conditional Use Permit, the Traverse County Board shall consider all relevant facts specified in other sections of this ordinance, other county ordinances, and state and federal law, and:

1. Make conditions reasonably necessary to protect and restore cultivated agricultural land and to mitigate the impact of the proposed use on the productive use of land.
2. Make conditions reasonably necessary for the protection and restoration of drainage and drain patterns, soil compaction, and for the removal of rocks and debris after construction.
3. Make conditions reasonably necessary for roadway crossings, and the protection and restoration of roadway services, -road rights-of- way and all other county and other government property.
4. Find that all necessary state, federal and other governmental permits have been granted or will be granted for the applicant to commence construction.
5. Require that the applicant reimburse the county for all extraordinary costs and expenses paid or to be paid in connection with the application, including all costs of providing public notice of the application and public hearing on the application, all legal, engineering and

other professional costs, and all costs paid or incurred in assuring that the terms of the Conditional Use Permit are met by the applicant.

6. Require that the applicant post a bond, cash or other security as determined by the County Board, to ensure that all terms and conditions of the Conditional Use Permit are met.
7. The Permit shall also be conditioned on any other conditions deemed necessary by the County Board to carry out the terms of this ordinance.
8. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity.
9. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominate in the area.
10. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.
11. That adequate measures have been or will be taken to provide sufficient off street parking and loading space to serve the proposed use.
12. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

8.07 Report to County Board.

For each application for an Essential Service Conditional Use Permit, the County Planning Commission shall hold a public hearing and report to the Board of County Commissioners their findings and recommendations, including the stipulation of additional conditions and guaranties that such conditions will be complied with when they are deemed necessary for the protection of the public interest. Upon receipt of the report of the Planning Commission, the Board of Commissioners ~~shall hold a public hearing and~~ shall make a decision upon the proposal to grant or deny a Conditional Use Permit.

8.08 Fees.

To defray administrative costs of processing requests for Essential Service Conditional Use Permits, a fee must be paid by the applicant. The fee shall be established by the County Board of Commissioners. The County Board hereby establishes a fee of \$500.00 per mile for each mile crossed by the Essential Service within the county, except that for pipelines with a diameter in excess of 30 inches the fee shall be \$750.00 per mile. For all other Essential Service Conditional Use applications, a fee of \$500 shall be charged.

8.09 Exemptions.

Essential services regulated under this section shall be exempt from setback, height and other requirements of this Ordinance, except as otherwise stipulated in the approval of an Essential Service Conditional use Permit.

Gas, electric, and telephone lines installed for local service only shall be exempt from the conditional use permit requirements of this Section 8. Consultation with the County Engineer should, however, be made when locating lines within County Highway right-of- way.

SECTION 9 APPEALS AND THE BOARD OF ADJUSTMENT AND APPEALS

9.00 APPEALS AND THE BOARD OF ADJUSTMENT AND APPEALS

9.01 Membership.

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

1. No ~~elected more than one voting member of the Board of Adjustment on any given application shall be an officer or employee of the county officer of the County nor any employee of the County Board shall serve as a member of the Board of Adjustment/Planning Commission.~~
2. At least two (2) members of the Board of Adjustment/~~Planning Commission~~ shall be from the unincorporated area of the County.
3. Members shall be appointed to three (3) year terms except that when the Board of Adjustment/~~Planning Commission~~ is first established. Terms shall be staggered so that no more than two (2) terms end at the same time.
4. Whenever a Board of Adjustment/~~Planning Commission~~ member leaves in the middle of a term, for any reason, a replacement member shall be appointed by the County Board to complete the remaining portion of said term.
5. No voting member of the Board of Adjustment/~~Planning Commission~~ shall have received, during the two (2) years prior to appointment, any substantial portion of income from business operations involving the development of land within the County for urban and urban related purposes.

9.02 Decisions.

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

9.03 Duties.

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

1. The Board of Adjustment shall hear and act on requests for Variances from the provisions of this Ordinance.
2. The Board of Adjustment shall hear and decide appeals from an order, requirement, decision or determination made by the Administrator.
3. The County Board may assign additional duties and responsibilities to the Board of Adjustment including but not restricted to:
 - A. The establishment of rules for the conduct of public hearings.
 - B. The authority to elect a Chairperson and Vice Chairperson from among its members.
4. The Board of Adjustment shall decide such other issues as are specifically defined in this Ordinance.

9.04 Conflicts of Interest.

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

9.05 Authority.

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

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SECTION 10 PLANNING COMMISSION

10.00 PLANNING COMMISSION

10.01 Membership.

There is hereby created a Planning Commission consisting of five (5) members who shall be ~~the five (5) members of the Board of Adjustment as~~ appointed by the County Board.

1. No more than one voting member of the Planning Commission on any given application shall be an officer or employee of the county.
2. At least two (2) members of the Planning Commission shall be from the unincorporated area of the County.
3. Members shall be appointed to three (3) year terms except that when the Planning Commission is first established. Terms shall be staggered so that no more than two (2) terms end at the same time.
4. Whenever a Planning Commission member leaves in the middle of a term, for any reason, a replacement member shall be appointed by the County Board to complete the remaining portion of said term.
5. No voting member of the Planning Commission shall have received, during the two (2) years prior to appointment, any substantial portion of income from business operations involving the development of land within the County for urban and urban related purposes.

10.02 Decisions.

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

10.03 Duties.

The Planning Commission shall have the following powers and duties:

1. The Planning Commission shall hold public hearings and review Conditional Use Permits applications and make recommendations to the County Board. The County Board will ~~hold the public hearing and~~ make the final decision on all Conditional Use Permit applications.
2. The Planning Commission shall hold public hearings and review and make a recommendation to the County Board on all rezoning applications. ~~Since rezonings are completed by ordinance, the~~ The County Board will ~~hold the public hearing and~~ make all final decisions with regard to rezonings.
3. The County Board may assign additional duties and responsibilities to the Planning Commission including but not restricted to:
 - A. The Authority to elect a Chairperson and Secretary/Treasurer from among its members.
 - B. The Planning Commission shall decide such other issues as are specifically defined in this Ordinance.

SECTION 11 PERMITS AND FEES

11.00 PERMITS AND FEES

11.01 Zoning Permits.

For purposes of enforcing this ordinance, a zoning permit shall be required of all persons prior to:

1. All construction, land alteration or other activities in floodplain or shoreland areas requiring a permit under Sections 21 or 22 of this Ordinance unless exempted in Section 11.02 below.;
2. In non-shoreland/floodplain areas, erecting, structurally altering, expanding in any direction or moving any building or structure to a different location on the same property or from another property, except that:
 - a. Accessory buildings or structures not more than 280 square feet in ground coverage or twenty (20) feet in height shall not require a permit but shall meet all applicable setback requirements in this ordinance.
3. The addition of a bedroom to a residence, either by creating additional space or by the conversion of existing space.
- ~~4.4.~~ Erection of signs, except ~~political and real estate~~ signs ~~that conform to the standards of~~ exempted by Section 19.05.
- ~~2.5.~~ Installation, alteration, repair or extension of any sewage disposal system or solid waste disposal operation.
- ~~3.~~ Shoreland Alterations, including removal of trees and shoreland vegetation.
- ~~4.6.~~ Land Alterations, including mineral extraction and landfills, ~~which exceed five hundred (500) cubic yards of altered land unless exempted in Section 11.02 below.~~
- ~~5.7.~~ Erection, alteration or relocation of feedlots, holding ponds, and slurry systems.
- ~~6.8.~~ Location of all essential services.
- ~~7.9.~~ Fences (not including open fences), retaining walls, berms and landscaping ~~with a height exceeding seven (7) higher than two (2) feet.~~
- ~~8.10.~~ The construction or modification of a dam or dike ~~unless exempted in Section 11.02 below.~~
- ~~9.~~ Within the flood plain, prior to the erection, addition, or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the change or extension of a nonconforming use; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment.
- ~~10.11.~~ The addition of a bedroom to a residence, either by creating additional space or by the conversion of existing space.

11.02 Exemptions

1. Regular Maintenance: Alterations to structures for the purpose of maintaining or replacing a foundation or otherwise maintaining an existing building or structure shall not require a permit provided that such maintenance does not result in an expansion of the outside dimensions of a structure. Altering a roof to create up to a 6/12 roof pitch shall not constitute an expansion. Altering a foundation in a manner which increases the height no more than two (2) feet shall not be considered an expansion, provided the resulting height does not exceed the maximum allowable height for structures required by this ordinance.
2. Certain Land Alterations: Land alterations, erosion control structures, dams and dikes conducted by, or under the authority of, Traverse County, the Traverse County Soil and Water

Conservation District, a watershed district or other local, state or federal agency shall be exempt from Traverse County permitting requirements provided they are conducted in accordance with authorities granted by state or federal law.

11.02-03 Zoning Permit Procedures

1. **Application.** Persons requesting a zoning permit shall fill out a zoning permit application available from the Zoning Administrator. Application requirements will be established by the Zoning Administrator and may include, but are not limited to the following information: a site plan showing the nature, location, dimensions of the lot, existing and proposed structures, locations to be filled or where materials will be stored, and the location of the foregoing in relation to the shoreline, if applicable.
2. **Requirements.** Zoning permits will be issued only if the proposal is in compliance with applicable portions of this ordinance including, but not limited to:
 - a. Zoning district permitted and conditionally permitted land uses.
 - b. Zoning district dimensional standards and setbacks.
 - c. Performance standards provided for certain activities as set out in Section 19 of this Ordinance.
 - d. Other requirements established by the Zoning Administrator.
3. **Fee.** A fee, established by resolution of the County Board of Commissioners, shall be submitted along with the permit application. An additional fee may be charged, for atypical projects, whether based on size or type of use. In such case, the applicant shall reimburse the County for administrative time and professional services and costs incurred by the County.

11.043 Other Regulations

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

SECTION 12 ZONING AMENDMENTS

12.00 ZONING AMENDMENTS

12.01 Criteria

1. **Changes in Policy and Goals.** The County Board may adopt amendments to the Zoning Ordinance and Zoning Map. Such amendments shall only be used as a means to reflect changes in the goals and policies of the community as reflected in the Comprehensive Plan or changes in conditions in the County.
2. **Floodplain.** The floodplain designation on the Official Zoning Map shall not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regional flood and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources, if the Commissioner determines that, through other measures, lands are adequately protected for the intended use.

12.02 Procedure

1. **Initiation of Process/Application.** An amendment to the Ordinance or Zoning Map may be initiated by the County Board, the Planning Commission or by a petition of affected property owners. Individuals wishing to initiate an amendment to the Ordinance shall fill out a zoning amendment application form and submit it to the Zoning Administrator.
2. **Referral to Planning Commission.** An amendment not initiated by the Planning Commission shall be referred to the Planning Commission for study and report and may not be acted upon by the County Board until the County Board has received, prior to the recommendation of the Planning Commission. The Zoning Administrator may review the proposed amendment and provide the Planning Commission with a report and recommendation.
- ~~3.1. **Planning Commission Recommendation to the County Board.** After reviewing the proposed amendment, the Planning Commission will make a recommendation to the County Board as to whether the amendment should be made.~~
- ~~4.1. **County Board Agenda.** If practical, the report of the Planning Commission shall be placed on the agenda of the County Board, at its next regular meeting, following referral from the Planning Commission.~~
- 5.3. **Public Hearing & Notice.** The County BoardPlanning Commission will hold a public hearing regarding any proposed amendment to the Zoning Ordinance. In addition to the requirements of Minnesota Statutes Section 375.51, subdivision 2, written notice of public hearings on all amendments to the Zoning Ordinance must be sent to the governing bodies of all towns and all municipalities located within the County. Such public hearings may be continued from time to time and additional hearings may be held. Written notice of public hearings regarding amendments to the zoning code which affect specific properties must be sent to:
 - a. The Applicant, if any;
 - b. Adjacent property owners as follows:
 - i. In unincorporated areas of the County, property owners of record within one-half (½) mile of the affected property.
 - ii. In incorporated areas of the County, property owners of record within five hundred (500) feet of the affected property.

- c. The affected board of town supervisors and the municipal council of any municipality within two miles of the property in question;
- d. If the application affects land lying in a Shoreland or Flood Plain District to the Commissioner of Natural Resources.

6.4. Appearance by Applicant. The applicant, if any, or the applicant's representatives may appear before the County Board in order to answer questions concerning the zoning amendment application.

5. Planning Commission Recommendation to the County Board. After reviewing the proposed amendment, the Planning Commission will make a recommendation to the County Board as to whether the amendment should be made.

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

7. ~~4/5ths~~Three-Fifths Vote Required. A ~~4/5ths~~three-fifths (3/5) vote of the County Board is required for any amendment to this Ordinance, except where otherwise required by state law.

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

9. Floodplain & Shoreland. In addition to the procedures provided for above, all amendments to the Floodplain and Shoreland Districts including amendments to portions of the Official Zoning Map must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the floodplain portions of the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given 10-days written notice of all hearings to consider an amendment to this Ordinance and said notice shall include a draft of the ordinance amendment or technical study under consideration.

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

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

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

SECTION 13 VARIANCES AND APPEALS

13.00 VARIANCES AND APPEALS

13.01 Appeals and Administrative Decisions

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

1. **Application.** The person making the appeal shall apply for a hearing before the Board of Adjustment on forms provided by the Administrator.
2. **Notice and Hearing.** The Board of Adjustment shall after receipt of the completed application, schedule a hearing on the appeal.
 - a. At least ten (10) days prior to the hearing a notice shall be published in the official county newspaper.
 - b. The Board of Adjustment shall make their decision within ten (10) days of the public hearing and shall base their decision on the provisions of this Ordinance.

13.02 Variances.

A variance to the provisions of this Ordinance may be issued to provide relief to landowners where this Ordinance imposes undue hardship or practical difficulties in the use of the applicant's land.

13.03 Criteria for Granting Variances

- ~~1. Variances may only be granted by the Board of Adjustment in accordance with the requirements and criteria of Minnesota Statutes 394.27, or successor statute, when the following findings have been made by the Board:~~
 - ~~A. There are practical difficulties or particular hardships in the way of carrying out the strict letter of any of this Ordinance. This involves a determination that:~~
 - ~~(1) Without a variance the property in question cannot be put to a reasonable use; and~~
 - ~~(2) The hardship is not based solely on economic considerations (except where the owner has no reasonable use for its property under this Ordinance.)~~
 - ~~B. The terms of the proposed variance are consistent with the Comprehensive Plan.~~
 - ~~C. The proposed variance will be in harmony with the general purposes and intent of the this Ordinance.~~
 - ~~D. The plight of the landowner is due to circumstances unique to the property not created by the landowner.~~
 - ~~E. The variance, if granted, will not alter the essential character of the locality.~~
- ~~2. No land "use" different from that permitted in the zoning district (use variance) may be issued.~~

In, addition Nno variance shall have the effect of allowing a Floodplain District a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area or permit standards lower than those required by state law.

13.04 Variance Procedures

1. **Application.** A person applying for a variance must fill out and submit to the Zoning Administrator a variance application form.
2. **Application Deadline.** Applications must be received prior to any deadline which may be established by the Zoning Administrator.
3. **Notice for Floodplain Properties.** If the applicant is requesting a variance from floodplain elevation, the Zoning Administrator may notify the applicant that: 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance; and 2) Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.
4. **Submission to the Board of Adjustment.** The Zoning Administrator shall refer the application to the Board of Adjustment for review and consideration. The Zoning Administrator may prepare and submit such recommendations and reports as the Administrator believes may be helpful to the Board of Adjustment.
5. **Public Hearing & Notice.** The Board of Adjustment will schedule a public hearing on the application. Notice of the public hearing will be published in the official newspaper at least ten (10) days prior to the hearing. In addition to the published notice, the Administrator shall notify the following of the time, place, and purpose of the public hearing:
 - A. The Applicant;
 - B. The board of township supervisors of the township in which the affected property is located.
 - C. The municipal council of any municipality within two (2) miles of the affected property.
 - D. To adjacent property owners of record within five hundred (500) feet of the affected property.
 - E. If the application is for land lying in a Flood Plain District or a Shoreland District, to the Commissioner of Natural Resources.
6. **Appearance by Applicant.** The applicant or the applicant's representatives may appear before the Board of Adjustment in order to answer questions concerning the variance application.
7. **Decision of Board of Adjustment.** After taking testimony from the public the Board of Adjustment will make a decision as to whether or not the variance should be granted.
8. **Conditions and Changes.** If the Board of Adjustment grants the variance, it may impose conditions it considers necessary to protect the public health, safety and welfare and such conditions may include a time limit for the use to exist or operate. The Board of Adjustment may also revise the variance to ensure that it is the minimum variance required.
9. **Notice of Decision.** The applicant will be provided with written notice of the Board of Adjustment's decision and the reasons for that decision. A copy of all decisions granting variances in Floodplain Zoning Districts shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.
10. **Resubmission.** No application which is substantially the same as an application of a denied variance shall be resubmitted for a period of one (1) year from the date of denial. The County Board may permit a new application, if in the opinion of the County Board, new evidence or a change of circumstances warrant it.

13.05 Administrative Variances

Administrative variances may be issued by the Zoning Administrator without need for a public hearing.

Modifications or expansions of existing nonconforming structures may be allowed by administrative variance if the entire modification or addition by itself meets all required setbacks and other requirements.

Modifications to existing structures or upgraded septic systems that are located or will be located within the setback area of a lot are allowed without a public hearing if they do not further encroach into the existing setback provided that in the case of:

1. An encroachment on a public road, the road authority voices no objections on the basis of safety or future road projects or right-of-way widening on that road.
2. An encroachment on any other lot line setback, written consent from the abutting property owners affected is obtained.
3. The consent as outlined in (1) and (2) above shall be made upon forms prescribed by the Zoning Administrator and shall be recorded in the Office of the County Recorder, with any recording fees being paid by the applicant.

13.06 Recording of Variances

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

13.07 Appeal from the Board of Adjustment

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

13.08 Violations of Variance Conditions

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

13.09 Fees

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

SECTION 14 CONDITIONAL USE PERMITS

14.00 CONDITIONAL USE PERMITS

14.01 Procedure

1. **Application.** A person applying for a Conditional Use Permit must fill out and submit to the Zoning Administrator a Conditional Use Permit application form.
2. **Application Deadline.** Applications must be received prior to any deadline which may be established by the Zoning Administrator.
3. **Referral to Planning Commission.** After the application has been reviewed by the Zoning Administrator, the Zoning Administrator shall refer the application to the Planning Commission together with the Zoning Administrator's review and recommendations regarding the application.
- ~~4. **Recommendation to the County Board.** After taking public testimony and reviewing the Conditional Use Permit application, the Planning Commission will make a recommendation to the County Board as to whether the County Board should approve or deny the application, and, if approval is recommended, the Planning Commission may suggest conditions to be attached to the Conditional Use Permit.~~
- ~~5. **Appearance by Applicant.** The applicant or the applicant's representatives may appear before the Planning Commission in order to answer questions concerning the Conditional Use Permit application.~~
- ~~6. **County Board.** If practical, the report of the Planning Commission shall be placed on the agenda of the County Board at its next regular meeting following referral from the Planning Commission.~~
- 7.4. **Public Hearing & Notice.** The Planning Commission shall schedule a public hearing on the application. Notice of the public hearing shall be published in the official newspaper as designated by the County Board at least ten (10) days prior to the hearing. In addition to the published notice, the Administrator shall notify the following of the time, place, and purpose of the public hearing:
 - A. The Applicant.
 - B. The board of township supervisors of the township in which the affected property is located.
 - C. The municipal council of any municipality within two (2) miles of the affected property.
 - D. Adjacent property owners as follows:
 - (1) In unincorporated areas of the County, property owners of record within one-quarter ($\frac{1}{4}$) mile of the affected property, or the ten (10) properties nearest to the affected property, whichever is the greatest number.
 - (2) In incorporated areas of the County, property owners of record within five hundred (500) feet of the property in question.
 - E. If the application is for land lying in a Flood Plain District, to the Commissioner of Natural Resources.
5. **Appearance by Applicant.** The applicant or the applicant's representatives may appear before the Planning Commission in order to answer questions concerning the Conditional Use Permit application.

6. **Recommendation to the County Board.** After taking public testimony and reviewing the Conditional Use Permit application, the Planning Commission will make a recommendation to the County Board as to whether the County Board should approve or deny the application, and, if approval is recommended, the Planning Commission may suggest conditions to be attached to the Conditional Use Permit.
7. **County Board.** If practical, the report of the Planning Commission shall be placed on the agenda of the County Board at its next regular meeting following referral from the Planning Commission.
8. **Conditions.** If the County Board grants the Conditional Use Permit, it may impose conditions it considers necessary to protect the public health, safety and welfare and such conditions may include a time limit for the use to exist or operate.
9. **Amended Uses.** An amended Conditional Use Permit application shall be administered in the same manner as a Conditional Use Permit.
10. **Resubmission.** No application for a denied Conditional Use Permit shall be resubmitted for a period of one (1) year from the date of denial. The County Board may permit a new application, if in the opinion of the County Board, new evidence or a change or circumstances warrant it.
11. **Time Limitation.** If a time limit or periodic review is included as a condition by which a Conditional Use Permit is granted, the Conditional Use Permit may be reviewed at a public hearing with notice of said hearing published at least ten (10) days prior to the review. It shall be the responsibility of the Zoning Administrator to schedule such public hearings and the owner of the land will not be required to pay a fee for said review.

14.02 Criteria for Granting Conditional Use Permits

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

1. **The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity.**
2. **The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominate in the area.**
3. **That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.**
4. **That adequate measures have been or will be taken to provide sufficient off street parking and loading space to serve the proposed use.**
5. **That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.**
- ~~1-6.~~ ~~**Not a Burden.**~~ The use will not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.
- ~~2-7.~~ ~~**Compatible with Adjacent Uses.**~~ The use will be sufficiently compatible or separated by distance or screening from adjacent agricultural or residential zoned or used land so that

existing homes and businesses will not be depreciated in value and there will be no deterrence to development of vacant land in a similar context of the uses in the vicinity.

- ~~3. **No Adverse Affect on Adjacent Properties.** The structure and site will not have an appearance, traffic, noise and emission levels that will have an adverse effect upon adjacent properties.~~
- ~~4. **Relates to the Needs of the County.** The use is reasonably related to the overall needs of the County and to existing land uses.~~
- ~~5.8. **Consistent with the Comprehensive Plan.** The use is consistent with the purposes of the Zoning Ordinances and the purposes of the zoning district in which the applicant intends to locate the proposed use and the use is consistent with the Comprehensive Plan.~~
- ~~6.9. **Not a Traffic Hazard.** The use will not cause a traffic hazard or congestion.~~
- ~~7. **No Adverse Affect on Existing Business.** Existing nearby businesses will not be adversely affected because of curtailment of customer trade brought about by intrusion of noise, glare or general unsightliness.~~
- ~~8. **Floodplain.** For property located in Floodplain districts, the criteria set out in the Floodplain Ordinance will be met.~~
- ~~9. **Shoreland.** For property located in Shoreland districts, the criteria set out in the Shoreland Ordinance will be met.~~
- ~~10. **Feedlots.** Feedlots will meet the requirements of the Feedlot Ordinance.~~

14.03 Additional Conditions

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

1. Increasing the required lot size or yard dimensions.
2. Limiting the height, size, number or location of buildings.
3. Controlling the location and number of vehicle access points.
4. Increasing the street width.
5. Increasing the number of required off-street parking spaces.
6. Limiting the number, size, location or lighting of signs.
7. Requiring diking, berming, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
8. Designating sites for open space.
9. Designating operating hours and noise levels.
10. Any other condition the Planning Commission or County Board deems necessary to protect the public interest.
11. Additional Conditions may be imposed on property located in a floodplain in accord with the Floodplain Ordinance.
12. Additional Conditions may be imposed on property covered by the Shoreland Ordinance.
13. Additional Conditions may be imposed on feedlots in accord with the Feedlot Ordinance.

14.04 Changes in Conditional Uses

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

14.05 Recording Conditional Use Permits

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

14.06 Revocation

In the event that the applicant violates any of the conditions set forth in this permit, the County Board shall have the authority to revoke a Conditional Use Permit. Such a revocation shall require a public hearing before the Planning Commission, who shall make a recommendation to the County Board. Such public hearing and recommendation process shall follow the same procedures as for a new Conditional Use Permit, except that no fee shall be imposed.

14.07 Fees

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

SECTION 15 ZONING DISTRICTS AND DISTRICT PROVISION

15.00 ZONING DISTRICTS AND DISTRICT PROVISION

15.01 Zoning Districts

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

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

Symbol Name:

A- Agricultural Preservation

U-E - Urban Expansion

C-I - Commercial - Industrial

FP- Floodplain

S- Shorelands

15.02 Zoning Map

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

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

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

SECTION 16 AGRICULTURAL (A) DISTRICT

16.00 Purpose

The “A” Agricultural District is for land in the County where the preservation and conservation of land for agricultural purposes is important or where appropriate non-farm uses of land cannot be determined within the existing pattern of land use or within present growth and economic needs.

16.01 Permitted Uses

1. Agricultural land uses including the location of barns, sheds, and pole buildings used for agricultural purposes, but not including those listed as conditional uses
2. Farm Dwellings
3. Single Family Dwellings (non-farm)
4. ~~Temporary dwellings~~ Recreational vehicles used as temporary dwellings at a maximum of one (1) per lot, when used for more than ten (10) consecutive days.
5. Feedlots subject to the terms of the Feedlot Ordinance
6. Nurseries
7. Seasonal produce stands
8. Public Recreation, Wildlife Management Areas, Erosion Control and Wildlife Developments
9. Home Occupations
10. Temporary construction buildings
11. Local service lines of Essential Services

16.02 Accessory Uses

1. Private Garages
2. Other accessory uses customarily incidental and subordinate to a Permitted Use as determined by the Zoning Administrator.

16.03 Conditional Uses

1. Multiple Family Dwellings & Manufactured Home Parks
2. Feedlots subject to the terms of the Feedlot Ordinance
3. Retail nursery and garden supplies and greenhouses
4. Essential Services including without limitations dams, power plants, switching yards, transmission lines of over 35KV, flowage areas, pipelines and buildings supporting essential services
5. Churches and Places of Worship
6. Cemeteries
7. Schools
8. Extractive Uses and Mining
9. Kennels
10. Cabins
11. Horse stables

12. Any of the following structures if they exceed one hundred (100) feet in height: grain elevators, silos, windmills, elevator legs, cooling towers, water towers, chimneys, smokestacks and church spires
13. Demolition landfills/Sanitary landfills
14. Government buildings
15. Bulk storage (liquid) which must comply with Minnesota Pollution Control Agency (MPCA) regulations
16. Migrant labor camps that are in accordance with Minnesota Department of Health Migrant Labor Camp rules Chapter 4630 or as amended.
17. Telecommunication Towers
18. Airports
19. Advertising/Billboard Signs
20. Hazardous substance storage which requires an MPCA permit and where the storage occurs for six (6) or more months in any one year period.
21. Livestock slaughter houses as processing plants.
22. Commercial solar farms
23. Industrial agriculture
24. Agricultural processing plants
25. Livestock auction barns
26. Recreational vehicles used as temporary dwellings (2-4 per lot), when used for more than ten (10) consecutive days.
27. Recreational vehicle campgrounds, as regulated by MN Rules, Chapter 4630, or successor regulations.
- 21,28. Adult Use Establishments with a minimum separation of three hundred fifty (350) lineal feet from the lot line of any property containing any other Adult Use Establishment and one thousand three hundred twenty (1,320) lineal feet from the lot line of any property containing a hotel, motel, nursing care home, assisted living facility, housing for the elderly, day care facility, church, school, or residence (and the location of an Adult Use Establishment shall also be limited to those areas shown on the Zoning Map)

16.04 Dimensional Standards for A. Districts

1. Height Regulations

Maximum Structure Height of thirty-five (35) feet. This height limitation shall not apply to barns, grain elevators, silos, and other customary agricultural structures, windmills, elevator legs, cooling towers, water towers, telecommunication towers, chimneys, smokestacks and church spires.

2. Front Yard Regulations

Minimum setback from public road right-of-way:

One hundred ~~fifty-thirty (150)~~thirty (130) feet from the centerline of the road ~~or one hundred (100) feet from the right of way line, whichever is a greater distance.~~ This requirement shall apply to all new buildings, structures, and tree plantings. Existing buildings, structures, and trees shall be permitted to remain in place as non-conforming structures.

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

3. Side Yard Regulations

Minimum side yard setback: 20 feet for dwellings or buildings associated with industrial or agricultural processing plants; 10 feet for agricultural and other accessory buildings.

4. Rear Yard Regulations

Minimum setback: 20 feet

5. Bluffline

Minimum setback: 30 feet

6. Lot Area Regulations

Minimum lot size: 3-1.5 acres

7. Lot Width and Depth Regulations

Minimum lot width: 100 feet at the building site.

7.8. Residential Setbacks from Feedlots

Non-feedlot associated residential structures must be setback from feedlots by one-half (½) mile unless granted a variance.

8.9. General Regulations

Additional requirements and other regulations are set forth in Section 19. Even if they do not meet the setback requirements of this Section, existing buildings, structures, and trees shall be permitted to remain in place as non- conforming under Section 6.

SECTION 17 URBAN EXPANSION DISTRICTS

17.01 Purpose

1. The “UE” Urban Expansion District provides areas adjacent to municipalities for the purpose of providing urban expansion through cooperative planning by the County, municipality and township.
2. The County, through its staff, Planning Commission, and County Board, will coordinate planning and development activities with affected cities and townships by:
 - A. Promoting cooperative planning in land use matters and issues of mutual concern.
 - B. Working with the cities and townships to promote orderly growth and annexation when warranted.
 - C. Recommending to the local units of government ordinance changes which will aid coordinated planning activities.
 - D. Exchanging plans and policies between the County and adjoining units of government to ensure general knowledge of the on-going urbanization process.
3. The “UE” Urban Expansion District is designated to accommodate urban growth, preserve agricultural land and protect environmentally sensitive areas.
 - A. The development of land for urban expansion purposes should occur as a logical extension of existing urban development.
 - B. The areas designated for urban expansion should only include land which accurately represents an area of mutual planning concern.
4. The “UE” Urban Expansion District recognizes that development is a process.
 - A. Plans, policies, and ordinances must reflect that land adjacent to cities is the area most frequently under pressure to be developed for new and different uses.

17.02 Permitted Uses

1. Agricultural land uses except those listed as conditional uses
2. Farm Dwellings
3. Single Family Dwellings (non-farm)

17.03 Conditional Uses

1. All uses classified as conditional uses in an A zone and uses classified as permitted in an A zone and not listed as permitted in a UE zone.
2. All uses classified as conditional uses in a C-I zone and all uses classified as permitted in a C-I zone.

All permitted and conditional uses in an Urban Expansion District should, unless exception circumstances exist, in addition to meeting the criteria for conditional uses as set out in Section 14 of this Ordinance, meet the following conditions:

1. **City Plans.** All proposed construction and uses should be consistent with the applicable City plans for land use, road rights-of-way and drainage, if any.
2. **Density.** All residential development not served by municipal utilities should be at density levels approved by both the City and the County, if any.

3. **Dimensions.** The minimum lot size and lot dimensions should be consistent with those jointly approved by the City and the County, if any. If not jointly approved, the dimensions required by this Section apply.
4. **Single Family Dwelling Placement.** A complete plat must be submitted for the development of Single Family Housing. Each house must be placed on one platted lot and conform to the building setbacks jointly approved by the City and the County, if any. If no setbacks have been jointly approved by the City and the County, the setbacks required by this Section apply. All single family homes should be placed on lots to allow future resubdivision of the lot to accommodate possible future municipal improvements.
5. **Site Plans.** Site plans for commercial and industrial development must meet the criteria jointly approved by the City and the County, if any. If no criteria are jointly approved for the property in question, the criteria in this Section will apply.

17.04 Accessory Uses

Accessory uses customarily incidental and subordinate to a Permitted Use as determined by the Zoning Administrator.

17.05 Dimensional Regulations

The regulations contained in this Section 17.05 relating to dimensional standards apply unless the City and County have agree to different standards or unless the property is located within a two (2) mile area boarding a city and is covered by the subdivision and zoning regulations of the City.

1. Height Regulations

Maximum height of structures: 35 feet.

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

2. Front Yard Regulations

Minimum setback from public road right-of-way:

One hundred fifty (150) feet from the centerline of the road or one hundred (100) feet from the right-of-way line, whichever is a greater distance.

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

3. Side Yard Regulations

Minimum side yard setback: 20 feet

4. Rear Yard Regulations

Minimum setback: 20 feet

5. Bluffline

Minimum setback: 30 feet

6. Lot Area Regulations ([see Section 17.03 for exceptions to the requirements below](#))

Minimum lot area for Residential Buildings: ~~3~~1.5 acres

Minimum lot area for Commercial and Industrial Buildings: ~~3~~1.5 acres

7. Lot Width and Depth Regulations ([see Section 17.03 for exceptions to the requirements below](#))

Minimum lot width: ~~250~~100 feet

8. Residential Setbacks from Feedlots

Non-feedlot associated residential structures must be setback from feedlots by one-half ($\frac{1}{2}$) mile, unless granted a variance.

9. General Regulations

Additional requirements and other regulations are set forth in Section 19. Even if they do not meet the setback requirements of this Section, existing buildings, structures, and trees shall be permitted to remain in place as non-conforming under Section 6.

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SECTION 18 COMMERCIAL - INDUSTRIAL DISTRICT (C-I)

18.01 Purpose

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

All uses in a C-I District are “conditional uses.” Except with regard to the minimum setbacks and screening established for C-I properties in this Section lot sizes, off-street parking, landscaping, screening, and setbacks may be determined as part of the Conditional Use Permit process as determined by the County Board based upon recommendations of the Planning Commission and Zoning Administrator. The minimum setbacks established by this Section 18 may be increased as part of the Conditional Use Permit process.

18.02 Conditional Uses

1. Commercial public recreation
2. Hotels and motels
3. Offices, clinics, and hospitals
4. Retail trade
5. Government buildings
6. Wholesale business
7. Indoor recreation, such as movie theaters
8. Restaurants, cafes, and supper clubs
9. Drive-in businesses
10. Clubs & lodges
11. Truck stops, automobile service stations, and convenience stores
12. Erosion control and wildlife developments
13. Temporary construction buildings
14. Salvage yards
15. Extractive Uses
16. Distillation of bone, coal, tar, petroleum, grain or wood
17. Fertilizer manufacturing, compost or storage processing of garbage
18. Livestock slaughter houses as processing plants
19. On and off sale liquor establishment
20. Freight transportation terminals
21. Living quarters of persons employed on the premises
22. Industrial and manufacturing uses
23. Warehousing

24. Essential Services including without limitations dams, power plants, switching yards, transmission lines of over 35KV, flowage areas, pipelines and buildings supporting essential services
25. Auto, truck and implement dealerships
26. Bulk storage (liquid)
27. Advertising/Billboard Signs
28. Cutting or filling in excess of fifty (50) cubic yards that is not in connection with another permitted use
29. Telecommunication Towers
30. Adult Use Establishments with a minimum separation of three hundred fifty (350) lineal feet from the lot line of any property containing any other Adult Use Establishment and one thousand three hundred twenty (1,320) lineal feet from the lot line of any property containing a hotel, motel, nursing care home, assisted living facility, housing for the elderly, day care facility, church, school, or residence (and the location of an Adult Use Establishment shall also be limited to those areas shown on the Zoning Map)
31. Hazardous substance storage which requires an MPCA permit.

18.03 Accessory Uses

Nameplate, Real Estate, Political, Construction, & Business Signs subject to the standards set out in Section 19.10 of this Ordinance.

18.04 Dimensional Standards

A. Height Regulations

- 1) Maximum Structure Height: Thirty-five (35) feet
- 2) This height limitation shall not apply to barns, grain elevators, silos, and other customary agricultural structures, windmills, elevator legs, cooling towers, water towers, telecommunication towers, chimneys, smokestacks and church spires.

B. Front Yard Regulations

- 1) Minimum setback from public road right-of-way: One hundred fifty (150) feet from the centerline of the road or one hundred (100) feet from the right-of-way line, whichever is a greater distance.
- 2) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of the lot

C. Side Yard Regulations

Minimum side yard setback: 20 feet

D. Rear Yard Regulations

Minimum setback: 20 feet

E. Bluffline

Minimum setback: 30 feet

F. Lot Area Regulations

Minimum lot size: ~~3~~1.5 acres

G. Lot Width and Depth Regulations

Minimum lot width: ~~250~~100 feet

H. Existing Structures

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

18.05 Business Adjacent to Residential Property:

Where any business (structure, parking, storage, or other commercial or industrial use) is adjacent to property zoned or developed for residential use, that business or industry shall provide screening along the boundary between its property and the residentially zoned or developed property. Screening shall also be provided where a business, parking lot, or industry is located across the street from residentially zoned or developed property, but not on that side of a business or industry considered to be the front.

18.06 Exterior Storage

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

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

18.07 Service Roads Required

The County may require that service roads be provided for new businesses along highways so that direct access to local streets by the business oriented traffic is avoided.

SECTION 19 PERFORMANCE STANDARDS

19.00 PERFORMANCE STANDARDS

19.01 Purpose

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

19.02 Exterior Storage/Landscaping Maintenance

- A. On residential (non-farm dwelling site) property all materials and equipment shall be stored within a building or fully screened so as not to be visible from adjoining properties, except for the following: laundry drying and recreational equipment, construction and landscaping materials and equipment currently being used on the premises, agricultural equipment and materials if used or intended for use on the premises, off-street parking of operable passenger automobiles and operable pick-up trucks. Boats and unoccupied trailers, less than twenty (20) feet in length, are permissible if stored in the rear yard more than ten (10) feet from the property line.
- B. In all districts, all structures and areas requiring landscaping and fences shall be maintained so as not to be unsightly or present harmful health or safety conditions.
- C. From 1 November through 31 March, no agricultural equipment or agricultural products will be stored within two hundred (200) feet of the center line of any road or highway in the county, unless the road is designated as a minimum maintenance road.

19.03 Refuse

- A. Waste/Refuse. In all districts, all waste material, with the exception of crop residue debris, refuse, or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping such land free of refuse.
- B. Unused Refrigerators. It is unlawful for any person to own, possess or control any unused refrigerator or other container, which is of sufficient size to retain any person, which is exposed and accessible to the public without removing the doors, lids, hinges or latches or providing locks to prevent access by the public.

19.04 Permitted Encroachments and Exceptions

- A. The following are exceptions to the setbacks established within the district:
 - (1) In any yard: Posts, decks or patios under one (1) foot off the ground, off-street open parking spaces, driveways, individual hookups for essential services, flues, belt course, leaders, sills, pilasters, lintels, cornices, eaves two (2) feet in width or less, gutters, awnings, berms, retaining walls, open terraces, landscaping, open canopies, steps, chimneys, flag poles, open fire escapes, sidewalks, and open fences. New trees shall be subject to the setback requirements except in the case of a tree planted as a replacement of a pre-existing tree.
 - (2) Except as provided in subparagraph 1 above, location of essential services, including, but not limited to, wells, on site septic systems, electric, gas, communication, sewage, steam or water transmission or distribution systems and structures, shall meet the appropriate front yard setbacks when adjacent to a road, and are not permitted encroachments or exceptions under this section.

- B. Fences, retaining walls, berms and dense landscaping (hedges, shrubs) over two (2) feet higher than the natural ground level may be no closer than ~~twenty (20)~~ten (10) feet to ~~highway and highway and~~ street right-of-way lines, except this provision shall not apply to barbed wire, electrical, or woven wire fences.

19.05 Sign Regulations.

- A. **Exemption.** The following signs are exempt from the requirement that they obtain a permit and are considered to be permitted signs in all Agricultural, Urban Expansion and Commercial-Industrial Districts.

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

(2) All signs sixteen (16) square feet in size or less.

~~(1)(3)~~ All on-premise signs.

~~(2) Real Estate and Construction signs limited to one (1) sign per parcel.~~

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

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

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

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

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

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

- F. **Private Signs.** Private signs are prohibited -within the public right-of-way of any street or easement.

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

- H. **Political Signs.** Political signs for upcoming elections are allowed in any district on private property with the consent of the owner of the property.

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

~~I. **Advertising/**~~**Billboard Off-Premise Signs.**

a. **Exemption.** The regulations of this section shall only apply to off-premise signs over sixteen (16) square feet in size.

b. **Permit Required.** All off-premise signs subject to this section shall require a permit.

a.c. Number. For parcels -with right-of-way frontage of less than two hundred (200) feet only one (1) off-premise sign will be permitted. For parcels with over two hundred (200) feet of frontage or more up to two (2) signs will be permitted.

b.d. Size—All Signs. Except where a lesser maximum size is specifically provided, the maximum size of any sign is four hundred fifty (400450) square feet of surface including boarderborder.

e.c. Setbacks—All Signs.

- i. No billboard off-premise sign may be erected within one hundred (100) feet of adjoining property used for residential purposes.
- ii. No billboard-off-premise sign may be erected within eight hundred (800) feet of any advertising/billboard-off-premise sign on the same side of the right-of-way.

J. Sign Design, Construction and Maintenance.

- a. Required Marking on Signs. Every outdoor advertising sign erected under the provisions of this ordinance shall be plainly marked with the name of the person, or firm erecting such sign.
- b. Sign Maintenance.
 - i. Painting. The owner of any sign shall be required to have such sign properly painted and maintained as needed to ensure that the sign does not become unsightly.

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

L. Obsolete Signs. Any sign which no longer advertises a bona fide business conducted or a product sold shall be taken down and removed by the owner, agent or person having the beneficial use of the building or land upon which the sign may be found within ten (10) days after written notification from the Zoning Administrator.

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

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

19.08 Mining and Extraction

- A. **Purpose.** The purpose of this section is to address issues which arise between mining and extraction and other adjoining land uses. In addition, this section is intended to ensure that land is rehabilitated after being subjected to mining and extraction uses.
- B. **Administration.** A Conditional Use Permit is required for all mining operations except for the extraction of gravel, clay and black dirt. Said permit will be valid for up to three (3) years after which a permit renewal shall be required. The County Board will also require a performance bond. Such bond must be in the amount of at least \$2,500 per acre or an amount to be determined by the County and must be valid for a period of not less than one (1) year beyond the expiration date of the permit.

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

- a. Name and address of the person requesting the permit.
- b. The exact legal property description and acreage of the area to be mined.
- c. The following maps of the site which must also include all areas within five hundred (500) feet of the site, and which must be drawn at a scale of one (1) inch to one hundred (100) feet:
 - i. Map A-Existing Conditions to include:
 1. Contour lines at reasonable intervals;
 2. Existing vegetation;
 3. Existing drainage and permanent water areas;
 4. Existing structures;
 5. Existing wells;
 6. Structures to be erected;
 7. Location of sites to be mined showing depth of proposed excavation;
 8. Location of tailings deposits showing maximum height of deposits;
 9. Location of storage of mined materials, showing height of storage deposits;
 10. Location of vehicle parking;
 11. Location of storage of explosives;
 12. Erosion and sediment control structures;
 13. Access Routes;
 14. Final grade of proposed site showing elevations and contour lines at reasonable intervals;
 15. Location and species of vegetation to be replanted;
 16. Location and nature of any structures to be erected in relation to the end use plan;
 - ii. A soil erosion and sediment control plan;
 - iii. A plan for dust and noise control;
 - iv. A full and adequate description of all phases of the proposed operation to include an estimate of duration of the operation;
 - v. A land reclamation plan;
 - vi. Any other information requested by the Planning Commission or the County Board;

D. Renewal of Mining Permits. A public hearing will be conducted for renewal permit approval.

E. Use Restrictions.

- a. The crushing, washing, refining or processing other than the initial removal of material shall be considered a separate conditional use.

- b. In stone quarries the production or manufacturing of veneer stone sills, lintels, cut flagstone, hearthstones, paving stone and similar architectural or structural stone and the storing or stockpiling of such products on the site will be considered a separate conditional use.
- c. The manufacture of concrete building blocks or other similar blocks, the production or manufacture of lime products, the production of ready-mixed concrete and any similar production or manufacturing processes which might be related to the mining operation shall be considered a separate conditional use.
- d. The Court County may impose additional performance standards as part of the conditional use permit.

F. Performance Standards.

a. General Provisions.

- i. Appearance, vegetation, weeds and any other unsightly or noxious vegetation shall be cut or trimmed as may be necessary to preserve a reasonably neat appearance and to prevent seeding on adjoining property.
- ii. Parcel Size. No sand and gravel operation may be conducted on parcels of less than twenty (20) acres in size. This limitation shall not apply when the tract of land is contiguous to an active mining operation, provided that both tracts are being operated by the same person.
- iii. Equipment. All equipment used for mining operations shall be maintained and operated in such a manner as to minimize, as far as is practicable, noises and vibrations which are injurious or substantially annoying to persons living in the vicinity.

b. Water Resources.

- i. Mining operations may not interfere with surface water drainage beyond the boundaries of the mining operation.
- ii. Mining operations may not adversely affect the quality of surface or subsurface water resources.
- iii. Surface water originating outside and passing through the mining site shall, at its point of departure from the mining site, be of equal quality of the water as it was at the point where it entered the mining site. The mining operator must perform any water treatment necessary to comply with this provision.

c. Safety Fencing. Any mining operation adjacent to a residentially developed area or within three hundred (300) feet of two (2) or more residential structures shall be bound by the following standards:

- i. Holding or Ponding Areas. Where collections of water occur that are one and one half (1 ½) feet or more in depth existing for any period of at least one (1) month, and occupy an area of seven hundred (700) square feet or more, all access to such collections of water shall be barred by a fence or some similarly effective barrier of at least four (4) feet in height.
- ii. Steep Slopes. In locations where slopes occur that are steeper than one (1) foot vertical to three (3) feet horizontal existing for a period of one (1) month or more, access to such slope shall be barred by a fence or some similarly effective barrier at least four (4) feet in height.

- iii. Mining Access Roads. The location of the intersection of mining access roads with any public roads shall be selected such that traffic on the access roads will have a sufficient distance of public road in view so that any turns onto the public road can be completed with a margin of safety. The appropriate Road Authority must approve all open roads to the site.
- iv. Screening Barrier.
 - 1. To minimize problems of dust and noise and to shield mining operations from public view, a screening barrier must be maintained between the mining site and adjacent residentially and commercially developed properties.
 - 2. A screening barrier must be maintained between the mining site and any public road within five hundred (500) feet of any mining or processing operations. The screening barrier shall be planted with a species of fast growing trees such as green ash.
 - 3. Existing trees and ground cover along public road frontage shall be preserved, maintained, and supplemented for the depth of the roadside setback except where traffic safety requires cutting and trimming.
- v. Setback.
 - 1. Processing of minerals may not be conducted closer than one hundred (100) feet to the property line and not closer than five hundred (500) feet to any residential or commercial structure located prior to commencement of processing operations without the written consent of all owners and residents of said structures.
 - 2. Mining operations shall not be conducted closer than thirty (30) feet to the boundary of any zone where such operations are not permitted, nor shall such production or processing be conducted closer than thirty (30) feet to the boundary of an adjoining property, unless written consent of all owners, is first secured in writing.
 - 3. Mining operations shall not be conducted closer than thirty (30) feet to the right-of-way line of any existing or platted street, road or highway, except that excavating may be conducted within such limits in order to reduce the elevation thereof in conformity to the existing or platted street, road or highway.
- vi. Appearance. All buildings, structures and plants used for the production or processing of sand and gravel shall be maintained in such a manner as is practicable and according to acceptable industrial practice as to assure that such buildings, structures and plants will not become dangerously dilapidated.
- vii. Erosion Control.
 - 1. All materials to be used for erosion control such as seed mixtures and so forth must be approved by the County.
 - 2. The County may require culverts, berms, or other measure for erosion control purposes.
- viii. Dust and Dirt.
 - 1. All equipment used for mining operations shall be constructed, maintained and operated in such a manner as to minimize, as far as is

practicable, dust conditions which are injurious or substantially annoying to persons living within six hundred (600) feet of the mining operations lot line.

2. All access roads from mining operations to public highways, roads or streets or to adjoining property shall be paved or surfaced with gravel to minimize dust conditions.
- d. Land Rehabilitation. All mining sites shall be rehabilitated immediately after mining operations cease. Rehabilitation shall be complete within one (1) calendar year after operation ceases. The following standards shall apply:
- i. Removal of Buildings, Structures and Plants.
 1. All buildings, structures and plants incidental to such operation shall be dismantled and removed by, and at the expense of, the mining operator last operating such buildings, structures and plants within the following period of time:
 - a. within three (3) months after the termination of a mining operation;
 - b. within three (3) months after abandonment of such operation for a period of six (6) months; or
 - c. within three (3) months after expiration of a mining permit.
 2. A temporary extension may be granted by the County Board for those buildings, structures, machinery and plants required to process previously mined materials stored on the site. Such variance may apply for only one (1) year, after which said buildings, structures, machinery and plants shall be removed.
 - ii. Surface Grading. The peaks and depressions of the area shall be graded and backfilled to a surface which will result in a gently rolling topography in substantial conformity to the land area immediately surrounding, and which will minimize erosion.
 - iii. **Slopes.** Banks of all excavations shall be sloped at a rate which shall not be less than three (3) feet horizontal to one (1) foot vertical, otherwise approved by the Zoning Administrator.
 - iv. Vegetation and Topsoil.
 1. Reclaimed areas shall be sodded or surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding the site, and to a depth of at least three (3) inches.
 2. Such required topsoil shall be planted with legumes and grasses. Trees and shrubs may also be planted but not as a substitute for legumes and grasses. Such planting must adequately retard soil erosion.
 3. Excavations completed to a water producing depth need not be backfilled if the water depth is at least ten (10) feet and if banks are sloped to the water-line at a slope no greater than three (3) feet horizontal to one (1) foot vertical.
 - v. Finished Grade. The finished grade must be such that it will not adversely affect the surrounding land or future development of the site upon which the mining operations have been conducted. The mining site must be restored to a

condition that allows the site to be utilized for the type of land use proposed by the reclamation plan approved by the County Board.

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

19.08 Telecommunication Towers.

- A. **Purpose.** The purpose of the Telecommunication Towers Section shall be to establish predictable and balanced regulations that protect the public, health, safety, and general welfare of the county. These regulations are intended to:
 - 1) Facilitate the provision of telecommunications services and facilities including commercial wireless telecommunication services in Traverse County.
 - 2) Minimize adverse visual effects of towers through careful design and siting standards.
 - 3) Avoid potential damage to adjacent properties from tower or antenna failure and weather related occurrences through structural standards, careful siting, and setback requirements.
 - 4) Encourage the use of existing towers and buildings to accommodate commercial wireless telecommunication service antennas in order to minimize the number of towers needed to serve the County.
- B. Tower and Antenna Design Requirements. Proposed or modified towers and antennas shall meet the following design requirements:
 - 1) Towers and antennas must blend into the surrounding environment through the use of color and camouflaging architectural treatment except in instances where the color is dictated by federal or state authorities.
 - 2) Platforms, catwalks, crow's nests, or like structures, may not be attached to or constructed on any tower except during periods of construction or repair.
 - 3) Towers and their antennas must be certified by a qualified and licensed professional engineer to conform to applicable state structural building standards.
 - 4) Towers and their antennas must be designed to conform with accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.
 - 5) Metal towers must be constructed of, or treated with, corrosive resistant material.
- C. Tower Setbacks. Towers and all accessory structures or buildings must conform to the following minimum setback requirements:
 - 1) Towers must be setback from all property lines an amount equal to the height of the structure.
 - 2) Guy wires for towers may not be located closer than twenty-five (25) feet to any property line and must meet the setback of the underlying zoning district with respect to the public road right of way.
 - 3) Suitable protective anti-climbing fencing, with a minimum height of six (6) feet, must be provided around any tower and guy wires.

- D. Tower Location. Towers that are two hundred (200) feet or more in height must be located a distance of at least three (3) miles from any public or private airport.
- E. Co-location Requirements. All commercial wireless telecommunication towers erected, constructed, or located within the County must comply with the following requirements:
- 1) Documentation of the area to be served including a search ring for the antenna location. A narrative describing a search ring for the request, with not less than one (1) mile radius clearly explaining why the site was selected, what existing structures were available and why they are not suitable as locations or co-locations.
 - 2) Documentation 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:
 - a) The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned equipment at a reasonable cost.
 - b) The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer or qualified radio frequency engineer and the interference cannot be prevented at a reasonable cost.
 - c) Existing or approved towers and buildings within the search radius that are sixty (60) feet or over in height that cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.
 - d) Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.
 - 3) Any proposed tower must be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two (2) additional users if the tower is over one hundred (100) feet in height, or for at least one (1) additional user if the tower is over sixty (60) feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept towers mounted at varying heights.
 - 4) An agreement stating that the site will be designed for not less than three (3) users with applicant and property owner commitments to co-location, whereby, any prohibition of additional users on a tower will be considered a violation of the permit and County policy. The agreement must also include a statement that any unused or abandoned tower shall be removed by the property owner and/or applicant within twelve (12) months of cessation of operations. Said agreement shall be signed by the applicant and the property owner and shall be attached to and become a part of the permit.
- F. Antennas Mounted on Existing Buildings or Towers. The placement of telecommunication antennas including wireless telecommunication antennas on existing buildings, towers or structures, shall meet the requirements of the underlying zoning district and this section. A site plan and building plan must be submitted to the County as part of the zoning permitting process. Where a tower is nonconforming due to the requirements of this Section, additional telecommunication antennas may be permitted to be placed on the tower after being reviewed by the Zoning Administrator.
- G. Accessory Utility Buildings. All buildings and structures accessory to a tower must meet the following requirements:

- 1) Towers must be architecturally designed to blend in with the surrounding environment and setback limitations as established for each zoning district.
 - 2) Ground mounted equipment must be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.
- H. Tower Lighting. Towers shall not be illuminated by artificial means and shall not have affixed or attached to it in any way except during time of repair or installation any lights reflectors, flashers, or other illuminating device, except as required by the Federal Aviation Administration or the Federal Communications Commission, a state agency or the County. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower.
- I. Abandoned or Unused Towers. Abandoned or unused towers and associated facilities shall be removed within twenty-four (24) months of the cessation of operations at the site unless a time extension is approved by the Zoning Administrator. In the event that a tower is not removed within the twenty-four (24) months of the cessation of operations at a site, the tower and associated facilities may be removed by the County and the County may in its sole discretion either (i) have the costs of removal assessed against the property, (ii) subtract the cost of removal from any security deposit or bond posted by the owner, or (iii) seek a judgment against the owner personally for the cost of removal. Unused towers must continue to be maintained.
- J. Public Safety Telecommunications Interference. Commercial wireless telecommunications services shall not interfere with public safety telecommunications. All applications shall include adequate information that will be reviewed by the Traverse County public safety communications system before a permit may be issued. Before the introduction of new service or changes in existing service, telecommunication providers shall notify the County at least ten (10) calendar days in advance of any changes and allow the County to monitor interference levels during the testing process.
- K. Signs and Advertising. The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.
- L. Non-Conforming Towers. In order to avoid requiring new towers and to minimize the number of towers needed to serve the county the following provisions shall apply to nonconforming towers. Telecommunication towers in existence at the time of this amendment may be permitted to increase tower height after being issued a conditional use permit. The Planning Commission shall consider the following criteria as part of the conditional use permit process:
- 1) Tower safety concerns including tower collapse, falling ice, and airplane traffic.
 - 2) Land use character and history of the towers.
 - 3) Comparative visual impact to the surrounding lands of the proposed tower height increase.
 - 4) Disturbance or conflict with agricultural uses on the property.
 - 5) Other factors which tend to reduce conflicts or are incompatible with the character and need of the area.
- M. Additional Submittal Requirements. In addition to the information required elsewhere, applications shall include the following information:
- 1) A report from a licensed professional engineer that describes the commercial wireless telecommunication service tower's capacity, including the number and type of antennas that it can accommodate.

- 2) A letter of intent from the commercial wireless telecommunication service tower owner committing the tower owner and successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.
- 3) The location of all public and private airports within three (3) miles radius of the tower site.
- 4) Permittee must obtain FAA approval and/or provide documentation that FAA approval is not needed.
- 5) Permittee must obtain FCC licensure and approval as required for various communications applications. No interference with local television and radio reception will be allowed.

DRAFT

SECTION 20 SUBSURFACE SEWAGE TREATMENT SYSTEMS MANAGEMENT ORDINANCE

20.01 GENERAL PROVISION

1. PURPOSE AND AUTHORITY

The purpose of the Subsurface Sewage Treatment System (SSTS) Ordinance is to provide minimum standards for and regulation of Individual Sewage Treatment Systems (ISTS) and Midsized Sewage Treatment Systems (MSTS) including the proper location, design and construction; their necessary modification and reconstruction; their operation, maintenance and repair to protect surface water and groundwater from contamination by human sewage and waterborne household and commercial wastes; 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 sections 115.55, 145A.05, 375.51, 394.21-394.37, and 471.82, the County Comprehensive Plan and the County Land Use Ordinance.

2. INTENT

It is intended by the County that this Ordinance will promote the following:

- A.** The protection of lakes, rivers and streams, wetlands, and groundwater in Traverse County essential to the promotion of public health, safety, welfare, socioeconomic growth and development of the County.
- B.** The regulation of proper SSTS construction, reconstruction, repair and maintenance to prevent the entry and migration of contaminants, thereby protecting the degradation of surface water and groundwater quality.
- C.** The establishment of minimum standards for SSTS placement, design, construction, reconstruction, repair and maintenance to prevent contamination and, if contamination is discovered, the identification and control of its consequences and the abatement of its source and migration.
- D.** The appropriate utilization of privy vaults.

3. JURISDICTION

The jurisdiction of this Ordinance shall include all lands of the County except for incorporated areas or townships that administer a Subsurface Sewage Treatment System (SSTS) program by Ordinance within their jurisdiction, which is at least as strict as this Ordinance.

4. EFFECTIVE DATE

The provisions set forth in this Ordinance shall become effective after its passage, approval, publication and recording in the office of the County Recorder.

5. SCOPE

This Ordinance regulates the siting, design, installation, alterations, operation, maintenance, monitoring, and management of all SSTS within the County's applicable jurisdiction including, but not necessarily limited to individual SSTS and cluster or community SSTS, and privy vaults. All sewage generated in unsewered areas of the County shall be treated and dispersed by an approved SSTS that is sited, designed, installed, operated, and maintained in accordance with the provisions of this Ordinance or by a system that has been permitted by the MPCA.

20.02 ADMINISTRATION

1. COUNTY ADMINISTRATION

- A.** The Traverse County Zoning Administrator shall administer the SSTS program and all

provisions of this ordinance.

B. The County's duties and responsibilities include, but are not be limited to, the following;

1. Review all applications for SSTs.
2. Issue all permits required in this Ordinance.
3. Inspect all work regulated in this Ordinance.
4. Investigate all written complaints regarding SSTs.
5. Issue certificates of compliance or notices of noncompliance where applicable.
6. Enact enforcement provisions of this Ordinance as necessary.
7. Refer unresolved violations of this Ordinance to the County Attorney.
8. Maintain current records for each permitted SSTs including all site evaluation documents, design documents, inspection documents, and other applicable documents.
9. The County shall employ or retain qualified and appropriately licensed professionals to administer and operate the SSTs program.
10. Submit annual reports to MPCA as required.

2. **STATE ADMINISTRATION**

When a single SSTs or group of SSTs under single ownership within one-half mile of each other, have a design flow greater than 10,000 gallons per day or has a measured daily flow for a consecutive seven-day period which equals or exceeds 10,000 gallons per day, the owner shall make application for and obtain a State Disposal System permit from the MPCA.

3. **CITIES AND TOWNSHIPS ADMINISTRATION**

Any jurisdiction within the County that regulates SSTs must comply with the standards and requirements of this Ordinance. The standards and ordinance of the jurisdiction may be administratively and technically more restrictive than this Ordinance.

4. **LIABILITY**

The County's involvement in administration of this Ordinance does not create a special duty to any person and, further liability or responsibility shall not be imposed upon the County or any of its officials, employees, or other contract agents, for damage resulting from the defective construction, operation, or abandonment of any onsite or cluster SSTs regulated under this Ordinance or by reason of any standards, requirements, or inspections authorized by this Ordinance hereunder.

5. **DEFINITIONS**

Terms used in this Section shall have the same meaning as provided in the standards adopted by reference. For purposes of this Section, the words "must" and "shall" are mandatory and the words "may" and "should" are permissive.

As-built. Drawings and documentation specifying the final in-place location, elevation, size and type of all system components.

Certificate of Compliance. A document, written after a compliance inspection, certifying that a system is in compliance with applicable requirements at the time of the inspection.

Certified Statement. A statement signed by a certified individual, apprentice, or qualified employee under Minnesota Rules Chapter 7083 certifying that the licensed business or qualified employee completed work in accordance with applicable requirements.

Class V Injection Well. A shallow well used to place a variety of fluids directly below the land surface. This includes SSTS that are designed to receive sewage or non-sewage from a two-family dwelling or greater or receive sewage or non-sewage from another establishment that serves more than 20 persons per day. The US Environmental Protection Agency (EPA) and delegated state groundwater programs permit these wells to inject wastes below the ground surface provided they meet certain requirements and do not endanger underground sources of drinking water. Class V motor vehicle waste disposal wells and large capacity cesspools are specifically prohibited (see 40 CFR Parts 144 & 146).

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

Compliance Inspection. An evaluation, investigation, inspection, or other such process for the purpose of issuing a certificate of compliance or notice of noncompliance.

Department. The Traverse County Zoning Administrator on behalf of the Land Use Management Office.

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

Dwelling. Any building or place used or intended to be used by human occupants as a single-family or multi-family residence with no more than nine bedrooms and producing sewage. Dwelling does not include a single-family or multifamily residence that serves as both a domicile and a place of business if the business increases the volume of sewage above what is normal for a dwelling or if liquid waste generated no longer qualifies as sewage.

Existing Systems. Systems that have been previously inspected and approved by the local unit of government during installation. In addition, all operating systems installed before the adoption of a local permitting and inspection program are considered existing systems.

Failure to Protect Groundwater. At a minimum, a SSTS that does not protect groundwater is considered to be a seepage pit, cesspool, drywell, leaching pit, or other pit; a SSTS with less than the required vertical separation distance, described in MR Chapter 7080.1500 Subpart 4 D and E; and a system not abandoned in accordance with part 7080.2500.

Groundwater. Water contained below the surface of the earth in the saturated zone including, without limitation, all waters whether under confined, unconfined, or perched conditions, in near-surface unconsolidated sediment or regolith, or in rock formations deeper underground.

Holding Tank. A tank for storage of sewage until it can be transported to a point of treatment and dispersal. Holding tanks are considered a septic system tank under Minnesota Statutes, Section 115.55.

Imminent Threat to Public Health and Safety (ITPH). At a minimum, a SSTS with a discharge of sewage or sewage effluent to the ground surface, drainage systems, ditches, or storm water drains or directly to surface water; SSTS that cause a reoccurring sewage backup into a dwelling or other establishment; SSTS with electrical hazards; or sewage tanks with unsecured, damaged, or weak maintenance access covers.

ISTS. Individual subsurface sewage treatment system that receives a sewage design flow of 5,000 gallons per day or less. ISTS also include holding tanks with a design flow of 10,000 gallons per day or less as well as privies.

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

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

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

MPCA. The Minnesota Pollution Control Agency.

MSTS. A mid-sized subsurface sewage treatment system under single ownership that receives sewage from dwellings or other establishments having a design flow of greater than 5,000 gallons per day to 10,000 gallons per day.

New Construction. Placement of a new structure or replacement structure that is served by pressurized water.

Non-pressurized SSTS. An SSTS that distributes sewage by gravity flow and does not utilize pumps for gravity distribution or pressure distribution.

Notice of Noncompliance. A written document issued by the Department notifying a system owner that the owner's onsite/cluster treatment system has been observed to be noncompliant with the requirements of this Section.

Privy Vault. An aboveground structure with an underground cavity meeting the requirements of part 7080.2280 that is used for the storage or treatment and dispersal of toilet wastes, excluding water for flushing and greywater. A privy also means a non-dwelling structure containing a toilet waste treatment device.

Pump Tank. A tank or separate compartment following the sewage tank that serves as a reservoir for a pump. A separate tank used as a pump tank is considered a septic system tank under Minnesota Statutes, Section 115.55, Subdivision 1, Paragraph (o).

Qualified Employee. An employee of the state or a local unit of government, who performs site evaluations or designs, installs, maintains, pumps, or inspects SSTS as part of the individual's employment duties and is certified and listed on the MPCA SSTS database verifying specialty area endorsements applicable to the work being conducted.

Seasonal Saturation. The highest elevation in the soil that is in a reduced chemical state due to soil pores filled or nearly filled with water causing anaerobic conditions. Periodically saturated soil is determined by the presence of redoximorphic features in conjunction with other established indicators as specified in part 7080.1720, subpart 5, items E and F, or determined by other scientifically established technical methods or empirical field measurements acceptable to the permitting authority in consultation with the commissioner.

Septage. Solids and liquids removed from an SSTS, and include solids and liquids from cesspools, seepage pits, other pits, or similar systems or devices that receive sewage. Septage also includes solids and liquids that are removed from portable, incinerating, composting, holding, or other toilets.

Septic/Sewage Tank. Any watertight, covered receptacle that is designed and constructed to receive the discharge of sewage from a building sewer or preceding tank, stores liquids for a detention period that provides separation of solids from liquid and digestion of organic matter, and allows the effluent to discharge to a succeeding tank, treatment device, or soil dispersal system.

Sewage/Wastewater. Waste from toilets, bathing, laundry, or culinary activities or operations or floor drains associated with these sources, including household cleaners and other constituents in amounts normally used for domestic purposes.

SSTS. Subsurface sewage treatment system including an ISTS, MSTs.

Structure. Anything constructed or erected, the use of which requires location on the ground.

SWF. Shoreland areas, wellhead protection areas or systems serving food, beverage or lodging establishments.

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

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

Type III System. A subsurface sewage treatment system designed according to Minnesota Rules Chapter 7080.2300.

Type IV System. A subsurface sewage treatment system designed according to Minnesota Rules Chapter 7080.2350.

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

Vertical Separation. The vertical measurement of unsaturated soil or sand between the bottom of the distribution medium and the periodically saturated soil level or bedrock.

Winter Agreement. A binding agreement between a grantor and grantee when property is transferred between the months of November and April when frozen conditions prevent a field evaluation, compliance inspection or installation to the SSTs

20.04 SSTS REQUIREMENTS

1. ALL SSTS

Except as explicitly set forth in Section 20.04 Subp. 3, all provisions of this Ordinance shall apply to any SSTs regardless of the date it was originally permitted.

2. EXISTING PERMITS

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

3. SSTS ON LOTS CREATED BEFORE JANUARY 23, 1996

All lots created after January 23, 1996, must have a minimum of two soil treatment and dispersal areas that can support Type 1 systems as defined by Minnesota Rule 7080.2200.

4. UPGRADE, REPAIR, REPLACEMENT AND ABANDONMENT A. SSTs Capacity Expansions

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

B. Bedroom Addition

Any addition to a structure that includes bedroom(s) that require a land use permit from the County shall require that the SSTS meet the required design flow according to Minnesota Rule 7080.1860. Any required upgrades shall be completed within five years.

C. Failure to Protect Groundwater

An SSTS that is determined not to be protective of groundwater in accordance with Minnesota Rule 7080.1500, Subp.4(B) shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within 18 months upon receipt of a Notice of Noncompliance and must meet sizing requirements according to Minnesota Rule 7080.1860.

D. Imminent Threat to Public Health or Safety

An SSTS posing an imminent threat to public health or safety shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within 10 months upon receipt of a Notice of Noncompliance and must meet sizing requirements according to Minnesota Rule 7080.1860

E. Abandonment

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

5. SSTS IN FLOODPLAINS

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

6. CLASS V INJECTION WELLS

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

7. SSTS PRACTITIONER LICENSING

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

B. An MPCA license is not required of an individual who is constructing a non-pressurized SSTS on land that is owned by the individual and functions solely as a dwelling or seasonal dwelling for that individual pursuant to Minnesota Rule 7083.0700. Installation of the system shall be based upon a design by a licensed designer. The system shall be inspected before it is covered and a 24-hour notification to the Department for inspection is required.

8. PROHIBITIONS

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

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

B. Sewage Discharge to Ground Surface or Surface Water

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

9. ALTERNATIVE LOCAL STANDARDS ADOPTED BY REFERENCE A. Adoption of Rule by Reference

1. The County hereby adopts by reference the provisions of Minnesota Rules Chapters 7080 -7081 in their entirety except as referenced under Section 4.9(B), except as otherwise expressly modified by this Ordinance.

2. When “2006 version of Minnesota Rules Chapter 7080” is utilized, the reference is to the rules effective April 3, 2006, otherwise the County is referencing the current rules in effect.

B. Alternative Local Standards for New and Existing SSTS

1. The County hereby adopts the 2006 version of Minnesota Rules Chapter 7080 for all new and existing residential Type I, Type II and Type III SSTS and SSTS that serve any Food, Beverage and Lodging Establishment under 2,500 gallons per day provided the effluent discharge does not exceed the standards in Minnesota Rule 7080.2150, Subp. 3(K).

10. DIFFERENCES IN STANDARDS

A. List of Different Adopted Standards

1. In the shoreland district, obtaining a permit of any kind shall trigger septic compliance within 10 months of permit approval unless there is a current Certificate of Compliance on file that has not expired according to Section 6.2 (F) and 6.3 (D) of this ordinance.

2. At least one cleanout at or above finished grade shall be installed between the structure and the septic tank with additional clean outs at intervals not more than 100 feet.

3. Class I sizing is required on all new construction.

4. The system’s absorption area and mound absorption ratio must be sized according to either Table IX or IX a. in the 2011 version of MN Rules, Chapter 7080.2150.

5. Minimum septic tank sizing shall be a 1,500 gallon compartmentalized tank, multiple tanks in series or the use of an effluent filter for the last baffle. The filter must be of such a design that when the filter is removed from the filter housing, the flow of water leaving the tank is not allowed. The first tank or compartment shall be no less than 1,000 gallons in size and applies to new and replacement SSTS. All other tank sizing shall follow Minnesota Rule 7080.1930.

6. Pump tank sizing shall follow Minnesota Rule 7080.2100.

7. A Certificate of Compliance will not be issued until the soils are verified by a licensed inspection business or qualified employee certified as an inspector.

8. All dwellings shall meet the required setbacks to the septic tank and soil absorption area. Accessory structures, including but not limited to, decks, screen decks, porches, sheds, garages and pole buildings shall not be required to meet said setbacks provided that the tank(s) can be maintained properly and that the structure does not negatively impact the function of the system.

9. Septic tanks for new and existing dwellings can be buried as deep as the tank manufacturer’s maximum designed depth for the tank.

11. COMPLIANCE CRITERIA FOR EXISTING SSTS

For an SSTS built before April 1, 1996, and outside of areas designated as “SWF” – Systems in shoreland areas, wellhead protection areas, or systems serving food, beverage, or lodging establishments – there must be at least two feet of vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock.

12. HOLDING TANKS

Holding tanks may be allowed for the following applications: as replacements for existing failing SSTS and SSTS that pose an imminent threat to public health or safety, on lots with limitations that will not allow for the installation of a Type 1 SSTS or for uses that are seasonal or intermittent in nature and will not use more than 150 gallons of water per day.

13. VARIANCE REQUESTS

A property owner may request a variance from the standards as specified in this ordinance pursuant to Section 12 of the Traverse County Land Use Ordinances.

A. State Agency Variance Requests

Variances that pertain to the standards and requirements of the State of Minnesota must be approved by the affected State Agency pursuant to the requirements of the State Agency. No permits will be issued by the County until all required State Agency variances have been approved.

20.05 PERMIT REQUIREMENTS

1. SSTS PERMITS

A. Activities Not Requiring a SSTS Permit

A SSTS permit is not required for minor repairs or replacements of system components that do not alter the original function of the system; change the treatment capacity of the system; change the location of the system; or otherwise change the original system design, layout, or function. Examples are, but not limited to, pumps, baffles, and effluent screens or filters.

B. Activities Requiring a SSTS Permit

A SSTS permit shall be obtained by the property owner or an agent of the property owner from County prior to the installation, construction, replacement, modification, alteration, or capacity expansion of a SSTS. It is unlawful for any person to construct, install, modify or replace a SSTS without the appropriate permit from the Department including repair or replacement of components that will alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system’s design, layout, or function. The issuing of any permit, variance, or conditional use under the provisions of this ordinance shall not absolve the applicant of responsibility to obtain any other required permit.

C. SSTS Permit Requirements

SSTS Permit applications shall be made on forms provided by the Department and signed by the applicant or applicant’s agent, and must include the following information and documentation:

- 1.** Applicant name, mailing address, telephone number, and email address.
- 2.** Property Identification Number, property address and legal description of property location.
- 3.** Site Evaluation and Design Report shall be made on University of MN forms accepted by the Department.
- 4.** A management plan, as defined by Minnesota Rule 7082.0600, Subp. 1B.

D. Application Review and Response

The Department shall review a permit application and supporting documents according to Section 20.05 Subpart 1. (B) of this Ordinance.

E. Appeal

The applicant may appeal any decision of the Department in accordance with Section 9 of the Traverse County Land Use Ordinances.

F. Permit Expiration

A Permit for a new SSTS is valid for a period of one year and may be extended for an additional year with Department approval.

G. Transferability

A SSTS Permit may be transferred to a new owner provided there are no proposed changes to the SSTS design.

2. SSTS ASSESSMENT REQUIREMENTS

For those SSTS without a management plan or operating permit according to the provisions of this Ordinance, the following provisions apply:

A. The owner of an SSTS or the owner's agent shall regularly, but in no case less frequently than every three years, assess whether sewage tanks leak below the designed operating depth and sewage tank tops, riser joints, and riser connections leak through visual evidence of major defects and measure or remove the accumulations of scum, grease, and other floating materials at the top of each septic tank and compartment, along with the sludge, which consists of the solids denser than water.

B. All solids and liquids must be removed by pumping from all tanks or compartments in which the top of the sludge layer is less than 12 inches from the bottom of the outlet baffle or transfer hole or whenever the bottom of the scum layer is less than three inches above the bottom of the outlet baffle or transfer hole. Total sludge and scum volume must not be greater than 25 percent of the tank's liquid capacity. Removal of accumulated sludge, scum, and liquids from septic tanks and pump tanks must be through the maintenance hole, if one exists.

The removal of solids from any location other than the maintenance hole is not a compliant method of solids removal from a sewage tank, and this method does not fulfill the solids removal requirement of this part or a management plan. Liquid and solids removal from clean-out pipes is allowed for holding tanks.

3. OPERATING PERMIT

A. An Operating Permit shall be required for the following SSTS:

- 1.** SSTS with high strength waste effluent standards that exceed Minnesota Rule 7080.2150, Subp. 3(K);
- 2.** SSTS serving three or more connections;
- 3.** Type 4 and Type 5 SSTS;
- 4.** SSTS that exceed a daily flow of 2,500 gallons per day; or,
- 5.** SSTS designed under Minnesota Rules Chapter 7081.

B. Operating Permits shall be a signed agreement between the Department and the property owner and shall include monitoring, performance, mitigation, and reporting requirements.

C. A valid Operating Permit shall be considered a Certificate of Compliance if that system is in compliance with the requirements of the Operating Permit.

D. Operating Permits shall be valid for the specific term stated on the permit as determined by the Department.

E. An Operating Permit must be renewed prior to its expiration. If not renewed, the Department may require the system to be removed from service or operated as a holding tank until the permit is renewed. If not renewed within 90 calendar days of the expiration date, the Department may require that the system be abandoned in accordance with Section 20.04 Subp.4 (E).

F. Operating Permits do not transfer to new property owners. New owners shall apply for an Operating Permit in accordance with Section 20.05 Subp. 3. The Department shall not terminate the current permit until 90 calendar days after the date of sale unless an imminent threat to public health and safety exists. To consider the new owner's application, the Department may require a performance inspection of the treatment system certified by a licensed inspector or qualified employee.

G. A report shall be prepared and certified by the licensed inspection business or licensed service provider. The report shall be submitted to the Department on a form accepted by the Department on or before the compliance reporting date stipulated in the operating permit as required. The report shall contain a description of all maintenance and servicing activities performed since the last compliance monitoring report as described in the operating permit.

H. The Department may suspend or revoke any Operating Permit issued under this section for any false statements or misrepresentations of facts on which the Operating Permit was issued.

I. If suspended or revoked, the Department may require that the treatment system be removed from service, operated as a holding tank, or abandoned.

J. At the Department's sole discretion, the operating permit may be reinstated or renewed upon the owner taking appropriate corrective actions.

20.06 COMPLIANCE INSPECTION PROGRAM

1. DEPARTMENT RESPONSIBILITY

It is the responsibility of the Department, or its agent, or licensed inspector hired by the property owner, to perform installation inspections of new SSTs or upgrades of SSTs to assure that the requirements of this Ordinance are met.

A. All compliance inspections must be performed and signed by licensed inspection businesses or qualified employees certified as inspectors.

B. The Department, or its agent, or licensed inspector hired by the property owner shall be given access to enter a property at any reasonable time to inspect and/or monitor the SSTs system. As used in this paragraph, "property" does not include a residence or private building.

C. No person shall hinder or otherwise interfere with the Department's employees or its agent in the performance of their duties and responsibilities pursuant to this Ordinance. Refusal to allow reasonable access to the property by the Department shall be deemed a separate and distinct offense.

D. A signed winter agreement may be accepted in lieu of a compliance inspection for property transfers, permit applications and designs to the Department between November 1 and April 30, at the Department's sole discretion, provided the required information is submitted to the Department by June 1 of the subsequent year. Failure to fulfill all of the obligations of the winter agreement shall be a violation of this Ordinance.

2. NEW CONSTRUCTION OR REPLACEMENT

A. New installation inspections must be performed on new construction or replacement SSTs to determine compliance with Minnesota Rules, Chapters 7080 or 7081, respectively, according to Section 6.1. SSTs found to be noncompliant with other applicable requirements must be repaired or replaced according to the Department's requirements.

B. It is the responsibility of the SSTs owner or the owner's agent to notify the Department 24 hours prior to the installation inspection.

C. If the installer provides proper notice and the department does not provide an inspection within one hour after an inspection time was set, the installer may complete the construction per the following: The installer shall submit photographs of the entire uncovered system and an as-built drawing within ten working days of the installation.

D. A Certificate of Compliance for new SSTs construction or replacement shall be issued by the Department within 15 days of inspection if the Department has reasonable assurance that the system was built in accordance with the applicable requirements as specified in the construction permit.

E. The Certificate of Compliance must include a certified statement by the certified inspector or qualified employee who conducted the inspection that the SSTs is in compliance with the ordinance requirements. If the SSTs is determined not to be in compliance with the applicable requirements, a notice of noncompliance must be issued to the owner which includes a statement specifying those ordinance provisions with which the SSTs does not comply.

F. Certificates of Compliance for new construction or replacement shall remain valid for (5) five years from the date of issue unless the Department finds evidence of noncompliance.

3. EXISTING SYSTEMS

A. Compliance inspections shall be required when any of the following conditions occur if there is not a current Certificate of Compliance on file:

1. When applying for a permit of any other kind in the shoreland district.

2. Within 10 months of conveyance of any real property within the county.

3. Any time there is a change in use of the property being served by an existing SSTs which may impact the performance of the system.

4. At any time as required by this Ordinance or the Department deems appropriate such as upon receipt of a written complaint or other notice of a system malfunction.

B. Compliance inspections of existing SSTs shall be reported on the inspection report forms provided by MPCA.

C. The Certificate of Compliance or notice of noncompliance must be submitted to the Department no later than 15 calendar days after the date the inspection was performed.

D. Certificates of Compliance for existing SSTs shall remain valid for three years from the date of issue unless the Department finds evidence of noncompliance.

4. TRANSFER OF PROPERTY

A. Property on which a dwelling is located, or a tract of land on which a structure is required to have an SSTs shall not be transferred or sold unless the parties to the transaction have complied with one of the following:

1. A current Certificate of Compliance, as provided by Section 20.06 Subp. 2 (F) or 20.06 Subp. 3(D).

2. A winter agreement, as provided by Section 20.06 Subp. 1 (D).

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Adopted:

Effective:

3. An inspection provided by the seller to the buyer at or before the closing.
4. The parties to the transaction shall specify in the purchase agreement whom shall be responsible for septic compliance and provide a copy of the agreement to the Department.
- B. Exempt Transactions-**The inspection need not be completed if the sale or transfer involves the following circumstances:
 1. The tract of land is without buildings or contains no dwellings or other buildings with plumbing fixtures.
 2. No Certificate of Real Estate Value need be filed with the County Auditor, as per Minnesota Statutes, Chapter 272.115.
 3. The sale or transfer completes a contract for deed entered into prior to September 16, 1997. This subsection applies only to the original vendor and vendee on such a contract.
 4. The property has dwellings or other buildings with running water that are connected to a municipal wastewater treatment system.

5. VERTICAL SEPARATION REDUCTION

Minnesota Rule 7080.1500, Subp. 4(D) is hereby adopted allowing a 15 percent reduction in vertical separation distance for settling of sand or soil, normal variation of measurements and interpretations of the limiting layer for existing SSTS.

6. ENFORCEMENT

- A.** Any person, firm, corporation or other entity who violates any provision of this Section or who makes any false statement on a Certificate of Compliance, shall be guilty of a misdemeanor, punishable by imprisonment or a fine or both as defined by law.
- B.** In the event of a violation of this Ordinance, in addition to other remedies, the County Attorney may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations. Enforcement of this Ordinance shall follow the standards Section 15 of the Traverse County Land Use Ordinances.

7. STATE NOTIFICATION OF VIOLATION

The Department may notify the MPCA of any inspection, installation, design, construction, alteration or repair of an SSTS by a licensed/certified person or any septage removal by a licensed pumper that is performed in violation of the provisions of this Ordinance.

9. FEES

From time to time, the County Board shall establish fees for activities undertaken by the Department pursuant to this Ordinance. Fees shall be due and payable at a time and in a manner to be determined by the Department.

10. DISPUTE RESOLUTION

Resolution of disputes between SSTS Certified Individuals regarding conflicting compliance inspections, determination of seasonally saturation of soils and other technical issues shall follow Minnesota Rule 7082.0700, Subp. 5.

NOTE TO PUBLIC: THE ENTIRETY OF SECTION 21 HAS BEEN AMENDED FROM WHAT CURRENTLY EXISTS USING THE MINNESOTA DEPARTMENT OF NATURAL RESOURCE'S MODEL FLOODPLAIN ORDINANCE. THE FOLLOWING DOES NOT IDENTIFY THE SPECIFIC CHANGES FROM THE CURRENT SECTION 21.

SECTION 21 FLOODPLAIN DISTRICT

SECTION 1.0 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE

1.1 Statutory Authorization: This floodplain ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F; Minnesota Rules, Parts 6120.5000 – 6120.6200; the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations, Parts 59 -78; and the planning and zoning enabling legislation in Minnesota Statutes, Chapters 462.

1.2 Purpose:

1.21 This ordinance regulates development in the flood hazard areas of Traverse County. These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this ordinance to promote the public health, safety, and general welfare by minimizing these losses and disruptions.

1.22 This ordinance is adopted to maintain the community's eligibility in the National Flood Insurance Program.

1.23 This ordinance is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

SECTION 2.0 GENERAL PROVISIONS

2.1 Lands to Which Ordinance Applies: This ordinance applies to all lands within the jurisdiction of Traverse County within the boundaries of the Floodway, Flood Fringe and General Floodplain Districts and further detailed in Sections 2.2 and 3.1.

2.11 The Floodway, Flood Fringe or General Floodplain Districts are overlay districts superimposed on all existing zoning districts. The standards imposed in the overlay districts are in addition to any other requirements in this ordinance. In case of a conflict, the more restrictive standards will apply.

2.12 Where a conflict exists between the floodplain limits illustrated on the official floodplain maps and actual field conditions, the base flood elevations shall be the governing factor in locating the outer boundaries of the 1-percent annual chance floodplain.

2.13 RESERVED

2.14 Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the Board of Adjustment and to submit technical evidence.

2.2 Incorporation of Maps by Reference: The following maps together with all attached material are hereby adopted by reference and declared to be a part of the Official Zoning Map and this ordinance:

- Preliminary Flood Insurance Rate Map panels enumerated below:

Draft: September 17, 2021
Adopted:
Effective:

- Traverse County Minnesota Panel 270621 0025 B, dated 8/19/1987
- Traverse County Minnesota Panel 270621 0050 B, dated 8/19/1987
- Traverse County Minnesota Panel 270621 0075 B, dated 8/19/1987
- Traverse County Minnesota Panel 270621 0100 B, dated 8/19/1987
- Traverse County Minnesota Panel 270621 0125 B, dated 8/19/1987
- Traverse County Minnesota Panel 270621 0150 B, dated 8/19/1987
- Traverse County Minnesota Panel 270621 0175 B, dated 8/19/1987
- Traverse County Minnesota Panel 270621 0200 B, dated 8/19/1987
- Traverse County Minnesota Panel 270621 0225 B, dated 8/19/1987
- Traverse County Minnesota Panel 270621 0250 B, dated 8/19/1987

For any instance where the effective and preliminary maps conflict, the more restrictive map shall apply. These materials are on file in the office of the County Recorder.

- 2.3 **Abrogation and Greater Restrictions:** It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.
- 2.4 **Warning and Disclaimer of Liability:** This ordinance does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This ordinance does not create liability on the part of Traverse County or its officers or employees for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.
- 2.5 **Severability:** If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of law, the remainder of this ordinance shall not be affected and shall remain in full force.
- 2.6 **Definitions:** Unless specifically defined below, words or phrases used in this ordinance must be interpreted according to common usage and so as to give this ordinance its most reasonable application.
- 2.611 Accessory Use or Structure – a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
- 2.612 Base Flood – the flood having a one percent chance of being equaled or exceeded in any given year. “Base flood” is synonymous with the term “regional flood” used in Minnesota Rules, Part 6120.5000.
- 2.613 Base Flood Elevation (BFE) – The elevation of the base flood or one-percent annual chance flood. The term “base flood elevation” is used in the flood insurance study.
- 2.614 Basement – any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.
- 2.615 Conditional Use – a specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that:

- (a) Certain conditions as detailed in the zoning ordinance exist, and
 - (b) The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.
- 2.616 Critical Facilities – facilities necessary to a community’s public health and safety, those that store or produce highly volatile, toxic or water-reactive materials, and those that house occupants that may be insufficiently mobile to avoid loss of life or injury. Examples of critical facilities include hospitals, correctional facilities, schools, daycare facilities, nursing homes, fire and police stations, wastewater treatment facilities, public electric utilities, water plants, fuel storage facilities, and waste handling and storage facilities.
- 2.617 Development – any manmade change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
- 2.618 Equal Degree of Encroachment – a method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.
- 2.619 Farm Fence – An open type of fence of posts and horizontally run wire, further defined by Minnesota Statutes, Section 344.02, Subd. 1(a-d), and is not considered to be a structure under this ordinance. Fences that have the potential to obstruct flood flows, such as chain link fences and rigid walls, are regulated as structures under this ordinance.
- 2.620 RESERVED
- 2.621 RESERVED
- 2.622 Flood Fringe – the portion of the one - percent annual chance floodplain located outside of the floodway. Flood fringe is synonymous with the term “floodway fringe” used in the Flood Insurance Study.
- 2.623 Flood Insurance Rate Map – An official map on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).
- 2.624 Flood Insurance Study – The study referenced in Section 2.2, which is an examination, evaluation and determination of flood hazards, and if appropriate, corresponding surface elevations, or an examination, evaluation, and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.
- 2.625 RESERVED
- 2.626 Floodplain – the beds and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the base flood.
- 2.627 Floodproofing – a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.
- 2.628 Floodway – the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the base flood discharge.
- 2.629 Lowest Floor – the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building’s lowest

floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 Code of Federal Regulations, Part 60.3.

- 2.630 Manufactured Home – a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include the term “recreational vehicle.”
- 2.631 New Construction - Structures, including additions and improvements, and placement of manufactured homes, for which the start of construction commenced on or after the effective date of this ordinance.
- 2.632 RESERVED
- 2.633 Principal Use or Structure – all uses or structures that are not accessory uses or structures.
- 2.634 RESERVED
- 2.635 Recreational Vehicle – a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this ordinance, the term recreational vehicle is synonymous with the term “travel trailer/travel vehicle.”
- 2.636 Regulatory Flood Protection Elevation (RFPE) - an elevation not less than one foot above the elevation of the base flood.
- 2.637 RESERVED
- 2.638 Special Flood Hazard Area – a term used for flood insurance purposes, and synonymous with the term base flood or 1-percent annual chance floodplain.
- 2.639 Start of Construction – includes substantial improvement, and means the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement that occurred before the permit’s expiration date. The actual start is either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- 2.640 Structure - anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, decks manufactured homes, recreational vehicles not considered travel ready as detailed in Section 10.22 of this ordinance and other similar items.
- 2.641 Substantial Damage - means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

2.642 Substantial Improvement - within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:

- (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
- (b) Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.” For the purpose of this ordinance, “historic structure” is as defined in 44 Code of Federal Regulations, Part 59.1.

2.7 RESERVED

- 2.8 **Detachments.** The Flood Insurance Rate Map panels adopted by reference into Section 2.2 above will include floodplain areas that lie inside the corporate boundaries of municipalities at the time of adoption of this ordinance. If any of these floodplain land areas are detached from a municipality and come under the jurisdiction of Traverse County after the date of adoption of this ordinance, the newly detached floodplain lands will be subject to the provisions of this ordinance immediately upon the date of detachment.

SECTION 3.0 ESTABLISHMENT OF FLOODPLAIN DISTRICTS

3.1 Districts:

3.11 Floodway District. The Floodway District includes those areas within Zones A as shown on the Flood Insurance Rate Maps adopted in Section 2.2, which are determined to be located in the floodway based on the floodway and flood fringe delineation methods outlined in Section 7.2.

3.12 Flood Fringe District. The Flood Fringe District includes areas within Zones A as shown on the Flood Insurance Rate Maps adopted in Section 2.2, which are determined to be located in the flood fringe based on the floodway and flood fringe delineation methods outlined in Section 7.2.

3.13 General Floodplain District. The General Floodplain District includes those areas within Zone A as shown on the Flood Insurance Rate Maps adopted in Section 2.2.

- 3.2 **Applicability:** Where Floodway and Flood Fringe districts are delineated on the floodplain maps, the standards in Sections 5 or 6 will apply, depending on the location of a property. Locations where Floodway and Flood Fringe districts are not delineated on the floodplain maps are considered to fall within the General Floodplain district and the standards in Section 7.0 will apply.

SECTION 4.0 REQUIREMENTS FOR ALL FLOODPLAIN DISTRICTS

- 4.1 Permit Required. A permit must be obtained from the Zoning Administrator to verify if a development meets all applicable standards outlined in this ordinance prior to conducting the following activities:

4.11 The erection, addition, modification, rehabilitation, or alteration of any building, structure, or portion thereof. Normal maintenance and repair also requires a permit if such work,

separately or in conjunction with other planned work, constitutes a substantial improvement as defined in this ordinance.

- 4.12 The construction of a dam, on-site septic system, or any fence not meeting the definition of a farm fence outlined in Section 2.6 of this ordinance.
 - 4.13 The change or extension of a nonconforming use.
 - 4.14 The repair of a structure that has been damaged by flood, fire, tornado, or any other source.
 - 4.15 The placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.
 - 4.16 Relocation or alteration of a watercourse (including stabilization projects or the construction of new or replacement culverts and bridges), unless a public waters work permit has been obtained from the Department of Natural Resources.
 - 4.17 Any other type of “development” as defined in this ordinance.
- 4.2 Minimum Development Standards. All new development must be:
- 4.21 Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - 4.22 Constructed with materials and equipment resistant to flood damage;
 - 4.23 Constructed by methods and practices that minimize flood damage;
 - 4.24 Constructed with electrical, heating, ventilation, duct work, plumbing, and air conditioning equipment and other service facilities elevated at least up to the Regulatory Flood Protection Elevation (RFPE). Water, sewage, electrical, and other utility lines below the RFPE shall be constructed so as to prevent water from entering or accumulating within them during conditions of flooding;
 - 4.25 reasonably safe from flooding and consistent with the need to minimize flood damage within the flood-prone area;
 - 4.26 assured to provide adequate drainage to reduce exposure to flood hazards.
 - 4.27 developed so that it is not detrimental to uses in adjoining areas.
- 4.3 Floodplain developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.
- 4.4 Materials that, in time of flooding, are buoyant, flammable, explosive, or could be injurious to human, animal, or plant life shall be stored at or above the flood protection elevation, floodproofed, or protected by structural measures consistent with the standards set forth herein. Furthermore, storage of materials likely to cause pollution of the waters, as defined in Minnesota Statutes, Section 115.01, if subject to flooding are prohibited unless adequate safeguards approved by the state water pollution control agency are provided.
- 4.5 Critical Facilities, as defined in Section 2.6, are to be located, so that the lowest floor is not less than two feet above the base flood elevation, or the 0.2% annual chance flood elevation, whichever is higher.

SECTION 5.0 FLOODWAY DISTRICT (FW)

- 5.1 **Permitted Uses:** The following uses, subject to the standards set forth in Section 5.2, are permitted uses if otherwise allowed in the underlying zoning district or any applicable overlay district:

Draft: September 17, 2021
Adopted:
Effective:

- 5.11 General farming, pasture, grazing, farm fences, outdoor plant nurseries, horticulture, forestry, sod farming, and wild crop harvesting.
 - 5.12 Loading areas, parking areas, streets, trails, airport landing strips, railroads, bridges, culverts, utility transmission lines and pipelines.
 - 5.13 Open space uses, including but not limited to private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, hunting and fishing areas, and single or multiple purpose recreational trails.
 - 5.14 Residential yards, lawns, gardens, parking areas, and play areas, provided these uses do not include associated accessory structures.
 - 5.15 Grading or land alterations associated with stabilization projects.
- 5.2 **Standards for Floodway Permitted Uses.** In addition to the applicable standards outlined in Sections 4.2:
- 5.21 The use must have a low flood damage potential.
 - 5.22 The use must not involve structures.
 - 5.23 The use must not obstruct flood flows, or increase velocities, stages, or flood damages, as certified by a registered professional engineer.
 - 5.24 Development that will change the course, current or cross section of protected wetlands or public waters is required to obtain a public waters work permit in accordance with Minnesota Statutes, Section 103G.245 or a utility crossing license in accordance with Minnesota Statutes, Section 84.415, from the Department of Natural Resources, or demonstrate that no permit is required, before applying for a local permit.
 - 5.25 Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the base flood.
- 5.3 **Conditional Uses:** The following uses may be allowed as conditional uses following the standards and procedures set forth in Section 11.4 of this ordinance and further subject to the standards set forth in Section 5.4, if otherwise allowed in the underlying zoning district.
- 5.31 Structures accessory to primary uses listed in 5.11 – 5.13 above and primary uses listed in 5.32 - 5.33 below.
 - 5.32 Grading, extraction, fill and storage of soil, sand, gravel, and other materials for purposes other than stabilization projects.
 - 5.33 Marinas, boat rentals, permanent docks, piers, wharves, water control structures, and navigational facilities.
 - 5.34 Storage yards for equipment, machinery, or materials.
 - 5.35 Fences that have the potential to obstruct flood flows.
 - 5.36 Levees or dikes intended to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.
- 5.4 **Standards for Floodway Conditional Uses.** In addition to the applicable standards outlined in Sections 4.2, 5.2 and 11.4:
- 5.41 Fill; Storage of Materials and Equipment:

- (a) Fill, dredge spoil, and other similar materials deposited or stored in the floodplain must be protected from erosion by the use of mulches or similar materials, with permanent vegetative cover established as soon as possible. Permanent sand and gravel operations and similar uses must be covered by a long-term site development plan.
 - (b) Temporary placement of fill, other materials, or equipment that would cause an increase to the stage of the base flood may only be allowed if Traverse County has approved a plan that assures removal of the materials from the floodway based upon the flood warning time available.
- 5.42 Accessory Structures. Accessory structures, as identified in Section 5.31, may be permitted, provided that:
- (a) Structures are not intended for human habitation;
 - (b) Structures will have a low flood damage potential;
 - (c) Structures will be constructed and placed so as to offer a minimal obstruction to the flow of flood waters;
 - (d) Structures must be elevated on fill or structurally dry floodproofed and watertight to the regulatory flood protection elevation. Certifications consistent with Section 11.22 shall be required.
 - (e) As an alternative, an accessory structure may be floodproofed in a way to accommodate internal flooding. To allow for the equalization of hydrostatic pressure, there shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one foot above grade. The openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding, have a net area of not less than one square inch for every square foot of enclosed area subject to flooding, and shall allow automatic entry and exit of floodwaters without human intervention. A floodproofing certification consistent with Section 11.22 shall be required.
- 5.43 A levee, dike or floodwall constructed in the floodway must not cause an increase to the base flood. The technical analysis must assume equal conveyance or storage loss on both sides of a stream.

SECTION 6.0 FLOOD FRINGE DISTRICT (FF)

- 6.1 **Permitted Uses:** Permitted uses are those uses of land or structures allowed in the underlying zoning district(s) that comply with the standards in Sections 6.2.
- 6.2 **Standards for Flood Fringe Permitted Uses.** In addition to the applicable standards outlined in Sections 4.2:
- 6.21 All structures, including accessory structures, must be elevated on fill so that the lowest floor, as defined, is at or above the regulatory flood protection elevation (RFPE). The finished fill elevation for structures must be no lower than one foot below the regulatory flood protection elevation (RFPE). Fill for residential structures must extend at the same elevation at least 15 feet beyond the outside limits of the structure. Elevations must be certified by a registered professional engineer, land surveyor or other qualified person designated by the community.
 - 6.22 Accessory Structures. As an alternative to the fill requirements of section 6.21, any enclosed structures accessory to the uses identified in Section 6.1 must meet the following provisions:

- (a) Accessory structures shall constitute a minimal investment not to exceed 576 square feet in size, and only be used for parking and storage.
 - (b) Accessory structures must allow for the equalization of hydrostatic pressure by accommodating for the inundation of floodwaters. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one foot above grade. The openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding, and shall allow automatic entry and exit of floodwaters without human intervention.
- 6.23 The cumulative placement of fill or similar material on a parcel must not exceed 1,000 cubic yards, unless the fill is specifically intended to elevate a structure in accordance with Section 6.21 of this ordinance.
- 6.24 All fill must be properly compacted and the slopes must be properly protected by the use of riprap, vegetative cover or other acceptable method.
- 6.25 All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation, or must have a flood warning /emergency evacuation plan acceptable to Traverse County.
- 6.26 Accessory uses such as yards, railroad tracks, and parking lots may be at an elevation lower than the regulatory flood protection elevation. However, any facilities used by employees or the general public are recommended to be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the base flood.
- 6.27 Manufactured homes and recreational vehicles must also meet the standards of Section 10 of this ordinance.
- 6.3 **Conditional Uses:** The following uses may be allowed as conditional uses following the standards and procedures set forth in Section 11.4 of this ordinance and further subject to the standards set forth in Section 6.4, if otherwise allowed in the underlying zoning district(s).
 - 6.31 The placement of floodproofed nonresidential basements below the regulatory flood protection elevation.
 - 6.32 The cumulative placement of more than 1,000 cubic yards of fill when the fill is not being used to elevate a structure in accordance with Section 6.21 of this ordinance.
 - 6.33 The use of methods other than fill to elevate structures above the regulatory flood protection elevation. This includes the use of: stilts, pilings, filled stem walls, or above-grade, internally flooded enclosed areas such as crawl spaces or tuck under garages, meeting the standards in Section 6.45.
- 6.4 **Standards for Flood Fringe Conditional Uses.** In addition to the applicable standards outlined in Sections 4.2, 6.2 and 11.4:
 - 6.41 The standards for permitted uses in the flood fringe, listed in Sections 6.24 through 6.28, apply to all conditional uses.
 - 6.42 Residential basements, as defined in 2.6, are not allowed below the RFPE.
 - 6.43 All areas of nonresidential structures, including basements, to be placed below the regulatory flood protection elevation must be structurally dry floodproofed, which requires making the structure watertight with the walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic

loads and the effects of buoyancy. A floodproofing certification consistent with Section 11.22 shall be required.

6.44 The placement of more than 1,000 cubic yards of fill or other similar material on a parcel (other than for the purpose of elevating a structure to the regulatory flood protection elevation) must comply with an approved erosion/sedimentation control plan.

(a) The plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the base flood event.

(b) The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to Traverse County.

(c) The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.

6.45 Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: 1) the enclosed area is above-grade on at least one side of the structure; 2) it is designed to internally flood; and 3) it is used solely for parking of vehicles, building access or storage. These alternative elevation methods are subject to the following additional standards:

(a) Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and include a minimum of two openings on at least two sides of the structure. The bottom of all openings shall be no higher than one foot above grade, and have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice.

(b) Floodproofing certifications consistent with Section 11.22 shall be required. The structure shall be subject to a deed-restricted nonconversion agreement with the issuance of any permit.

SECTION 7.0 GENERAL FLOODPLAIN DISTRICT (GF)

7.1 Permitted Uses:

7.11 The uses listed in Section 5.0 of this ordinance, Floodway District are allowed with a permit.

7.12 All other uses are subject to the floodway/flood fringe evaluation criteria specified in Section 7.2 below. Section 5.0 applies if the proposed use is determined to be in the Floodway District. Section 6.0 applies if the proposed use is determined to be in the Flood Fringe District.

7.2 Procedures for Determining Floodway Boundaries and Base Flood Elevations:

7.21 Requirements for Detailed Studies. Developments greater than 50 lots or 5 acres, or as requested by the zoning administrator, shall be subject to a detailed study to determine the regulatory flood protection elevation and the limits of the Floodway District. The determination of the floodway and flood fringe must be consistent with accepted hydrological and hydraulic engineering standards, and must include the following components, as applicable:

(a) Estimate the peak discharge of the base flood.

- (b) Calculate the water surface profile of the base flood based upon a hydraulic analysis of the stream channel and overbank areas.
 - (c) Compute the floodway necessary to convey or store the base flood without increasing flood stages more than one-half (0.5) foot. A lesser stage increase than 0.5 foot is required if, as a result of the stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries, unless development or geographic features warrant other analysis, as approved by the Department of Natural Resources.
- 7.22 Alternative Methods. For areas where a detailed study is not available or required, the base flood elevation must be determined using best available data. Until a floodway determination can be completed, the entire floodplain must be treated as floodway, with allowable activities restricted to those identified in Sections 5.1 and 5.3.
- (a) Development allowed in floodways (e.g. bridges, culverts, grading, filling, stabilization projects) must not cumulatively increase flood stages more than one-half foot during a base flood event, as determined by a professional engineer or by using accepted engineering practices approved by the Department of Natural Resources. A stage increase less than one-half foot must be used if increased flood damages would result.
 - (b) Development prohibited in floodways (e.g. buildings) require a floodway/flood fringe determination to verify the development is within the flood fringe. The floodway/flood fringe determination must be done by a professional engineer or utilize other accepted engineering practices approved by the Department of Natural Resources. Any such proposal must assume a one-half foot stage increase for the purposes of determining the regulatory flood protection elevation to accommodate for future cumulative impacts.
 - (c) For areas in and along lakes, wetlands, and other basins that are not affected by velocities, where the floodway has not been determined, an alternative to (a) and (b) is:
 - (1) All areas that are at or below the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, Subd. 14 will be considered floodway, and all areas below the base flood elevation but above the ordinary high water level will be considered flood fringe, provided that within 25 feet of the ordinary high water level, or within the Shore Impact Zone as identified in the community's Shoreland ordinance, whichever distance is greater, land alterations shall be restricted to:
 - i. the minimum required to accommodate beach and access areas, and accessory structures as permitted, not to exceed a volume greater than 10 cubic yards; projects involving volumes exceeding 10 cubic yards require engineering analysis as provided in (a) and (b) above, whichever is applicable; and
 - ii. the minimum required to accommodate shoreline stabilization projects to correct an identified erosion problem as identified by the Traverse County Soil and Water Conservation District.
- 7.23 The Zoning Administrator will review the submitted information and assess the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary. The assessment must include the cumulative effects of previous floodway encroachments. The Zoning Administrator may seek technical assistance from an engineer or other expert person, or agency, including the Department of Natural Resources.
- 7.24 Once the Floodway and Flood Fringe District boundaries have been determined, the Zoning Administrator must process the permit application consistent with the applicable provisions of Section 5.0 and 6.0 of this ordinance.

SECTION 8.0 SUBDIVISION STANDARDS

- 8.1 **Subdivisions:** No land may be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply or sewage treatment facilities. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this ordinance.
- 8.11 All lots within the floodplain districts must be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation.
- 8.12 All subdivisions must have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation, unless a flood warning emergency plan for the safe evacuation of all vehicles and people during the base flood has been approved by Traverse County. The plan must be prepared by a registered engineer or other qualified individual, and must demonstrate that adequate time and personnel exist to carry out the evacuation.
- 8.13 For all subdivisions in the floodplain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads must be clearly labeled on all required subdivision drawings and platting documents.
- 8.14 In the General Floodplain District, applicants must provide the information required in Section 7.2 of this ordinance to determine the base flood elevation, the Floodway and Flood Fringe District boundaries and the regulatory flood protection elevation for the subdivision site.

SECTION 9.0 RAILROADS, ROADS, BRIDGES, AND PUBLIC AND PRIVATE UTILITIES AND SERVICE FACILITIES

- 9.1 **Utilities:** All utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be elevated to the regulatory flood protection elevation (RFPE) or located and constructed to minimize or eliminate flood damage.
- 9.2 **Public Transportation Facilities:** Railroad tracks, roads, and bridges to be located within the floodplain must comply with Sections 5.0 and 6.0 of this ordinance. These transportation facilities must be elevated to the regulatory flood protection elevation where failure or interruption of these facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.
- 9.3 **On-site Water Supply, Individual Sewage Treatment Systems, and other Service Facilities:** Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems and are subject to the provisions in Minnesota Rules, Part 4725.4350, as amended; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, they must not be subject to impairment or contamination during times of flooding, and are subject to the provisions in Minnesota Rules, Part 7080.2270, as amended.

SECTION 10.0 MANUFACTURED HOMES AND RECREATIONAL VEHICLES.

- 10.1 **Manufactured Homes:** Manufactured homes and manufactured home parks are subject to applicable standards for each floodplain district. In addition:
- 10.11 New and replacement manufactured homes must be elevated in compliance with Section 6 of this ordinance and must be securely anchored to a system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of

over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

10.12 New manufactured home parks and expansions to existing manufactured home parks must meet the appropriate standards for subdivisions in Section 8 of this ordinance. New or replacement manufactured homes in existing manufactured home parks must meet the vehicular access requirements for subdivisions in Section 8.12 of this ordinance.

10.2 Recreational Vehicles: New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any floodplain district. Recreational vehicles placed in existing recreational vehicle parks, campgrounds or lots of record in the floodplain must either:

10.21 Meet the requirements for manufactured homes in Section 10.1, or

10.22 Be travel ready, meeting the following criteria:

- (a) The vehicle must have a current license required for highway use.
- (b) The vehicle must be highway ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks.
- (c) No permanent structural type additions may be attached to the vehicle.
- (d) Accessory structures may be permitted in the Flood Fringe District, provided that they constitute a minimal investment, do not hinder the removal of the vehicle should flooding occur, and meet the standards outlined in Sections 4.2 and 6.22.

SECTION 11.0 ADMINISTRATION

11.1 Duties: A Zoning Administrator or other official must administer and enforce this ordinance.

11.2 Permit Application Requirements:

11.21 Application for Permit. Permit applications must be submitted to the Zoning Administrator on forms provided by the Zoning Administrator. The permit application must include the following as applicable:

- (a) A site plan showing all pertinent dimensions, existing or proposed buildings, structures, and significant natural features having an influence on the permit.
- (b) Location of fill or storage of materials in relation to the stream channel.
- (c) Copies of any required municipal, county, state or federal permits or approvals.
- (d) Other relevant information requested by the Zoning Administrator as necessary to properly evaluate the permit application.

11.22 Certification. The applicant is required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this ordinance. Floodproofing measures must be certified by a registered professional engineer or registered architect as being in compliance with applicable floodproofing standards in in the State Building Code. Accessory structures designed in accordance with Section 6.22 of this ordinance are exempt from certification, provided sufficient assurances are documented. A registered professional engineer is required to certify that any development in established floodways must not cause any increase in flood elevations, and development in the general floodplain district will not cumulatively increase flood stages more than one-half foot, or less if increased damages would result.

- 11.23 Permit for a New, Altered, or Nonconforming Use. No building, land or structure may be occupied or used in any manner until a permit has been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this ordinance.
- 11.24 Recordkeeping of Certifications and As-Built Documentation. The Zoning Administrator must maintain records in perpetuity documenting:
- (a) all certifications referenced in Section 11.22 of this ordinance as applicable.
 - (b) Elevations complying with Section 6.21 of this ordinance. The Zoning Administrator must also maintain a record of the elevation to which structures and alterations to structures are constructed or floodproofed.
- 11.25 Notifications for Watercourse Alterations. Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator must notify adjacent communities. If the applicant has applied for a permit to work in public waters pursuant to Minnesota Statutes, Section 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).
- 11.26 Notification to FEMA When Physical Changes Increase or Decrease Base Flood Elevations. As soon as is practicable, but not later than six months after the date such supporting information becomes available, the Zoning Administrator must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.

11.3 Variances:

- 11.31 Variance Applications. An application for a variance to the provisions of this ordinance will be processed and reviewed in accordance with applicable State Statutes and Section 13 of the zoning ordinance/code.
- 11.32 Adherence to State Floodplain Management Standards. A variance must not allow a use that is not allowed in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.
- 11.33 Additional Variance Criteria. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:
- (a) Variances must not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
 - (b) Variances may only be issued by a community upon:
 - (1) a showing of good and sufficient cause,
 - (2) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and
 - (3) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - (c) Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

11.34 Flood Insurance Notice. The Zoning Administrator must notify the applicant for a variance that: 1) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and 2) Such construction below the base flood level increases risks to life and property. Such notification must be maintained with a record of all variance actions.

11.35 General Considerations. The community may consider the following variables, and consider imposing conditions on variances and conditional uses:

- (a) The potential danger to life and property due to increased flood heights or velocities caused by encroachments;
- (b) The danger that materials may be swept onto other lands or downstream to the injury of others;
- (c) The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions;
- (d) The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;
- (e) The importance of the services to be provided by the proposed use to the community;
- (f) The requirements of the facility for a waterfront location;
- (g) The availability of viable alternative locations for the proposed use that are not subject to flooding;
- (h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
- (i) The relationship of the proposed use to the Comprehensive Land Use Plan and flood plain management program for the area;
- (j) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (k) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.

11.36 Submittal of Hearing Notices to the Department of Natural Resources. The Zoning Administrator must submit hearing notices for proposed variances to the Department of Natural Resources sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective area hydrologist.

11.37 Submittal of Final Decisions to the Department of Natural Resources. A copy of all decisions granting variances must be forwarded to the Department of Natural Resources within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective area hydrologist.

11.38 Record-Keeping. The Zoning Administrator must maintain a record of all variance actions, including justification for their issuance, and must report such variances in an annual or biennial report to the Administrator of the National Flood Insurance Program, when requested by the Federal Emergency Management Agency.

11.4 Conditional Uses:

- 11.41 Administrative Review. An application for a conditional use permit under the provisions of this ordinance will be processed and reviewed in accordance with Section 14 of the zoning ordinance/code.
- 11.42 Factors Used in Decision-Making. In passing upon conditional use applications, Traverse County must consider all relevant factors specified in other sections of this ordinance, and those factors identified in Section 11.35 of this ordinance.
- 11.43 Conditions Attached to Conditional Use Permits. In addition to the standards identified in Sections 5.4 and 6.4, Traverse County may attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the following:
- (a) Limitations on period of use, occupancy, and operation.
 - (b) Imposition of operational controls, sureties, and deed restrictions.
 - (c) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
- 11.44 Submittal of Hearing Notices to the Department of Natural Resources. The Zoning Administrator must submit hearing notices for proposed conditional uses to the Department of Natural Resources sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective area hydrologist.
- 11.45 Submittal of Final Decisions to the Department of Natural Resources. A copy of all decisions granting conditional uses must be forwarded to the Department of Natural Resources within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective area hydrologist.

SECTION 12.0 NONCONFORMITIES

- 12.1 **Continuance of Nonconformities:** A use, structure, or occupancy of land which was lawful before the passage or amendment of this ordinance but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions. Historic structures, as defined in Section 2.643(b) of this ordinance, are subject to the provisions below.
- 12.11 A nonconforming use, structure, or occupancy must not be expanded, changed, enlarged, or altered in a way that increases its flood damage potential or degree of obstruction to flood flows except as provided in 12.12 below. Expansion or enlargement of uses, structures or occupancies within the Floodway District is prohibited.
- 12.12 Any addition or structural alteration to a nonconforming structure or nonconforming use that would result in increasing its flood damage potential must be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP1 thru FP4 floodproofing classifications) allowable in the State Building Code, except as further restricted in 12.14 below.
- 12.13 If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this ordinance.
- 12.14 If any structure experiences a substantial improvement as defined in this ordinance, then the entire structure must meet the standards of Section 5.0 or 6.0 of this ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively. If the proposed development, including maintenance and repair during the previous 365 days, plus the costs of any previous alterations and additions since the first Flood Insurance Rate Map exceeds 50 percent of the market value of any

nonconforming structure, the entire structure must meet the standards of Section 5.0 or 6.0 of this ordinance.

12.15 If any nonconformity is substantially damaged, as defined in this ordinance, it may not be reconstructed except in conformity with the provisions of this ordinance. The applicable provisions for establishing new uses or new structures in Sections 5.0 or 6.0 will apply depending upon whether the use or structure is in the Floodway or Flood Fringe, respectively.

12.16 If any nonconforming use or structure experiences a repetitive loss, as defined in Section 2.638 of this ordinance, it shall be considered substantially damaged and must not be reconstructed except in conformity with the provisions of this ordinance.

SECTION 13.0 VIOLATIONS AND PENALTIES

13.1 **Violation Constitutes a Misdemeanor:** Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) constitute a misdemeanor and will be punishable as defined by law.

13.2 **Other Lawful Action:** Nothing in this ordinance restricts Traverse County from taking such other lawful action as is necessary to prevent or remedy any violation. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses will constitute an additional violation of this ordinance and will be prosecuted accordingly.

13.3 **Enforcement:** Violations of the provisions of this ordinance will be investigated and resolved in accordance by the Zoning Administrator. In responding to a suspected ordinance violation, Traverse County may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. Traverse County must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

SECTION 14.0 AMENDMENTS

14.1 **Map Revisions Require Ordinance Amendments.** The floodplain district regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in Section 2.2 of this ordinance.

14.2 **Required Approval:** All amendments to this ordinance must be submitted to and approved by the Department of Natural Resources prior to adoption.

EFFECTIVE DATE: This ordinance shall be in full force and effect from and after its passage and approval and publication, as required by law and/or charter.

Adopted by the Traverse County Board

This ____ of _____, ____
(Day) (Month) (Year)

Attest: _____, County Board Chairperson

David Salberg

Draft: September 17, 2021
Adopted:
Effective:

Attest: _____, County Coordinator

Lisa Zahl

Stamp with Community Seal:

DRAFT

NOTE TO PUBLIC: THE ENTIRETY OF SECTION 22 HAS BEEN AMENDED FROM WHAT CURRENTLY EXISTS USING THE MINNESOTA DEPARTMENT OF NATURAL RESOURCES MODEL SHORELAND ORDINANCE. THE FOLLOWING DOES NOT IDENTIFY THE SPECIFIC CHANGES FROM THE CURRENT SECTION 22. ANY "REDLINE" CHANGES LISTED BELOW ARE TO THE MODEL SHORELAND ORDINANCE AND NOT TO THE CURRENT SECTION 22.

SECTION 22 SHORELAND DISTRICT

1.0 STATUTORY AUTHORIZATION AND POLICY

- 1.1 **Statutory Authorization.** This shoreland ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F, Minnesota Rules, Parts 6120.2500 - 6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 394.
- 1.2 **Policy.** The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by Traverse County.

2.0 GENERAL PROVISIONS AND DEFINITIONS

- 2.1 **Jurisdiction.** The provisions of this ordinance apply to the shorelands of the public water bodies as classified in Section 4.1 of this ordinance, and to the shorelands of public water bodies greater than 10 acres in unincorporated areas in which the city has, by ordinance, extended the application of its zoning regulations as provided by Minnesota Statute, Chapter 462.357 Subd 1. Pursuant to Minnesota Rules, Parts 6120.2500 - 6120.3900, no lake, pond, or flowage less than 10 acres in size in municipalities or 25 acres in size in unincorporated areas need be regulated in a local government's shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from this ordinance.
- 2.2 **Enforcement.** The Board of County Commissioners is responsible for the administration and enforcement of this ordinance. Any violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses constitutes a misdemeanor and is punishable as defined by law. Violations of this ordinance can occur regardless of whether or not a permit is required for a regulated activity listed in Section 3.2 of this ordinance.
- A. In the event of a violation or a threatened violation of this ordinance, the Board of County Commissioners, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations or threatened violations.
- B. Any taxpayer or taxpayers of the County may institute mandamus proceedings in District Court to compel specific performance by the proper official or officials of any duty required by this ordinance.
- C. A petition may be filed with the Board of County Commissioners alleging that a land use practice is contributing to excessive erosion.
- D. All petitions shall be in writing and signed by two or more riparian landowners. The petition shall state:
- (1) The names of the petitioning riparian owners;
 - (2) The legal descriptions of the petitioning riparian owners' property;
 - (3) The name and post office address of the offending land owner;
 - (4) The legal description of the property on which the land use is occurring; and

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(5) A concise description of the land use practice, supported by photographs and measurements.

E. Upon receipt of a petition, the Board of County Commissioners shall direct the Zoning Administrator to investigate the allegations with the assistance of the Soil Conservation Service, Bois de Sioux Watershed District, and Soil & Water Conservation District.

F. Upon completion of the investigation by the Zoning Administrator, a hearing shall be held, after due notice to all parties named in the petition, at which each party shall be allowed to present testimony and the results of the investigation shall be presented.

G. After receipt of the testimony and investigation reports, the Board of County Commissioners shall issue Findings of Fact and Conclusions as to the existence of excessive erosion due to the alleged land use practice. The Findings of Fact and Conclusions shall be in writing and completed within sixty (60) days of the hearing.

H. Upon concluding that a land use practice is causing excessive erosion, the Board of County Commissioners may require that conservation or shoreland protection practices be adopted to abate the erosion.

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

2.4 **Abrogation and Greater Restrictions.** It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All previous Traverse County Shoreland Management Ordinances are hereby repealed. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

2.5 **Definitions.** Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the same meaning they have in common usage and to give this ordinance its most reasonable application. For the purpose of this ordinance, the words “must” and “shall” are mandatory and not permissive. All distances, unless otherwise specified, are measured horizontally.

2.511 **Accessory structure or facility.** Any building or improvement subordinate to a principal use.

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

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

- A. Part or all of the feature is located in a shoreland area;
- B. The slope must drain toward the waterbody.
- C. The slope rises at least 25 feet above the ordinary high water level;
- D. The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater (see Figure 1), except that an area with an average slope of less than 18 percent over a distance of at least 50 feet shall not be considered part of the bluff (see Figure 2).

Figure 1. Illustration of Bluff

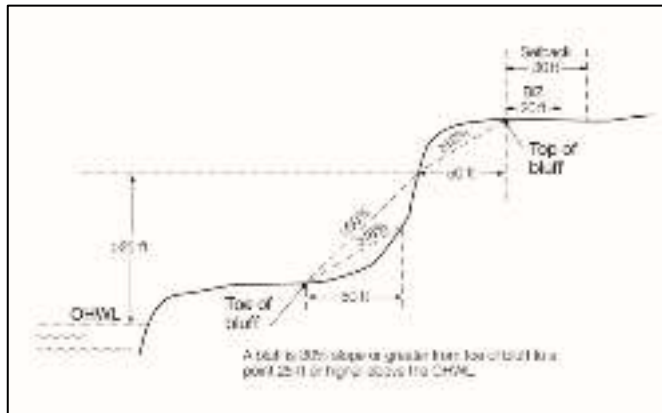
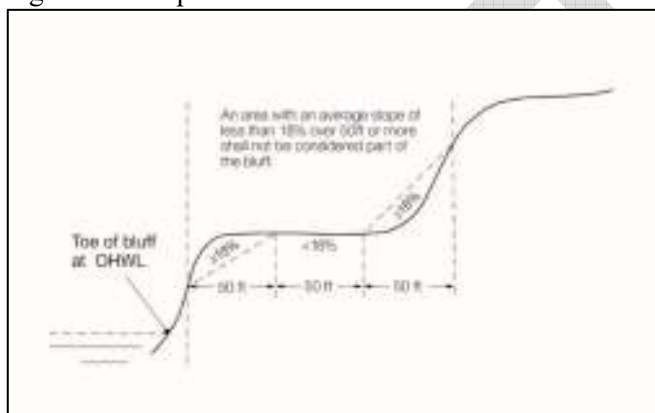


Figure 2. Exception to Bluff



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

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

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

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

2.518 **Buffer.** A vegetative feature as defined by Minnesota Statutes, Section 103F.48.

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

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

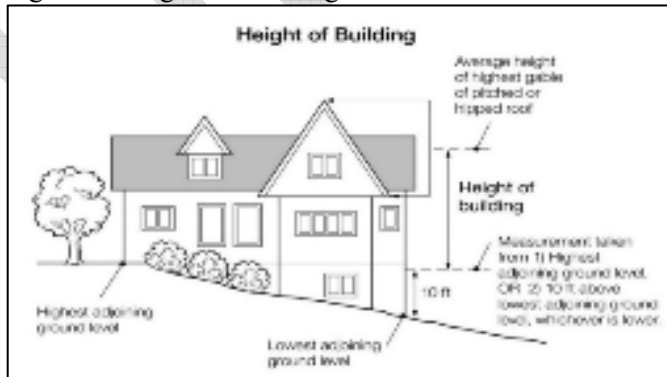
2.521 **Commercial planned unit developments.** Developments that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented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

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

2.523 **Commissioner.** The commissioner of the Department of Natural Resources.

- 2.524 **Conditional use.** A land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions upon a finding that certain conditions as detailed in the zoning ordinance exist, the use or development conforms to the comprehensive land use plan of the community, and the use is compatible with the existing neighborhood.
- 2.525 **Deck.** A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than three feet above ground.
- 2.526 **Duplex, triplex, and quad.** A dwelling structure on a single lot, having two, three, and four units, respectively, attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.
- 2.527 **Dwelling site.** A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.
- 2.528 **Dwelling unit.** Any structure or portion of a structure, or other shelter designed as short- or long-term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.
- 2.529 **Extractive use.** The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes, Sections 93.44 to 93.51.
- 2.530 **Forest land conversion.** The clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.
- 2.531 **Guest cottage.** A structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.
- 2.532 **Height of building.** The vertical distance between the highest adjoining ground level at the building or ten feet above the lowest adjoining ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof (see Figure 3).

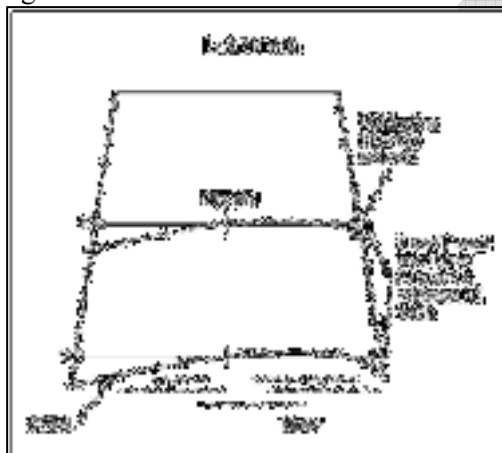
Figure 3. Height of Building



- 2.533 **Impervious surface.** A constructed hard surface that prevents or retards entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development, including rooftops; decks; sidewalks; patios; swimming pools; parking lots; concrete, asphalt, gravel driveways, or permeable pavers; and other similar surfaces.

- 2.534 **Industrial use.** The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.
- 2.535 **Intensive vegetation clearing.** The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.
- 2.536 **Lot.** A parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.
- 2.537 **Lot width.** The minimum distance between:
- E. Side lot lines measured at the midpoint of the building line; and
 - F. Side lot lines at the ordinary high water level, if applicable (see Figure 4).

Figure 4. Lot Width



- 2.538 **Metallic minerals and peat.** “Metallic minerals and peat” has the meaning given under Minnesota Statutes, Sections 93.44 to 93.51.
- 2.539 **Nonconformity.** Any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments to those controls that would not have been permitted to become established under the terms of the official controls as now written.
- 2.540 **Ordinary high water level.** The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.
- 2.541 **Planned unit development.** A type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time-share condominiums, cooperatives, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, dwelling grounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.

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

2.543 **Residential planned unit development.** A use where the nature of residency is nontransient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential planned unit developments. To qualify as a residential planned unit development, a development must contain at least five dwelling units or sites.

2.544 **Resort.** “Resort” has the meaning in Minnesota Statute, Section 103F.227.

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

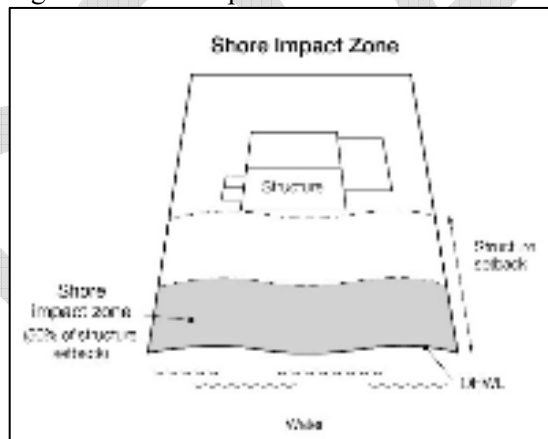
2.546 **Setback.** The minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.

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

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

2.549 **Shore impact zone.** Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback (see Figure 5).

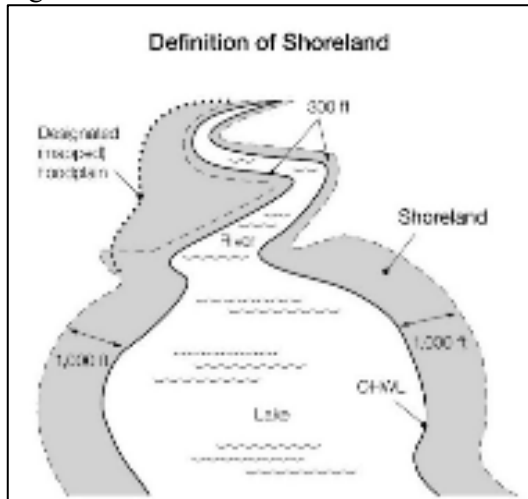
Figure 5. Shore Impact Zone



2.550 **Shoreland.** “Shoreland” means land located within the following distances from public waters:

- G. 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and
- H. 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater (see Figure 6).

Figure 6. Definition of Shoreland



- 2.551 **Shore recreation facilities.** Swimming areas, docks, watercraft mooring areas and launching ramps and other water recreation facilities.
- 2.552 **Significant historic site.** Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, Section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.
- 2.553 **Steep slope.** Lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, which are not bluffs.
- 2.554 **Structure.** Any building or appurtenance, including decks, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting facilities.
- 2.555 **Subdivision.** Land that is divided for the purpose of sale, rent, or lease, including planned unit developments.
- 2.556 **Suitability analysis.** An evaluation of land to determine if it is appropriate for the proposed use. The analysis considers factors relevant to the proposed use and may include the following features: susceptibility to flooding; existence of wetlands; soils, erosion potential; slope steepness; water supply, sewage treatment capabilities; water depth, depth to groundwater and bedrock, vegetation, near-shore aquatic conditions unsuitable for water-based recreation; fish and wildlife habitat; presence of significant historic sites; or any other relevant feature of the natural land.
- 2.557 **Variance.** "Variance" means the same as that defined in Minnesota Statutes, Section 394.27 Subd. 7 (for counties) or Section 462.357 Subd. 6 (2) (for municipalities).
- 2.558 **Water-oriented accessory structure or facility.** A small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to surface water, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include, watercraft and watercraft equipment storage structures, gazebos, screen houses, fish houses, pump houses, **saunas, patios**, and detached decks. Boathouses and boat

storage structures given the meaning under Minnesota Statutes, Section 103G.245 are not a water-oriented accessory structures.

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

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

3.0 ADMINISTRATION

3.1 Purpose. The purpose of this Section is to identify administrative provisions to ensure the ordinance is administered consistent with its purpose.

3.2 Permits.

3.21 A permit is required for the construction of buildings or building additions (including construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by Section 8.3 of this ordinance.

3.22 A certificate of compliance, consistent with Minnesota Rules Chapter 7082.0700 Subp. 3, is required whenever a permit or variance of any type is required for any improvement on or use of the property. A sewage treatment system shall be considered compliant if the only deficiency is the system’s improper setback from the ordinary high water level.

3.23 Conservation District. Within the conservation district no permit shall be issued by the Zoning Administrator or Board of County Commissioners, or variance granted by the Board of Adjustment authorizing:

1. The construction of or addition to any buildings or related structures; or
2. The installation and/or alteration of any sewage treatment system; or
3. Any grading and/or filling activity;

Until after the Zoning Administrator has provided written notice (letter or email) to the U.S. Army Corps of Engineers, State of Minnesota Department of Natural Resources, the Bois de Sioux Watershed District, Traverse County Soil and Water Conservation District, and USDA Soil Conservation Service with a fourteen (14) day comment period. The Zoning Administrator, in issuing a permit for the above activities, may impose conditions based on the comments received as determined necessary. Approvals may be granted before the expiration of the 14 day comment period if responses from all notified agencies have been received and considered.

3.3 Application materials. Application for permits and other zoning applications such as variances shall be made to the Zoning Administrator on the forms provided. The application shall include the necessary information so that the Zoning Administrator can evaluate how the application complies with the provisions of this ordinance.

3.4 Zoning Compliance. The Zoning Administrator shall issue a permit for each activity requiring a permit as specified in Section 3.2 of this ordinance. This permit will specify that the use of land conforms to the requirements of this ordinance. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this ordinance and shall be punishable as provided in Section 2.2 of this ordinance.

3.5 Variances. Variances may only be granted in accordance with Minnesota Statutes, Section 394.27 and are subject to the following:

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- 3.51 A variance may not circumvent the general purposes and intent of this ordinance; and
- 3.52 For properties with existing sewage treatment systems, a certificate of compliance, consistent with Minnesota Rules Chapter 7082.0700 Subp. 3, is required for variance approval. A sewage treatment system shall be considered compliant if the only deficiency is the system's improper setback from the ordinary high water level.
- 3.6 Conditional Uses.** All conditional uses in the shoreland area are subject to a thorough evaluation of the waterbody and the topographic, vegetation, and soil conditions to ensure:
- 3.61 The prevention of soil erosion or other possible pollution of public waters, both during and after construction;
- 3.62 The visibility of structures and other facilities as viewed from public waters is limited;
- 3.63 There is adequate water supply and on-site sewage treatment; and
- 3.64 The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercrafts.
- 3.7 Mitigation.**
- 3.71 In evaluating all variances, conditional uses, zoning and building permit applications, the zoning authority shall require the property owner to address the following conditions, when related to and proportional to the impact, to meet the purpose of this ordinance, to protect adjacent properties, and the public interest:
- I. Advanced storm water runoff management treatment;
 - J. Reducing impervious surfaces;
 - K. Increasing setbacks from the ordinary high water level;
 - L. Restoration of wetlands;
 - M. Limiting vegetation removal and/or riparian vegetation restoration;
 - N. Provisions for the location, design, and use of structures, sewage treatment systems, water supply systems, watercraft launching and docking areas, and parking areas; and
 - O. Other conditions the zoning authority deems necessary.
- 3.72 In evaluating plans to construct sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes, conditions 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 shall be attached to permits.
- 3.8 Nonconformities.**
- 3.81 All legally established nonconformities as of the date of this ordinance may continue, but will be managed according to Minnesota Statutes, Sections 394.36 Subd. 5 (for counties) and 462.357 Subd. 1e (for cities) and other regulations of this community for alterations and additions; repair after damage; discontinuance of use; and intensification of use.
- 3.82 All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of Sections 5.0 to 8.0 of this ordinance. Any deviation from these requirements must be authorized by a variance.
- 3.9 Notifications to the Department of Natural Resources.**
- 3.91 All amendments to this shoreland ordinance must be submitted to the Department of Natural Resources for review and approval for compliance with the statewide shoreland management rules. Traverse County will submit the proposed ordinance amendments to

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Adopted:

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the commissioner or the commissioner's designated representative at least 30 days before any scheduled public hearings.

- 3.92 All notices of public hearings to consider variances, ordinance amendments, or conditional uses under shoreland management controls must be sent to the commissioner or the commissioner's designated representative at least ten (10) days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.
- 3.93 All approved ordinance amendments and subdivisions/plats, and final decisions approving variances or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked within ten days of final action. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance shall also include the summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.
- 3.94 Any request to change the shoreland management classification of public waters within Traverse County must be sent to the commissioner or the commissioner's designated representative for approval, and must include a resolution and supporting data as required by Minnesota Rules, part 6120.3000, subp.4.
- 3.95 Any request to reduce the boundaries of shorelands of public waters within Traverse County must be sent to the commissioner or the commissioner's designated representative for approval and must include a resolution and supporting data. The boundaries of shorelands may be reduced when the shoreland of water bodies with different classifications overlap. In these cases, the topographic divide between the water bodies shall be used for adjusting the boundaries.

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

4.0 SHORELAND CLASSIFICATION SYSTEM AND LAND USES

4.1 Shoreland Classification System.

- 4.11 Purpose. To ensure that shoreland development on the public waters of Traverse County is regulated consistent with the classifications assigned by the commissioner under Minnesota Rules, part 6120.3300.
- 4.12 The shoreland area for the waterbodies listed in Sections 4.13 to 4.15 are defined in Section 2.550 and are shown on the Official Zoning Map.
- 4.13 Lakes are classified as follows:

A. General development (GD);

General Development Lake Name	DNR Public Waters I.D. #
<i>Lake Traverse</i>	<i>78-0025P</i>

B. Recreational development (RD); and

Recreational Development Lake Name	DNR Public Waters I.D. #
------------------------------------	--------------------------

Recreational Development Lake Name	DNR Public Waters I.D. #
<i>None</i>	

C. Natural environment (NE).

Natural Environment Lake Name	DNR Public Waters I.D. #
<i>Mud Lake</i>	<i>78-0024P</i>
<i>Smithwicks</i>	<i>06-0151P</i>
<i>St. Mary's</i>	<i>78-0001P</i>
<i>Wet Lake</i>	<i>78-0053W</i>
<i>Unnamed</i>	<i>78-0002W</i>
<i>Unnamed</i>	<i>78-0003W</i>
<i>Unnamed</i>	<i>78-0004P</i>
<i>Unnamed</i>	<i>78-0005W</i>
<i>Unnamed</i>	<i>78-0006P</i>
<i>Unnamed</i>	<i>78-0007W</i>
<i>Unnamed</i>	<i>78-0008P</i>
<i>Unnamed</i>	<i>78-0009W</i>
<i>Unnamed</i>	<i>78-0010P</i>
<i>Unnamed</i>	<i>78-0017W</i>
<i>Unnamed</i>	<i>78-0020P</i>
<i>Unnamed</i>	<i>78-0021P</i>
<i>Unnamed</i>	<i>78-0022P</i>
<i>Unnamed</i>	<i>78-0023P</i>
<i>Unnamed</i>	<i>78-0026W</i>
<i>Unnamed</i>	<i>78-0027W</i>
<i>Unnamed</i>	<i>78-0034W</i>
<i>Unnamed</i>	<i>78-0035W</i>
<i>Unnamed</i>	<i>78-0039P</i>
<i>Unnamed</i>	<i>78-0040P</i>
<i>Unnamed</i>	<i>78-0041P</i>
<i>Unnamed</i>	<i>78-0042P</i>
<i>Unnamed</i>	<i>78-0043P</i>
<i>Unnamed</i>	<i>78-0044P</i>

Natural Environment Lake Name	DNR Public Waters I.D. #
<i>Unnamed</i>	<i>78-0054W</i>
<i>Unnamed</i>	<i>78-0056W</i>
<i>Unnamed</i>	<i>78-0060W</i>
<i>Unnamed</i>	<i>78-0061W</i>
<i>Unnamed</i>	<i>78-0067W</i>
<i>Unnamed</i>	<i>78-0068W</i>
<i>Unnamed</i>	<i>78-0069W</i>
<i>Unnamed</i>	<i>78-0070W</i>

4.14 Rivers and Streams are classified as follows:

A. Urban;

Urban River Name	Legal Description
<i>None</i>	

Agriculture;

Agriculture River Name	Legal Description
<i>Mustinka</i>	<i>From the East Section line of Section 12-T128N-R46W to inlet of Lake Traverse in Section 31-T127N-R47W</i>
<i>Five Mile Creek</i>	<i>South Section line Section 8-T128N-R45W to West Section line Section 7-T128N-R45W</i>
<i>Bois de Sioux</i>	<i>From outlet of Mud Lake in Section 4-T127N-R47W to a border of Traverse and Wilkin Counties</i>

B. Transition;

Transition River Name	Legal Description
<i>None</i>	

C. Forested; and

Forested River Name	Legal Description
<i>None</i>	

D. Remote.

Remote River Name	Legal Description
<i>None</i>	

E. Tributary.

Remote River Name	Legal Description
<i>Twelve Mile Creek</i>	<i>From Section 25-T126N- R45W to Section 19-T128N- R45W</i>
<i>Eighteen Mile Creek</i>	<i>From Section 3-T126N- R46W to Section 26-T127N- R47W</i>
<i>Little Minnesota River</i>	<i>From Section 32-T125N- R49W to Section 33-T125N- R49W</i>

- 4.15 All public rivers and streams shown on the Public Waters Inventory Map for Traverse County, a copy of which is adopted by reference, not given a classification in Section 4.14 shall be considered “Tributary.”

4.2 Land Uses.

- 4.21 Purpose. To identify land uses that are compatible with the protection and preservation of shoreline resources in order to conserve the economic and environmental values of shoreland and sustain water quality.

- 4.22 Shoreland district land uses listed in Sections 4.23 and 4.24 are regulated as:

- A. Permitted uses (P). These uses are allowed, provided all standards in this ordinance are followed;
- B. Conditional uses (C). These uses are allowed through a conditional use permit. The use must be evaluated according to the criteria in Section 3.6 of this ordinance and any additional conditions listed in this ordinance; and
- C. Not permitted uses (N). These uses are prohibited.

- 4.23 Land uses for lake classifications:

Land Uses	Conservation District		Agricultural District	
	General Development	Natural Environment	General Development	Natural Environment
Single residential	C*	C*	P	P
Duplex, triplex, quad residential	C	C	C	C
Residential Subdivisions	C**	C**	C	C
Residential PUD	C**	C**	C	C
Water-dependent commercial - As accessory to a residential planned unit development	N	N	C	C

Commercial	N	N	C	C
Commercial PUD - Limited expansion of a commercial planned unit development involving up to six additional dwelling units or sites may be allowed as a permitted use provided the provisions of Section 10.0 of this ordinance are satisfied.	N	N	C	C
Parks & historic sites	C*	C*	C	C
Public, semipublic	C*	C*	P	P
Industrial	N	N	C	N
Agricultural: cropland and pasture	P	P	P	P
Agricultural feedlots - New	N	N	N	N
Agricultural feedlots - Expansion or resumption of existing	N	N	C	C
Forest management	P	P	P	P
Forest land conversion	C	C	C	C
Extractive use	C	C	C	C
Mining of metallic minerals and peat	C	C	<u>CP</u>	<u>PC</u>

* Except that lots where an existing dwelling is located within the Conservation District may be redeveloped without a conditional use permit so long as the lowest floor is elevated to above the elevation of the conservation district

** Provided that within the conservation district area of each parcel no structures are constructed and no fill over 50 cubic yards is placed.

A. Land uses for river and stream classifications:

Land Uses	Conservation District		Agricultural District	
	Agricultural	Tributary	Agricultural	Tributary
Single residential	<u>C*</u>	<u>C*</u>	P	P
Duplex, triplex, quad residential	C	C	C	C
Residential Subdivisions	<u>C**</u>	<u>C**</u>	C	C
Residential PUD	<u>C**</u>	<u>C**</u>	C	

Draft: September 17, 2021
 Adopted:
 Effective:

Water-dependent commercial - As accessory to a residential planned unit development	N	N	P	P
Commercial	N	N	P	P
Commercial PUD - Limited expansion of a commercial PUDs involving up to six additional dwelling units or sites may be allowed as a permitted use provided the provisions of Section 10.0 of this ordinance are satisfied.	N	N	P	P
Parks & historic sites	C*	C*	C	C
Public, semipublic	C*	C*	P	P
Industrial	N	N	C	N
Agricultural: cropland and pasture	P	P	P	P
Agricultural feedlots - New	N	N	N	N
Agricultural feedlots - Expansion or resumption of existing	N	N	C	C
Forest management	P	P	P	P
Forest land conversion	P	P	P	P
Extractive use	C	C	C	C
Mining of metallic minerals and peat	C	C	C	C

* Except that lots where an existing dwelling is located within the Conservation District may be redeveloped without a conditional use permit so long as the lowest floor is elevated to above the elevation of the conservation district

** Provided that within the conservation district area of each parcel no structures are constructed and no fill over 50 cubic yards is placed.

5.0 SPECIAL LAND USE PROVISIONS

5.1 Commercial, Industrial, Public, and Semipublic Use Standards.

5.11 Water-dependent uses may be located on parcels or lots with frontage on public waters provided that:

A. The use complies with provisions of Section 7.0;

Draft: September 17, 2021
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 Effective:

- B. The use is designed to incorporate topographic and vegetative screening of parking areas and structures;
- C. Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and
- D. Uses that depend on patrons arriving by watercraft may use signs and lighting, provided that:
 - (1) Signs placed in or on public waters must only convey directional information or safety messages and may only be placed by a public authority or under a permit issued by the county sheriff; and
 - (2) Signs placed within the shore impact zone are:
 - (a) No higher than ten feet above the ground, and no greater than 32 square feet in size; and
 - (b) If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination across public waters; and
 - (3) Other lighting may be located within the shore impact zone or over public waters if it is used to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination across public waters. This does not preclude use of navigational lights.

5.12 Commercial, industrial, public, and semi-public uses that are not water-dependent 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 ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

5.2 Agriculture Use Standards.

5.21 Buffers.

- A. 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.
- B. 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 perennial vegetation or operated under an approved conservation plan consistent with the field office technical guides of the local soil and water conservation district or the Natural Resource Conservation Service, and as approved by the local soil and water conservation district.

5.22 New animal feedlots are not allowed in shoreland. Modifications or expansions to existing feedlots or resumption of old feedlots are conditional uses and must meet the following standards:

- A. Feedlots must be designed consistent with Minnesota Rules, Chapter 7020;
- B. Feedlots must not further encroach into the existing ordinary high water level setback or the bluff impact zone and must not expand to a capacity of 1,000 animal units or more; and,
- C. Old feedlots not currently in operation may resume operation consistent with Minnesota Statutes, Section 116.0711.

5.3 Forest Management Standards.

- 5.31 The harvesting of timber and associated reforestation must be conducted consistent with the applicable provisions of the Sustaining Minnesota Forest Resources: Voluntary Site-Level Forest Management Guidelines for Landowners, Loggers and Resource Managers.
- 5.32 Intensive vegetation clearing for forest land conversion to another use is a conditional use subject to an erosion control and sedimentation plan developed and approved by the soil and water conservation district.

5.4 Extractive Use Standards. Extractive uses are conditional uses and must meet the following standards:

- 5.41. Site Development and Restoration Plan. A site development and restoration plan must be developed, approved, and followed over the course of operation. The plan must:
 - A. Address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations;
 - B. Identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion; and
 - C. Clearly explain how the site will be rehabilitated after extractive activities end.
- 5.42 Setbacks for Processing Machinery. Processing machinery must meet structure setback standards from ordinary high water levels and from bluffs.

5.5 Metallic Mining Standards. Mining of metallic minerals and peat shall meet the provisions of Minnesota Statutes, Sections 93.44 to 93.51.

6.0 DIMENSIONAL AND GENERAL PERFORMANCE STANDARDS

- 6.1 **Purpose.** To establish dimensional and performance standards that protect shoreland resources from impacts of development.
- 6.2 Lot Area and Width Standards. After the effective date of this ordinance, all new lots must meet the minimum lot area and lot width requirements in Sections 6.25 and 6.26, subject to the following standards:
 - 6.21 Only lands above the ordinary high water level can be used to meet lot area and width standards;
 - 6.22 Lot width standards must be met at both the ordinary high water level and at the building line;
 - 6.23 The sewer lot area dimensions can only be used if publicly owned sewer system service is available to the property;
 - 6.24 Residential subdivisions with dwelling unit densities exceeding those in Sections 6.25 and 6.26 are allowed only if designed and approved as residential PUDs under Section 10.0 of this ordinance; and
 - 6.25 Lake Minimum Lot Area and Width Standards:
 - A. General development lake – **No sewer.**

Lot Type	Riparian Lot Area (sf)	Riparian Lot Width (ft)	Nonriparian Lot Area (sf)	Nonriparian Lot Width (ft)
Single	20,000	100	40,000	150
Duplex	40,000	180	80,000	265
Triplex	60,000	260	120,000	375
Quad	80,000	340	160,000	490

Lot Type	Riparian Lot Area (sf)	Riparian Lot Width (ft)	Nonriparian Lot Area (sf)	Nonriparian Lot Width (ft)
Single	40,000	150	40,000	150
Duplex	80,000	225	80,000	265
Triplex	120,000	300	120,000	375
Quad	160,000	375	160,000	490

B. Recreational development lake – **No sewer**

Lot Type	Riparian Lot Area (sf)	Riparian Lot Width (ft)	Nonriparian Lot Area (sf)	Nonriparian Lot Width (ft)
Single	80,000	200	80,000	200
Duplex	120,000	300	160,000	400
Triplex	160,000	400	240,000	600
Quad	200,000	500	320,000	800

C. Natural environment lake – **No sewer**

6.26 River/Stream Minimum Lot Width Standards. There are no minimum lot area requirements for rivers and streams. The lot width standards in feet are:

	Agricultural	Tributary	
		No Sewer	Sewer
Single	150	100	75
Duplex	225	150	115
Triplex	300	200	150
Quad	375	250	190

6.3 Special Residential Lot Provisions.

- 6.31 Subdivisions of duplexes, triplexes, and quads are conditional uses on Natural Environment Lakes and must also meet the following standards:
- A. Each building must be set back at least 200 feet from the ordinary high water level;
 - B. Each building must have common sewage treatment and water systems in one location and serve all dwelling units in the building;
 - C. Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building; and
 - D. No more than 25 percent of a lake's shoreline can be in duplex, triplex, or quad developments.
- 6.32. One guest cottage may be allowed on lots meeting or exceeding the duplex lot area and width dimensions presented in Sections 6.25 and 6.26, provided the following standards are met:
- A. For lots exceeding the minimum lot dimensions of duplex lots, the guest cottage must be located within an area equal to the smallest duplex-sized lot that could be created including the principal dwelling unit;
 - B. A guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height; and
 - C. A guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.
- 6.33 Controlled access lots are permissible if created as part of a subdivision and in compliance with the following standards:
- A. The lot must meet the area and width requirements for residential lots, and be suitable for the intended uses of controlled access lots as provided in item D;
 - B. 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 a percentage of the requirements for riparian residential lots for each watercraft beyond six, consistent with the following table:

Ratio of lake size to shore length (acres/mile)	Required percent increase in frontage
Less than 100	25%
100 – 200	20%
201 – 300	15%
301 – 400	10%
Greater than 400	5%

- C. The lot must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot; and

D. Covenants or other equally effective legal instruments must be developed that:

- (1) Specify which lot owners have authority to use the access lot;
- (2) Identify what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, docking, swimming, sunbathing, or picnicking;
- (3) 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;
- (4) Require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations; and
- (5) 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.

6.34 Access Easements. Easements providing access to boat docking and mooring facilities to non-riparian property owners are prohibited.

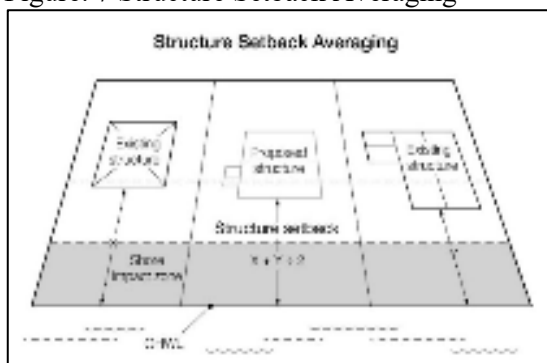
6.4 Placement, Height, and Design of Structures.

6.41 OHWL Setback for Structures and Sewage Treatment Systems. When more than one setback applies to a site, structures and facilities must be located to meet all setbacks, and comply with the following OHWL setback provisions.

Waterbody Classification	Structures with <u>No Sewer</u>	Structures with <u>Sewer</u>	Sewage Treatment Systems
Natural Environment Lakes	150	150	150
Recreational Development Lakes	100	75	75
General Development Lakes	75	50	50
Remote Rivers	200	200	150
Forested and Transition Rivers	150	150	100
Agriculture, Urban, & Tributary Rivers	100	50	75

- A. *OHWL Setbacks*. Structures, impervious surfaces, and sewage treatment systems must meet setbacks from the Ordinary High Water Level (OHWL), except that one water-oriented accessory structure or facility, designed in accordance with Section 7.3 of this ordinance, may be set back a minimum distance of ten (10) feet from the OHWL:
- B. *Setback averaging*. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the OHWL, provided the proposed structure is not located in the conservation district, a shore impact zone or in a bluff impact zone (see Figure 7);

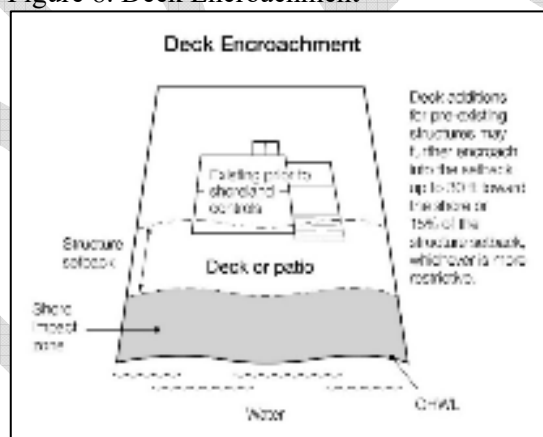
Figure. 7 Structure Setback Averaging



C. *Setbacks of decks.* Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria are met:

- (1) The structure existed on the date the structure setbacks were established;
- (2) A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;
- (3) The deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing setback of the structure from the ordinary high water level or is no closer than 30 feet from the OHWL, whichever is more restrictive; and
- (4) The deck is constructed primarily of wood, and is not roofed or screened (see Figure 8).

Figure 8. Deck Encroachment



D. *Additional structure setbacks.* Structures must also meet the following setbacks, regardless of the waterbody classification:

Setback from:	Setback (ft)
Top of bluff	30
Unplatted cemetery	50
Right-of-way line of federal, state, or county highway	50
<u>Centerline of a railroad</u>	<u>50</u>

Setback from:	Setback (ft)
<u>Right-of-way Center-line of township or other public road, road, public street, or other roads not classified</u>	<u>20</u> 50
<u>Centerline of private road or other roads not classified</u>	<u>30</u>

E. *Bluff Impact Zones*. Structures, impervious surfaces, and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

6.42 Height of Structures. All structures in residential districts in cities, except churches and nonresidential agricultural structures, must not exceed 25 feet in height.

6.43 Lowest Floor Elevation.

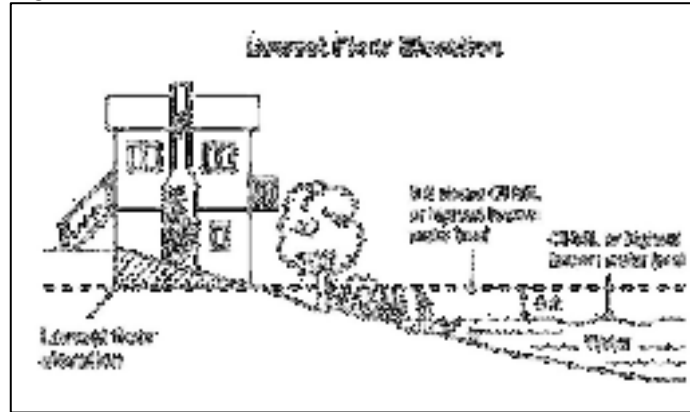
A. Determining elevations. Structures must be placed at an elevation consistent with the applicable floodplain regulatory elevations. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:

- (1) For lakes, by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the ordinary high water level, whichever is higher (see Figure 9);
- (2) For rivers and streams, by placing the lowest floor at least three feet above the highest known flood elevation. If highest known flood elevation is not available, by placing the lowest floor at least three feet above the ordinary high water level (see Figure 9), or by conducting a technical evaluation to establish a flood protection elevation. Technical evaluations must be done by a qualified engineer or hydrologist consistent with Minnesota Rules, parts 6120.5000 to 6120.6200.

B. Methods for placement.

- (1) In addition to the lowest floor, all service utilities must be elevated or water-tight to the elevation determined in part A.
- (2) If elevation methods involving fill would result in filling in the SIZ, then structures must instead be elevated through floodproofing methods in accordance with 6.43(B)(3) below;
- (3) If the structure is floodproofed, then it must be built to resist hydrostatic pressure through elevation methods such as blocks, pilings, filled stem walls, elevated concrete pad, internally flooded enclosed areas, or through other accepted engineering practices consistent with FEMA technical bulletins 1, 2 and 3.

Figure 9. Lowest Floor Elevation



- 6.44 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.

6.5 Water Supply and Sewage Treatment.

- 6.51 Water supply. Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.
- 6.52 Sewage treatment. Any premises used for human occupancy must be connected to a publicly-owned sewer system, where available or comply with Minnesota Rules, Chapters 7080 – 7081.

7.0 PERFORMANCE STANDARDS FOR PUBLIC AND PRIVATE FACILITIES

- 7.1 Placement and Design of Roads, Driveways, and Parking Areas. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening as viewed from public waters and comply with the following standards:
- 7.11 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;
- 7.12 Watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met;
- 7.13 Private facilities must comply with the grading and filling provisions of Section 8.3 of this ordinance; and
- 7.14 For public roads, driveways and parking areas, documentation must be provided by a qualified individual that they 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.
- 7.2 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, lifts, and landings must meet the following design requirements:

- 7.21 Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public recreational uses, and planned unit developments;
 - 7.22 Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public-space recreational uses, and planned unit developments;
 - 7.23 Canopies or roofs are not allowed on stairways, lifts, or landings;
 - 7.24 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;
 - 7.25 Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
 - 7.26 Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, if they are consistent with the dimensional and performance standards of sub items 7.21 to 7.25 and the requirements of Minnesota Rules, Chapter 1341.
- 7.3 Water-oriented Accessory Structures or Facilities. Each residential lot may have one water-oriented accessory structure or facility if it complies with the following provisions:
- 7.31 The structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. The structure or facility may include detached decks not exceeding eight feet above grade at any point or at-grade patios;
 - 7.32 The structure or facility is not in the Conservation District or a Bluff Impact Zone;
 - 7.33 The setback of the structure or facility from the ordinary high water level must be at least ten feet;
 - 7.34 The structure is not a boathouse or boat storage structure as defined under Minnesota Statutes, Section 103G.245;
 - 7.35 The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
 - 7.36 The roof may be used as an open-air deck with safety rails, but must not be enclosed with a roof or sidewalls or used as a storage area;
 - 7.37 The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities;
 - 7.38 As an alternative for general development and recreational development waterbodies, water-oriented accessory structures used solely for storage of watercraft and boating-related equipment may occupy an area up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the shoreline; and
 - 7.39 Water-oriented accessory structures may have the lowest floor placed lower than the elevation specified in Section 6.43 if the structure is designed to accommodate internal flooding, constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

8.0 VEGETATION AND LAND ALTERATIONS

Draft: September 17, 2021
Adopted:
Effective:

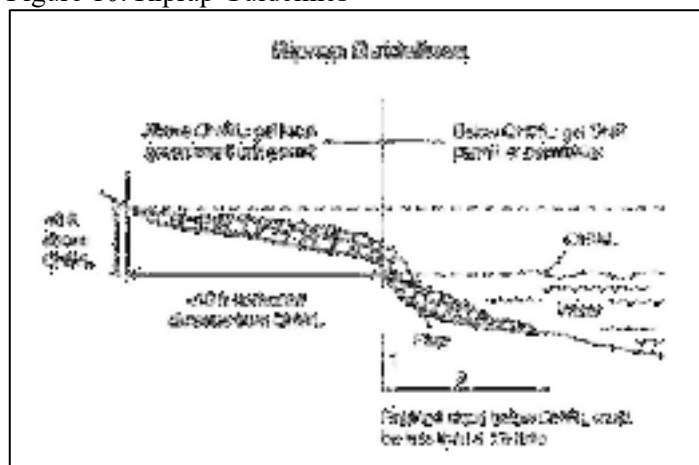
- 8.1 Purpose. Alterations of vegetation and topography are regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, sustain water quality, and protect fish and wildlife habitat.
- 8.2 Vegetation Management.
- 8.21 Removal or alteration of vegetation must comply with the provisions of this subsection except for:
- A. Vegetation alteration necessary for the construction of structures and sewage treatment systems under validly issued permits for these facilities;
 - B. The construction of public roads and parking areas if consistent with Section 7.1 of this ordinance;
 - C. Forest management uses consistent with Section 5.3 of this ordinance; and
 - D. Agricultural uses consistent with Section 5.2 of this ordinance.
- 8.22 Intensive vegetation clearing in the conservation district, shore and bluff impact zones and on steep slopes is prohibited. Intensive clearing outside of these areas is allowed if consistent with the forest management standards in Section 5.3 of this ordinance.
- 8.23 Limited clearing and trimming of trees and shrubs in the conservation district, shore and bluff impact zones and on steep slopes, is allowed to provide a view to the water from the principal dwelling and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:
- A. The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
 - B. Existing shading of water surfaces along rivers is preserved;
 - C. Cutting debris or slash shall be scattered and not mounded on the ground; and
 - D. Perennial ground cover is retained.
 - E. Picnic areas, access paths, livestock watering areas, beaches and watercraft access areas are prohibited in bluff impact zones.
- 8.24 Removal of trees, limbs, or branches that are dead, diseased, dying, or pose safety hazards is allowed without a permit.
- 8.25 Fertilizer and pesticide runoff into surface waters must be minimized through use of vegetation, topography or both.
- 8.3 Grading and Filling.
- 8.31 Grading and filling activities must comply with the provisions of this subsection except for the construction of public roads and parking areas if consistent with Section 7.1 of this ordinance.
- 8.32 Permit Requirements.
- A. Grading, filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways, if part of an approved permit, do not require a separate grading and filling permit. However, the standards in Section 8.33 of this ordinance must be incorporated into the permit.

- B. A conditional use permit shall be required for grading and filling within the Conservation District and may be subject to more restrictive standards enforced by the US Army Corps of Engineers.
- C. For all other work, including driveways not part of another permit, a grading and filling permit is required for:
 - (1) the movement of more than 10 cubic yards of material on steep slopes or within shore or bluff impact zones; and
 - (2) the movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.

8.33 Grading, filling and excavation activities must meet the following standards:

- A. Grading or filling of any wetland must meet or exceed the wetland protection standards under Minnesota Rules, Chapter 8420 and any other permits, reviews, or approvals by other local state, or federal agencies such as watershed districts, the DNR or US Army Corps of Engineers;
- B. Land alterations must be designed and implemented to minimize the amount of erosion and sediment from entering surface waters during and after construction consistently by:
 - (1) Limiting the amount and time of bare ground exposure;
 - (2) Using temporary ground covers such as mulches or similar materials;
 - (3) Establishing permanent, deep-rooted and dense vegetation cover as soon as possible;
 - (4) Using sediment traps, vegetated buffer strips or other appropriate techniques;
 - (5) Stabilizing altered areas to acceptable erosion control standards consistent with the field office technical guides of the soil and water conservation district;
 - (6) Not placing fill or excavated material in a manner that creates unstable slopes. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater;
 - (7) Fill or excavated material must not be placed in bluff impact zones;
 - (8) Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under Minnesota Statutes, Section 103G;
 - (9) Alterations of topography are only allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and
 - (10) Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if:
 - (a) the finished slope does not exceed three feet horizontal to one-foot vertical;
 - (b) the landward extent of the riprap is within ten feet of the ordinary high water level; and
 - (c) the height of the riprap above the ordinary high water level does not exceed three feet (see Figure 10).

Figure 10. Riprap Guidelines



8.34 Connections to public waters. Excavations to connect boat slips, canals, lagoons, and harbors to public waters require a public waters permit and must comply with Minnesota Rules, Chapter 6115.

8.4 Stormwater Management.

8.41 General Standards:

- A. When possible, existing natural drainageways, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater 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 as soon as possible and appropriate facilities or methods used to retain sediment on the site.
- C. When development density, topography, soils, and vegetation are not sufficient to adequately handle stormwater runoff, constructed facilities such as settling basins, skimming devices, dikes, waterways, ponds and infiltration may be used. Preference must be given to surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

8.42 Specific Standards:

- A. Impervious surfaces of lots must not exceed 25 percent of the lot area.
- B. When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation district or the Minnesota Stormwater Manual, as applicable.
- C. New constructed stormwater outfalls to public waters must be consistent with Minnesota Rules, part 6115.0231.

9.0 SUBDIVISION/PLATTING PROVISIONS

- 9.1 **Purpose.** To ensure that new development minimizes impacts to shoreland resources and is safe and functional.
- 9.2 **Land suitability.** Each lot created through subdivision, including planned unit developments authorized under Section 10.0 of this ordinance, must be suitable in its natural state for the

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proposed use with minimal alteration. A suitability analysis must be conducted for each proposed subdivision, including planned unit developments, to determine if the subdivision is suitable in its natural state for the proposed use with minimal alteration and whether any feature of the land is likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

- 9.3 **Consistency with other controls.** Subdivisions and each lot in a subdivision shall meet all official controls so that a variance is not needed later to use the lots for their intended purpose.

9.4 **Water and Sewer Design Standards.**

- 9.41 A potable water supply and a sewage treatment system consistent with Minnesota Rules, Chapters 7080 – 7081 must be provided for every lot.
- 9.42 Each lot must include at least two soil treatment and dispersal areas that support systems described in Minnesota Rules, parts 7080.2200 to 7080.223 or site conditions described in part 7081.0270, subparts 3 to 7, as applicable.
- 9.43 Lots that would require use of holding tanks are prohibited.

9.5 **Information requirements.**

- 9.51 Topographic contours at ten-foot intervals or less from United States Geological Survey maps or more current sources, showing limiting site characteristics;
- 9.52 The surface water features required in Minnesota Statutes, section 505.021, Subd. 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more current sources;
- 9.53 Adequate soils information to determine suitability for building and sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;
- 9.54 Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;
- 9.55 Location of 100-year flood plain areas and floodway districts from existing adopted maps or data; and
- 9.56 A line or contour representing the ordinary high water level, the “toe” and the “top” of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

- 9.6 **Dedications.** When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.

- 9.7 **Platting.** All subdivisions that cumulatively create five or more lots or parcels that are 2-1/2 acres or less in size shall be processed as a plat in accordance with Minnesota Statutes, Chapters 462.358 Subd. 3a (*cities*) and 505. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after the adoption of this ordinance unless the lot was previously approved as part of a formal subdivision.

- 9.8 **Controlled Access Lots.** Controlled access lots within a subdivision must meet or exceed the lot size criteria in Section 6.33 of this ordinance.

10.0 PLANNED UNIT DEVELOPMENTS (PUDs)

- 10.1 **Purpose.** To protect and enhance the natural and scenic qualities of shoreland areas during and after development and redevelopment of high density residential and commercial uses.
- 10.2 **Types of PUDs Permissible.** Planned unit developments (PUDs) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. Deviation from the minimum lot size standards of Section 6.2 of this ordinance is allowed if the standards in this Section are met.
- 10.3 **Processing of PUDs.** Planned unit developments in the shoreland district must be processed as a conditional use and comply with the provisions of this section in addition to those standards outlined elsewhere in the zoning and subdivision regulations. When there is a conflict in requirements, the more stringent of the requirements shall be applied. An expansion to an existing commercial PUD involving 6 or less new dwelling units or sites since the date this ordinance was adopted is permissible as a permitted use provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures in Section 10.5. Approval cannot occur until all applicable environmental reviews are complete.
- 10.4 **Application for a PUD.** The applicant for a PUD must submit the following documents prior to final action on the application request:
- 10.41 Site plan and/or plat showing:
- A. Locations of property boundaries;
 - B. Surface water features;
 - C. Existing and proposed structures and other facilities;
 - D. Land alterations;
 - E. Sewage treatment and water supply systems (where public systems will not be provided);
 - F. Topographic contours at ten-foot intervals or less; and
 - G. Identification of buildings and portions of the project that are residential, commercial, or a combination of the two (if project combines commercial and residential elements).
- 10.42 A property owner's association agreement (for residential PUD's) with mandatory membership, and consistent with Section 10.6 of this ordinance.
- 10.43 Deed restrictions, covenants, permanent easements or other instruments that:
- A. Address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUDs; and
 - B. Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in Section 10.6 of this ordinance.
- 10.44 A master plan/site plan describing the project and showing floor plans for all commercial structures.
- 10.45 Additional documents necessary to explain how the PUD will be designed and will function.
- 10.5 **Density Determination.** Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures.
- 10.51 Step 1. Identify Density Analysis Tiers. Divide the project parcel into tiers by drawing one or more lines parallel to the ordinary high water level at the following intervals, proceeding landward:

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Waterbody Classification	No Sewer (ft)	Sewer (ft)
General Development Lakes – 1st tier	200	200
General Development Lakes – all other tiers	267	200
Recreational Development Lakes	267	267
Natural Environment Lakes	400	320
All Rivers	300	300

10.52 Step 2. Calculate Suitable Area for Development. Calculate the suitable area within each tier by excluding all wetlands, bluffs, or land below the ordinary high water level of public waters.

10.53 Step 3. Determine Base Density:

A. For residential PUDs, divide the suitable area within each tier by the minimum single residential lot area for lakes to determine the allowable number of dwelling units, or base density, for each tier. For rivers, if a minimum lot area is not specified, divide the tier width by the minimum single residential lot width.

B. For commercial PUDs:

(1) Determine the average area for each dwelling unit or dwelling site within each tier. Include both existing and proposed dwelling units and sites in the calculation.

(a) For dwelling units, determine the average inside living floor area of dwelling units in each tier. Do not include decks, patios, garages, or porches and basements, unless they are habitable space.

(b) For dwelling sites (campgrounds), determine the area of each dwelling site as follows:

For manufactured homes, use the area of the manufactured home, if known, otherwise use 1,000 sf.

For recreational vehicles, campers or tents, use 400 sf.

(2) Select the appropriate floor area/dwelling site area ratio from the following table for the floor area or dwelling site area determined in Section 10.53 B. 1.

Inside Living Floor Area or Dwelling Site Area (sf)	Floor Area/Dwelling Site Area Ratio		
	General Development Lakes w/Sewer – all tiers	General Development Lakes w/no sewer – all other tiers	Natural Environment Lakes
	General Development Lakes w/no sewer – 1st tier	Recreational Development Lakes	Remote Rivers
	Agricultural, Urban and Tributary Rivers	Forested and Transition Rivers	

200	.040	.020	.010
300	.048	.024	.012
400	.056	.028	.014
500	.065	.032	.016
600	.072	.038	.019
700	.082	.042	.021
800	.091	.046	.023
900	.099	.050	.025
1,000	.108	.054	.027
1,100	.116	.058	.029
1,200	.125	.064	.032
1,300	.133	.068	.034
1,400	.142	.072	.036
1,500	.150	.075	.038

(3) Multiply the suitable area within each tier determined in Section 10.52 by the floor area or dwelling site area ratio to yield the total floor area or dwelling site area for each tier to be used for dwelling units or dwelling sites.

(4) Divide the total floor area or dwelling site area for each tier calculated in Section 10.53 B. 3 by the average inside living floor area for dwelling units or dwelling site area determined in 10.53 B 1. This yields the allowable number of dwelling units or dwelling sites, or base density, for each tier.

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

D. All PUDs with densities at or below the base density must meet the design standards in Section 10.6

10.54 Step 4. Determine if the Site can Accommodate Increased Density:

A. The following increases to the dwelling unit or dwelling site base densities determined in Section 10.53 are allowed if the design criteria in Section 10.6 of this ordinance are satisfied as well as the standards in Section 10.54, item B:

Shore land Tier	Maximum density increase within each tier (percent)
1 st	50
2 nd	100
3 rd	200
4 th	200

Shore land Tier	Maximum density increase within each tier (percent)
5th	200

B. Structure setbacks from the ordinary high water level:

- (1) Are increased to at least 50 percent greater than the minimum setback; or
- (2) The impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional acceptable means and the setback is at least 25 percent greater than the minimum setback.

10.6 Design Criteria. All PUDs must meet the following design criteria.

10.61 General Design Standards.

- A. All residential planned unit developments must contain at least five dwelling units or sites.
- B. On-site water supply and sewage treatment systems must be centralized and meet the standards in Section 6.5 of this ordinance. Sewage treatment systems must meet the setback standards of Section 6.41, item A of this ordinance.
- C. Dwelling units or dwelling sites must be clustered into one or more groups and located on suitable areas of the development.
- D. Dwelling units or dwelling sites must be designed and located to meet the dimensional standards in Sections 6.41, 6.42, and 6.43:
- E. Shore recreation facilities:
 - (1) Must be centralized and located in areas suitable for them based on a suitability analysis.
 - (2) The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor).
 - (3) Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.
- F. Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.
- G. Accessory structures and facilities, except water oriented accessory structures, must meet the required structure setback and must be centralized.
- H. Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in Section 7.3 of this ordinance and are centralized.

10.62 Open Space Requirements.

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- A. Open space must constitute at least 50 percent of the total project area and must include:
 - (1) Areas with physical characteristics unsuitable for development in their natural state;
 - (2) Areas containing significant historic sites or unplatted cemeteries;
 - (3) Portions of the shore impact zone preserved in its natural or existing state as follows:
 - (a) For existing residential PUD's, at least 50 percent of the shore impact zone
 - (b) For new residential PUDs, at least 70 percent of the shore impact zone.
 - (c) For all commercial PUD's, at least 50 percent of the shore impact zone.
- B. Open space may include:
 - (1) Outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public;
 - (2) Subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems; and
 - (3) Non-public water wetlands.
- C. Open space shall not include:
 - (1) Dwelling sites or lots, unless owned in common by an owners association;
 - (2) Dwelling units or structures, except water-oriented accessory structures or facilities;
 - (3) Road rights-of-way or land covered by road surfaces and parking areas;
 - (4) Land below the OHWL of public waters; and
 - (5) Commercial facilities or uses.

10.63 Open Space Maintenance and Administration Requirements.

- A. Open space preservation. The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved and maintained by use of deed restrictions, covenants, permanent easements, public dedication, or other equally effective and permanent means. The instruments must prohibit:
 - (1) Commercial uses (for residential PUD's);
 - (2) Vegetation and topographic alterations other than routine maintenance;
 - (3) Construction of additional buildings or storage of vehicles and other materials; and
 - (4) Uncontrolled beaching of watercraft.
- B. Development organization and functioning. Unless an equally effective alternative community framework is established, all residential planned unit developments must use an owners association with the following features:
 - (1) Membership must be mandatory for each dwelling unit or dwelling site owner and any successive owner;
 - (2) Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or dwelling sites;

- (3) Assessments must be adjustable to accommodate changing conditions; and
- (4) The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

10.64 Erosion Control and Stormwater Management.

- A. Erosion control plans must be developed and must be consistent with the provisions of Section 8.3 of this ordinance. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant.
- B. Stormwater management facilities must be designed and constructed to manage expected quantities and qualities of stormwater runoff.
 - (1) For residential PUDs, impervious surface for the entire project site must not exceed 25%.
 - (2) For commercial PUDs, impervious surfaces within any tier must not exceed 25 percent of the tier area.

10.7 Conversions. Local governments may allow existing resorts or other land uses and facilities to be converted to residential PUDs if all of the following standards are met:

10.71 Proposed conversions must be evaluated using the same procedures for residential PUDs involving new construction. Inconsistencies between existing features of the development and these standards must be identified;

10.72 Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit;

10.73 Shore and bluff impact zone deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:

- A. Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;
- B. Remedial measures to correct erosion, improve vegetative cover and improve screening of buildings and other facilities as viewed from the water; and
- C. Conditions attached to existing dwelling units located in shore or bluff impact zones that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.

10.74 Existing dwelling unit or dwelling site densities that exceed standards in Section 10.5 of this ordinance may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.

SECTION 23 FEEDLOT

23.00 FEEDLOT ORDINANCE.

23.01 Statutory Authorization.

This Traverse County Animal Feedlot Ordinance, 1998, hereinafter referred to as “Ordinance”, is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapters 115 and 116, and Minnesota Pollution Control Agency Rules, as well as the planning and zoning enabling legislation in Minnesota Statutes, Chapter 394.

23.02 Policy.

Livestock and poultry are important to producers and consumers in Traverse County.

Animals provide meat, milk, eggs and related products for consumption in the United States and for export. Livestock production is an important source of income for farmers and agricultural businesses in the County. Efficient livestock production should be a concern of producers and consumers alike.

Livestock, poultry and other animals produce manure which may negatively affect Traverse County’s environment. When animal manure adds to air, water or land pollution in the County, it is subject to control.

The following standards for the control of livestock, poultry and other animal feedlot and manure application has been promulgated to provide protection against pollution caused by manure from domesticated animals. These standards recognize that animal manure provides beneficial qualities to the soil and plant production.

All feedlot owners and operators shall act as good neighbors when applying animal manure. The time of year, wind direction and neighboring dwellings should be considered when selecting appropriate time and place of application. All feedlots shall be operated in a manner consistent with the certificate of compliance and the standards set forth in the Ordinance and the Minnesota Pollution Control Agency.

These rules comply with the policy and purpose of the State of Minnesota in regard to the control of pollution as set forth in Minnesota State Statutes Chapters 115 and 116, and the Land Use Enabling Legislation Chapters 394. By following these regulations, the environmental, residential and agricultural uses of land will be more compatible. The purpose of the Feedlot Ordinance is to regulate the use and development of land in Traverse County so that effects on the health, safety, morale and general welfare of the public will be minimized.

23.03 Jurisdiction.

The provisions of this Ordinance shall apply to all animal feedlots that exceed 10 animal units, A.U., as defined in this Ordinance, within the shoreland areas as defined in the Traverse County Shoreland Management Ordinance of 1994 outside the incorporated limits of municipalities; and 50 animal units, A.U. to all other areas of Traverse County outside the incorporated limits of municipalities.

23.04 Compliance.

The use of any land for the establishment, expansion or management of an animal feedlot shall comply with the provisions of this Ordinance, and the provisions of MPCA rules.

23.05 Administration and Enforcement.

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The Traverse County Environmental Officer is responsible for the administration and enforcement of this Ordinance. The Traverse County Board of Commissioners may establish by resolution, application, permit and other such fees as they deem necessary.

Any violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with grants of variances or conditional uses, shall constitute a misdemeanor, and shall be punishable as defined by law. Violations of the Ordinance can occur regardless of whether or not a permit is required for a regulated activity pursuant to this Ordinance.

23.06 Interpretation.

In the interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the public health, safety and welfare of the citizens of Traverse County, by providing for the commonly approved animal husbandry practices used in the management of animal feedlots.

23.07 Severability.

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

23.08 Abrogation and Greater Restrictions.

It is not the intent of this Ordinance to repeal, abrogate, or impair any existing ordinances, rules or statute. However, when this Ordinance is inconsistent with any other ordinance, rule or statute, the ordinance, rule or statute which impose the greater restriction shall prevail.

23.09 Definitions.

Unless specifically defined, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application. Specific definitions applicable to this Ordinance are contained in Section 5.

23.10. County Permit, Conditional Use Permit or Variance Required.

No person shall operate a new animal feedlot without first obtaining the necessary permits from Traverse County. Unless otherwise noted within this Ordinance, all MPCA Feedlot Rules and Regulations and other applicable State and Federal laws apply.

A. If land or conditional use permits are required, permits shall be issued by the County and shall be conditional upon complying with the terms and conditions of the certificate of compliance or permits issued by the Minnesota Pollution Control Agency for the operation of feedlots. No land use permit shall be issued without a:

1. Waste Utilization's Plan, and
2. An approved DNR Water Appropriation Permit, if required.

B. Feedlots where all other provisions of this Ordinance have been met and the animal units are less than 1,000 where the manure is stored within an approved concrete storage structure, shall be a permitted use.

C. Feedlots where all other provisions of this Ordinance have been met and the animal units are less than 600 where the manure is stored within an approved earthen storage basin shall be a permitted use.

- D. Any animal feedlot exceeding 2,000 animal units per square quarter section of land shall require a conditional use permit
- E. Permittees shall be required to comply with all laws and regulations pertaining to dead animal disposal as a condition of the permit.
- F. All other feedlots shall require conditional use permits.

23.11 Area Regulations for New Feedlots

- A. The following shall be considered as minimum requirements for setbacks of new feedlots; no new feedlots shall be located within:
 1. One (1) mile from public parks.
 2. One (1) mile from a municipality or a group of ten (10) or more residences located within a radius of one (1) mile from the site.
 3. ½ mile from a neighboring residence.
 4. A Shoreland or Floodplain Management District.
 5. One hundred (100) feet from all public drainage ditches.
- B. No new non-farm dwellings shall be allowed within one-half (½) mile of an existing feedlot.

23.12 New Animal Manure Holding Structures.

All new liquid manure holding structures for animal waste shall have a minimum storage capacity of eight (8) months and shall meet the minimum construction standards required by the MPCA.

23.13 Animal Waste Utilization and Application Setbacks

- A. Application of liquid manure from storage basins must be injected or incorporated within 48 hours.
- B. Application of all animal waste within Traverse County's unincorporated areas shall comply with the following setbacks:

Surface Irrigation Applied	Incorporated or Recommended within 48 hours	Injected (in feet)	
300 feet	100 feet OHWL	100	Watercourses, streams, rivers, lakes, non crop drainage ditches
1000 feet	1000 feet	1000 feet	Municipal well
500 feet	500 feet	500 feet	Residential area (10 or more homes) or municipality
500 feet	500 feet	500 feet	Residence, neighboring resident
100 feet	50 feet	10 feet	Field tile intakes

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Prohibited	Permitted	Permitted	100 year floodplain
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8. Where an area's topography slopes away from an adjacent watercourse, animal manure may be exempted from the required setbacks upon written approval of the Environmental Officer as long as the MPCA minimum guidelines are met.

9. No animal waste shall be applied within these setback areas.

C. All waste utilization of animal manure as fertilizer, applied in areas not included in Section 23.14, Subd. A of this Ordinance, shall be according to the Natural Resource Conservation (NRCS) or the MPCA.

D. Where adequate acres for spreading animal waste are not available, spreading agreements shall be provided to the MPCA and the Traverse County Environmental Office.

23.14 Standards for Earthen Storage Basins for Storage of Animal Waste.

A. All plans shall be prepared and approved by a registered professional engineer or NRCS job authority approval.

B. All basins designed within Traverse County shall meet minimum practice standards, and recommendations of NRCS storage ponds; and have an approved Waste Utilization Plan.

1. Shall have a signed Operations and Maintenance Plan.

2. Shall have a construction plan agreement by the Engineer.

3. Upon completion, shall provide to the Traverse County Environmental Officer, a construction inspection log.

C. Any situation not covered by the above standards shall be controlled by the Midwest Plan Service # 18 Livestock Waste Facilities Handbook, and applicable Extension Engineering Fact Sheets involving animal waste.

D. Soils with severe limitations due to seepages as described in the Traverse County Soil Survey, shall have a synthetic liner as required by NRCS.

E. Owner and Operator's Responsibility. The landowner, and the owner and operator of any feedlot shall be responsible for the storage, transportation, and disposal of all animal manure generated in a manner consistent with the provisions of the Ordinance.

1. Upon abandonment of one year, termination or non-renewal of any permit or certificate necessary to operate a feedlot, or failure to operate the feedlot in any manner consistent with this Ordinance or with State and Federal regulations, the landowner, and the owner and operator of any feedlot shall remain responsible for all costs of closure, cleanup or other costs necessary to bring the property into compliance with all Federal, State and County regulations, and to restore the property to a suitable use.

F. The permit holder shall allow the Traverse County Environmental Officer to inspect the site whenever necessary. All testing must be done in compliance with MPCA regulations.

23.15 Conditional Use Permits

A. Conditional use permits shall be required for:

1. Those feedlots which are not a permitted use within Section 23.10 of this Ordinance.

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2. Any expansion or modification of an existing feedlot within the shoreland management district or bluff impact zone.
 3. Any feedlot requiring the Environmental Review Program pursuant to M.S. 116D.04 and 116D.045 and its administrative rules adopted by the EQB 44 10.0200-4410.7800.
 4. Any existing feedlot which expands or modifies over 20 percent (20%) above the number of animal units existing at the time of the last permit or certificate granted by MPCA, to the extent that the total number of animal units exceeds the number of animal units which is required for new feedlot conditional use permits.
- B. All conditional use permits shall have animal waste plans, consisting of the following:
1. Compliance with all standards established within the County Feedlot Ordinance.
 2. Submission of any other additional information requested by the Traverse County Environmental Officer, Planning Commission, County Board of Commissioners, or MPCA.
 3. After the review by the Planning Commissioner, any conditional use permit granted shall require, as a condition, that the permittee obtain a certificate of compliance or related permit required by MPCA rules and shall require revocation of the permit if the interim certificate of compliance or permit are not given.
 4. Operational and Maintenance Plan.
 5. Approval Plans for earthen storage basins and concrete holding structures over 500,000 gallons.
 6. Construction inspection plan and verification log.
 7. Dead Animal Disposal Plan.
- C. Standards for conditional use permits:
1. Any changes involving structural alterations and intensification of use or changes not included on the certificate of compliance or not specifically permitted in a conditional use permit, shall be considered only as a new application for a conditional use permit.
 2. A conditional use permit shall consider the issue of odor and the applicant shall be required to develop and implement a plan whereby windbreak or other odor controlling measures will be installed so as to minimize odors where the Planning Commission and Board of County Commissioners deem it is necessary to protect the interests of the adjacent property owners.

23.16 Variance

A variance may be requested from any requirements set forth in this Ordinance where by reason of exceptional circumstances, the strict enforcement of such provision would cause unnecessary hardship or would be unreasonable, impractical or not feasible.

23.17 Amendment by County Board

This Ordinance may be amended whenever the public necessity and the general welfare requires such amendment by following the procedure specified in this Subdivision. The County Board may amend the procedures, standards, requirements, maps and other provisions of this Ordinance after holding such public hearings as it deems necessary. At least one (1) public hearing shall be required with notice published in the official county newspaper at least ten (10) days before the public hearing. In addition, the Board shall give written notice of any changes and/or amendments of the official control(s) to the following:

- A. The governing bodies of all towns and all municipalities located within the county.
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FEEDLOT PERMIT NO:

23.18 Ag Waste Management System Operation and Maintenance Plan.

YOU, AS OWNER, ARE RESPONSIBLE FOR MAINTAINING THIS CONSERVATION PRACTICE TO ASSURE THAT IT CONTINUES TO SERVE THE PURPOSE FOR WHICH IT IS INTENDED. THE PRACTICE MUST BE INSPECTED PERIODICALLY TO ENABLE PROPER OPERATION AND MAINTENANCE. TO ASSIST YOU IN MAKING THESE INSPECTIONS, THE FOLLOWING REQUIREMENTS HAVE BEEN PREPARED FOR YOU.

A. All Components of the System:

1. Inspect embankments, water course channels and ridges, level spreaders and filter strips, and holding pond inlets regularly, especially following heavy rains and spring runoff. Repair damage as soon as conditions allow with compacted earth fill, reshaping, staked sod, re-seeding and/or mulch as needed.
2. Control brush, weed and tree growth. Use herbicides that do no harm to the grass sod, or mow and clip where possible.
3. Control domestic animals, gophers, moles, badgers, woodchucks or other animals. They may burrow in the embankment, diversion dikes and level spreaders creating holes that will cause wash out.
4. Uncontrolled grazing should not be permitted on the embankment sideslopes, grassed waterways, vegetated diversions and the filter strips

B. Waste Storage Structures and Holding Ponds:

NEVER ENTER CONFINED SPACES SUCH AS RECEPTION AND STORAGE PITS AND TANKS, PUMPING SUMPS, ETC. WITHOUT FIRST TESTING FOR POISONOUS GASES, ESTABLISHING AND MAINTAINING POSITIVE VENTILATION TO THE SPACE AT ALL TIMES AND USING SPOTTERS AND PERSONAL SAFETY LINES FOR EACH PERSON ENTERING THE CONFINED AREA.

1. Empty holding ponds and storage structures according to the waste utilization plan schedule.
2. Agitate holding ponds only at the designated locations. Never agitate lined holding ponds except at the points specifically designed for agitation.
3. On runoff storage ponds, maintain the water level below the marker indicating sufficient storage remains to contain the runoff from a single design storm event.
4. Maintain the holding pond embankment at the original height, width, and cross section as shown on the construction plan.
5. Maintain a thick vegetative cover of grass on the embankment top and the exterior sideslopes and interior sideslopes above the water storage “frill” (pump-out marker) elevation.
6. Keep holding pond inlets free from debris and sediment.

C. Other Practices and Appurtenances:

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1. Maintain all fences in good condition; repairing broken wires, gates and posts to insure that the safety intent of the fencing is not compromised.
 2. Maintain all mechanical diversions (concrete and/or treated plank) as originally installed.
 3. Maintain commercially manufactured manure delivery systems (ram pumps, liquid pumps, gutter scrapers, etc.) in good operating condition according to manufacturer's specifications and recommendations.
 4. Provide personal flotation device and/or life saving pole in the immediate vicinity
- D. Call the Traverse County Environmental Officer, Your Consulting Engineer or the Minnesota Pollution Control Agency for Guidance if you see:
1. Evidence of holding pond leakage such as:
 - a. Seepage along the toe of the embankment (standing water, particularly "polluted" water, soft, spongy, wet areas; growth of water loving vegetation).
 - b. Failure of the holding pond to fill up (water level remains constant over extended time periods or raises after significant rains and then drops).
 - c. A sudden drop in the water level.
 2. Evidence of significant waterway or diversion channel erosion.
- E. Applicant's Agreement.

I hereby certify that I understand and will comply with all provisions established in the Waste Utilization and the Operation and Maintenance Plan as prescribed.

SIGNATURE OF APPLICANT:

DATE:

DEAD ANIMAL DISPOSAL PLAN

I, _____ will dispose of my livestock or poultry carcasses by one of the following (circle the appropriate letter)

- A. Bury - with a minimum of 3 feet of cover and 5 feet above the Seasonal High Water Table.
- B. Incinerate - with a MPCA approved incinerator.
- C. Render - name and location of rendering service:
- D. Compost - constructed and operated as specified by the USDA Cooperative Extension Service.

Signature of Livestock Producer

CONSTRUCTION INSPECTION PLAN

The Construction Inspection shall contain the following minimum criteria:

1. Contractor or landowner to contact Engineer prior to the start of construction.
2. Review plans and specification requirements with contractor.
3. During construction, I will inspect the following:

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- a. Moisture content of earthfill material.
- b. Compaction of earth embankment.
- c. Basin bottom and slope material after it is cut and placed to grade, but before it is scarified and re-compacted.
- d. Final elevations, grades and dimensions.

Project Engineer Signature

ADDITIONAL MANURE DISPOSAL AREA APPLICATION

The undersigned landowner agrees to allow manure from _____'s livestock feedlot to be spread on _____ acres of his/her land in compliance with his/her Waste Utilization Plan.

This land is located in the _____, Range _____, Quarter of Section _____, Township _____, County, Minnesota.

Signature of Landowner/Tenant

Address and Phone Number:

SECTION 24 SUBDIVISIONS

24.00 SUBDIVISIONS

24.01 Metes and Bounds Descriptions.

~~After the effective date of this Ordinance, no deed involving the subdivision of land, be it platted or unplatted, shall be recorded unless the property is first surveyed by a Registered Land Surveyor, and the complete, fully executed Certificate of Survey is recorded along with the deed. At the same time, a copy shall also be furnished to the County Assessor. (Amended November 17, 2015)~~

24.02 Recording.

~~This Ordinance shall regulate recording all deeds for land within the County of Traverse.~~

24.03 Deeds Already of Record.

~~This Ordinance shall not apply to deeds already of record.~~

24.04 Previous Metes and Bounds Descriptions.

~~In the event that the deed to be recorded contains part or all of a metes and bounds description contained in a prior deed, then the new deed shall contain a reference to the Book and Page number and recording date of the previous deed.~~

24.01 SHORT TITLE

This Ordinance shall be known, cited, and referred to as the Traverse County Subdivision Ordinance, except as referred to herein, where it shall be known as "this Ordinance".

24.02 PURPOSE AND INTERPRETATION

Each new subdivision becomes a permanent unit in the basic physical structure of the County, a unit which the future County will of necessity be forced to reckon with. Piecemeal planning of such subdivisions can bring about a disconnected patchwork of plats, a poor circulation of traffic, and an undesirable atmosphere. In order that new subdivisions will contribute toward an attractive, orderly, stable, and wholesome environment, adequate services, and efficient movement of traffic, all subdivisions hereafter platted within the jurisdiction of Traverse County shall, in all respects, fully comply with the regulations hereinafter set forth in this Ordinance. In their interpretation and application, the provisions of this Ordinance shall be the minimum requirements adopted for the protection of the public health, safety, and general welfare.

24.03 RULES AND DEFINITIONS

A. Statutory Authorization and Rules

This ordinance is adopted pursuant to the authority contained in Chapters 462, 505, 515, 515A, and 515B of the Minnesota Statutes, or successor statutes. All subdivisions as defined and under the jurisdiction of this Ordinance are subject to the provisions of this Ordinance and to the Minnesota Statutes which regulate subdivisions.

B. Definitions

For the purpose of these regulations, the following terms, phrases, words, and their definitions shall have the meaning given in this section. When inconsistent with the context, words used in the present tense shall include the future tense; words in the singular shall include the plural and

words in the plural shall include the singular. The masculine gender includes the female and neuter genders.

1. Administrator: See Zoning Administrator.
2. Alley: A public right-of-way which affords a secondary means of access to abutting property.
3. Attorney: The Traverse County Attorney.
4. Block: An area of land within a subdivision that is entirely bounded by streets or a combination of streets, exterior boundary lines of the subdivision, and/or bodies of water.
5. Boulevards: That portion of a street right-of-way between the curb (or curb line) and property line.
6. Building: Any structure having a roof, for the shelter, support or enclosure of persons, animals, or chattel, or property of any kind; and when separated by party walls without openings, such portion of such building so separated shall be deemed a separated building.
7. Building Setback Line: A line within a lot or other parcel of land parallel to a public road, street, or highway right-of-way line defining a portion of the lot between said right-of-way line and said setback line on which buildings or structures may not be placed.
8. Comprehensive Plan: Unless otherwise stated, it is the "Traverse County Comprehensive Plan" adopted by the Traverse County Board of Commissioners in 2011, or successor Plan.
9. County Board: The Traverse County Board of Commissioners.
10. County Surveyor: The surveyor duly appointed by the County Board to serve in the capacity of county surveyor as specified by State Statutes.
11. Easement: A grant by a property owner for the use of a strip of land for the purpose of constructing and maintaining utilities, including but not limited to sanitary sewers, water mains, electric lines, telephone lines, storm drainage ways and gas lines.
12. Engineer: The Traverse County Engineer.
13. Final Plat: A drawing, in final form, showing a proposed subdivision containing all information and detail required by State Statute and by this Ordinance to be presented to the Planning Commission and County Board for approval, and which if approved, may be duly filed with the Traverse County Recorder.
14. Licensed Engineer: A person licensed as a professional engineer by the State of Minnesota.
15. Lot: A parcel of land occupied or to be occupied by a principal structure or group of structures and accessory structures together with such yards, open spaces, lot width and lot area as required by this Ordinance, and having the required frontage upon a street, either shown and identified by lot number on a plat of record, or considered as a unit of property and described by metes and bounds.
16. Lot, Corner: A lot situated at the junction of, and abutting on, two or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed 135 degrees.
17. Lot, Interior: A lot other than a corner lot.
18. Lot, Through: Any lot other than a corner lot which abuts more than one street.
19. Lot Area: The lot area is the land within the lot lines.
20. Lot Depth: The mean horizontal distance between the mean front road and the mean rear lot line. The greater frontage of a corner lot is its depth, and its lesser frontage is its width.

21. Lot Lines: The lines bounding a lot, as defined herein. When a lot line abuts a road, street, avenue, park or other public property, except an alley, such line shall be known as a street line, and when a lot abuts an alley, it shall be known as an alley line.
22. Lot Line, Front: That boundary of a lot which abuts an existing or dedicated public street, and in the case of a corner lot it shall be the shortest dimension on a public street except that a corner lot in a non-residential area shall be deemed to have frontage on both streets.
23. Lot Line, Rear: That boundary of a lot which is opposite the front lot line. If the rear lot line is less than 10 feet in length or if the lot forms a point at the rear, the rear lot line shall be a line 10 feet in length within the lot, parallel to the front lot line.
24. Lot Line, Side: Any boundary of a lot which is not a front lot line or a rear lot line.
25. Lot of Record: A platted lot, or metes and bounds parcel, which has been recorded in the office of the Traverse County Recorder prior to the adoption of this Ordinance.
26. Lot Width: The shortest horizontal distance between the side lot lines measured at right angles to the lot depth.
27. Official Map: The map established by the County Board, in accordance with State Statutes, showing streets, highways, and parks and drainage, both existing and proposed.
28. Owner: Any individual, firm, association, syndicate, co-partnership, trust, or any other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under these regulations.
29. Persons: Any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; includes any trustee, receiver, assignee, or other similar representative thereof.
30. Planning Commission (or Commission): The duly appointed Planning Commission of the County Board, i.e. the Traverse County Planning Commission.
31. Preliminary Plat: A drawing clearly marked "preliminary plat" showing the salient features of a proposed subdivision as specified in Section VIII A.
32. Public Land: Land owned and/or operated by a governmental unit.
33. Publication: An official notice as prescribed by State Statutes.
34. Shall: Means mandatory.
35. Standards and specifications for Improvements: The standards and specifications for construction or required improvements in new subdivisions.
36. Street: A public right-of-way which affords a primary means of access to abutting property.
37. Street, Dead End or Cul-de-Sac: A street with only one vehicular traffic outlet.
38. Street, Local: A street intended to serve primarily as an access to abutting properties.
39. Street, Private: A street which is not dedicated to the community for public use.
40. Street, Service: A marginal access street which is generally parallel and adjacent to a major street.
41. Street, Half: A street designed to provide access to only one side of the right-of-way.
42. Street Pavement: The wearing surface of a street.
43. Street Width: The width of the right-of-way measured at right angles to the center line of the street.
44. Subdivider: Any person, firm, corporation, partnership, or association, who shall lay out any subdivision or part thereof as defined herein, either for himself or for others.

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45. Subdivision: A described tract of land which is to be or has been divided into two or more lots or parcels or the division of a lot, tract or parcel of land into two (2) or more lots, tracts or parcels, none of which are greater than five (5) acres in area (exclusive of road right-of-way) or greater than 300 feet in width, for the purpose of transferring ownership or building development; or if a new street is involved, any division or development of a parcel of land. The term shall include resubdivision of lands provided, however, that the sale or exchange of small parcels of platted land to or between adjoining property owners shall not be considered as a subdivision, and provided the remaining acreage is not less than the minimum requirement of the appropriate zoning district. Existing farmsteads shall be exempt from platting requirements.
46. Subdivision, Minor: A subdivision that is intended to be reviewed administratively without need for a public hearing or approval by the County Board.
47. Surveyor: A person duly registered as a land surveyor by the State of Minnesota.
48. Used For: to include the phrases: "arranged for", "designed for", "intended for", "maintained for", and "occupied for".
49. Zoning Administrator: The duly appointed Traverse County Zoning Administrator.
- ~~4-50.~~ Zoning District: An area as prescribed by the Traverse County Zoning Ordinance.

24.04 PLATTING PROCEDURES

Whenever any subdivision of land is proposed to be made, and before any contract for the sale of, or any offer to sell any lots in such subdivision or any part thereof is made, and before any permit for the erection of a structure in such proposed subdivision shall be granted, the subdivider or his duly authorized agent shall apply in writing for approval of such proposed subdivision in accordance with the following procedures.

A. Minor Subdivision

The purpose of a minor subdivision is to allow for simple subdivisions of land that may be approved administratively and do not require a public hearing. The Traverse County Zoning Administrator is authorized to approve all minor subdivisions that are in compliance with the provisions of this Ordinance and other applicable requirements. The provisions of this section are not intended for the subdivision of land that may be further subdivided in succession in order to avoid the standard platting requirements. A minor subdivision shall be allowed at the discretion of the Administrator but generally may be utilized if all of the following conditions are met:

1. The division of property must include the entire property, including remainder parcels within the same Government Lot or Quarter-Quarter section;
2. The division of property must not result in more than six (6) parcels or lots being created (including any remnant property). Any re-subdivision of lands that occur within a three (3) year time frame shall be considered one subdivision for the purposes of the six-parcel limitation;
3. The division(s) must meet all applicable requirements of the Traverse County Zoning Ordinance, including minimum lot dimensions, and requirement for minimum buildable area, and must be suitable for its intended use;
4. The division(s) must not involve or require the dedication of any interests to the public such as easements or roads, except where specifically exempted under this Ordinance;
5. All parcels created by the division or reconfiguration of land shall have adequate access to an existing public road right-of-way or public road easement that has been accepted by the County or relevant township(s) by plat, resolution, or maintenance, except where landlocked parcels are

combined by a deed restriction, administrative order, or other legal document recorded with the County Recorder's office. For the purposes of this requirement, adequate access shall mean a minimum 16.5-foot wide permanent ingress/egress easement or strip of land that is part of the parcel being subdivided. No more than three separate parcels may be served by an easement except by conditional use, in which case the County may require conditions of approval including, but not limited to, that the easement be located within a strip of land at least 66-feet in width that extends out to a public road and which has been identified as a permanent ingress/egress easement allowing for public road construction and which prohibits the construction of structures within the 66-foot strip of land;

6. In the case of divisions intended to adjust existing lot lines or to attach divided parcels to adjacent parcels such that no net increase in the number of parcels or lots is achieved, no non-conforming parcel may be created or left over except by variance or with the recording of a deed restriction, administrative order or other legal document restricting the use of such parcel;
7. The Minor Subdivision, if approved, shall be documented by an approved and recordable plat meeting the requirements of Minnesota Statutes 505, except that the Administrator may allow for the following alternative means of description subject to the standards listed:
 - a. Certificate of Survey: A metes and bounds description with a Certificate of Survey prepared by a licensed land surveyor may be allowed for divisions that cumulatively create five (5) or fewer lots or parcels that are two and one-half (2-1/2) acres or less in size. The Certificate of Survey shall be recorded along with the deed at the Office of the County Recorder and a copy furnished to the County Assessor.
8. The subdivider may, at any point, opt out of the minor subdivision process and apply instead for a standard subdivision under the terms and procedures of this ordinance.

B. Preliminary Plat

1. Prior to subdividing or resubdividing land, the owner of the land shall file with the Zoning Administrator, at least two weeks prior to the next regularly scheduled Planning Commission meeting, one (1) paper copy and one electronic copy (PDF or other format acceptable to the Zoning Administrator) of the Preliminary Plat which has been prepared in accordance with the regulations set forth in this Ordinance. At the time of submission of the Preliminary Plat, any required fees shall be paid by the Subdivider.
2. The Zoning Administrator shall place the proposal on the agenda of the next available meeting of the County Planning Commission as a public hearing. The required publication shall be made and notices shall be sent to the subdivider, all property owners of record within five hundred (500) feet of the affected property in incorporated areas (cities), and/or in unincorporated areas (townships), all owners or record within one-half (1/2) mile of the affected property.
3. Prior to the public hearing, the Zoning Administrator shall refer copies of the Preliminary Plat to the County Engineer, the County Recorder, appropriate utility companies, and other agencies as required by law or as the County Board desires to have an opinion on the proposal.
4. The Planning Commission meeting may serve as the public hearing provided the legal requirements pertaining to same are met.
5. The subdivider or a duly authorized representative shall attend the Planning Commission meeting at which their proposal is scheduled for consideration. The Planning Commission shall study the practicability of the Preliminary Plat taking into consideration the requirements of Traverse County and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location, and width of streets, their relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangement, the future development of adjoining lands as yet

unsubdivided, and the requirements of the Comprehensive Plan, the Official Map and the Zoning Ordinance.

6. At the public hearing all persons interested in the proposed plat shall be heard and the Planning Commission shall approve, modify and approve or disapprove, the Preliminary Plat, and submit to the County Board, the applicant and Zoning Administrator, their findings and recommendations, including any recommended conditions of approval to be required.
7. The County Board shall act upon the Preliminary Plat and notify the Planning Commission, Zoning Administrator, and the applicant of their action.
8. Should the subdivider desire to amend the Preliminary Plat as approved, he shall resubmit the amended plat following the original procedures set forth. The public hearing and fees shall be exempted unless the Planning Commission considers the scope of the revisions to constitute a new plat which will then require a new public hearing and fees.

B. Final Plat

1. The Final Plat shall be prepared by a surveyor and said plat shall conform to all State and County requirements.
2. The subdivider shall, within one (1) year after the approval of the Preliminary plat, file with the Zoning Administrator a PDF or equally accessible electronic copy of the Final Plat; the Preliminary Plat and Final Plat will be considered void if more than one (1) year has passed the approval date of the Preliminary Plat unless an extension is requested in writing by the subdivider and for good cause granted by the County Board.
3. Any construction plans for required improvements may be ordered submitted to the County Engineer at the discretion of the County Board, for his estimate of construction costs. If so ordered, a copy of the estimated construction costs shall be submitted to the County Attorney for the preparation of the agreement required in Section IV of this Ordinance.
4. At the discretion of the County Board, the certification of title or registered property report and abstract of title shall be referred to the County Attorney for examination and report, which shall be returned within 15 days.
5. The reports required in this Section shall be forwarded to the Zoning Administrator, who shall place them on agenda of the next available County Board meeting for their consideration.
6. Prior to the final approval of the Final Plat the financial arrangements for required improvements (if so ordered) under this Ordinance shall be complied with.
7. Upon completion of the requirements above and notation to the effect upon the Final Plat, it shall be deemed to have final approval and shall be properly signed by the appropriate officials of the County as required by Minnesota Statutes or this Ordinance and may be filed by the applicant in the Traverse County Recorder's Office. Two mylar copies of the final plat shall be submitted to the County – one for recording and the other to the Zoning Administrator. A Final Plat not so filed and recorded within 90 days of the date upon which such plat is approved or considered approved by reasons of the failure of the County Board to act, shall become null and void, unless the particular circumstances of said applicant warrant the County Board to grant an extension which shall not exceed 180 days.
8. The subdivider shall furnish the Zoning Administrator one copy of the recorded Final Plat showing evidence of the recording and also make payment for the costs, if any, accrued during the verification of the Final Plat materials.
9. No changes, erasures, modifications or revisions shall be made in any Final Plat after approval has been given by the County Board and endorsed in writing on the Plat, unless the said Plat is first

resubmitted to the County Board and such body approves any modifications. In the event that any such Final Plat is recorded without complying with this requirement, the same shall be considered null and void, and the County Board shall institute proceedings to have the Plat stricken from the record.

C. Required Improvements

Prior to approval of the Final Plat, the subdivider shall agree in the manner set forth in this Section, to install or pay for the installation of improvements in conformity with construction plans approved by the County Engineer and in conformity with the requirements of this Ordinance.

D. Payment for Improvements

The required improvements which are listed and described in this Ordinance are to be furnished and installed at the sole expense of the subdivider and at no expense to the County, unless otherwise stated. In the case of an improvement, the cost of which would by general policy be assessed only in part to the improved property and the remaining cost paid out of the general tax levy, provision must be made for payment of a portion of the cost by the subdivider and the remaining portion of the cost by the County, and provided further, that if any improvement installed within the subdivision will be of substantial benefit to lands beyond its boundaries, the County Board may make provision for causing a portion of the cost of the improvement, representing the benefit to such lands, to be assessed against the same and in such case the subdivider will be required only to pay for such portion of the whole cost of said improvement as will represent the benefit to the property within his subdivision.

E. Construction Plans

1. If so ordered, construction plans for the required improvements conforming with adopted standards of this Ordinance shall be prepared at the subdivider's expense by a professional engineer. Such plans, together with the quantities of construction material shall be submitted to the County Engineer for his estimate of the total cost of the improvements. Upon approval, the plans shall be the basis for the cost portion of the contract required by this Ordinance. The plans approved by the County Engineer, plus two prints shall be submitted and placed on file with the County Engineer.
2. Plans for the installation of utilities shall be submitted to the County Engineer and Zoning Administrator upon the submission and approval by the appropriate agencies. The appropriate agencies shall have approved the plans prior to the approval of the Final Plat, unless otherwise determined by the County. Financial arrangements for these facilities shall be between the subdivider and the appropriate utility agency.

F. Contract for Installation of Improvements

Prior to installation of any required improvements and prior to approval of the Final Plat at the discretion of the County Board, the subdivider shall enter into a contract in writing with the appropriate unit of government which shall require the subdivider to furnish and construct the improvements at his sole expense in accordance with plans, specifications and normal contract conditions approved by the County Board. The contract, if ordered, shall include provisions for supervision of construction details by the County Engineer and grant to the County Engineer authority to coordinate the work to be done under said contract by the subdivider and/or any subcontractor authorized to proceed thereunder and with any other work being done or contracted by the community in the vicinity. The agreement shall require the subdivider to make an escrow deposit or to furnish a performance bond as specified in this Ordinance.

G. Financial Guarantee

1. At the option of the County Board, the Board may exercise one or more of the following financial guarantees to assure completion of minimum necessary required improvements.

a. Escrow Deposit: An amount equal to 125 percent of the County Engineer's cost estimate and the costs of inspection of the improvements to be furnished and/or installed by the subdivider per his contract shall be deposited with the County Treasurer by the subdivider. The County shall be entitled to reimbursement from said deposit for cost and expense incurred by the County for the inspection of the construction and for the completion or work not approved by the County Engineer and for any damages sustained by the breach of contract. Upon completion of the work and termination of any liability, the remaining balance of the escrow deposit shall be refunded to the subdivider.

b. Performance Bond: The subdivider may furnish a public contractor's performance bond as prescribed by Minnesota Statutes, with corporate surety in a penal sum equal to 125 percent of the County Engineer's cost estimate for the required improvements to be furnished and/or installed by the subdivider. The performance bond shall be approved by the County Attorney prior to its acceptance. A certified check shall be submitted by the subdivider for the estimated inspection costs of the required improvements to be furnished and/or installed by the subdivider. Said check is to be submitted at the time of the submission of the performance bond.

H. Completed Improvements

Improvements within a subdivision which have been completed prior to the application for approval of the Final Plat or execution of the contract for installation of the required improvements shall be accepted as equivalent improvements in compliance with the requirements of this Ordinance, only if the County Engineer shall certify that he is satisfied that the existing improvements conform to the applicable standards.

I. Inspection of Improvements

At least 10 days prior to commencing construction of required improvements the subdivider shall notify the Zoning Administrator and the County Engineer in writing of the time when he proposes to commence construction of such improvements so that they may cause inspection(s) to be made to assure that all specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required.

J. Modification of the Design of Improvements

If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the County Engineer that unforeseen conditions make it necessary or preferably to modify the location or design of such required improvements, the County Engineer may, upon approval by a previously delegated member of the Planning Commission, authorize modifications provided these modifications are within the spirit and intent of the original approval and do not extend to the waiver or substantial alteration of the function of any improvements required.

The County Engineer shall issue any authorization under this Section in writing and shall transmit a copy of such authorization to the Planning Commission and the County Board.

K. Proper Installation of Improvements

If the County Engineer shall find, upon inspection of the improvements performed before the expiration date of any performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider, he shall so report to the County Board and Planning Commission. The Zoning Administrator then, shall notify the subdivider and, if necessary, the bonding company, and take all necessary steps to preserve the

County's rights under the bond. No plat shall be approved by the Planning Commission as long as the subdivider is in default on a previous approved plat.

L. Public Acceptance of Recreation Areas

Where a park, playground, or other recreation area shall have been shown on a Final Plat, the Planning Commission may also require the filing of a written agreement between the applicant and the County Board covering the cost of grading, development, equipment and maintenance of any such recreation area.

M. Public Acceptance of Streets

The approval of the Planning Commission of a Final Plat shall not be deemed to constitute or be evidence of any acceptance by any municipality, town, county, or the state of any street, easement, or other right-of-way shown on such Final Plat.

24.05 GENERAL REQUIREMENTS

A. Conformity to Official Map and Comprehensive Plan

All subdivisions shall conform to any Official Map adopted by Traverse County and be in harmony with the Comprehensive Plan.

B. Delayed Approval of Subdivisions

Where a proposed park, playground, school site or other public site as shown on the Official Map and/or Comprehensive Plan is embraced in part or in whole by the boundaries of a proposed subdivision, such public land shall be reserved and no action shall be taken towards approval of a Preliminary Plat for a period not to exceed six (6) months to allow the opportunity to consider and take action towards acquisition of such land by the appropriate jurisdiction.

C. Conformity to Zoning Ordinance

All subdivisions shall conform to the Traverse County Zoning Ordinance and Zoning Map.

D. Character of the Land

The land to be subdivided shall be of such character that it can be used safely for the building proposed without danger to health or peril from fire, flood, or other menaces.

E. Established Monuments

All international, federal, state, county and other official monuments, bench-marks, triangulation points, and stations shall be preserved in their precise locations; and it shall be the responsibility of the subdivider to insure that these markers are maintained in good condition during and following construction and development. All section, quarter section, and quarter-quarter section corner monuments shall be completely and adequately described on the Final Plat and new or updated corner ties shall be taken and furnished to the County Surveyor.

F. Preservation of Natural Features

The Planning Commission may establish for preservation the natural features which add value to a development and to the County such as trees, groves, water courses and falls, wetlands, beaches, historic sites, vistas, and similar irreplaceable assets.

G. Erosion Prevention

The subdivider shall be required to institute measures as determined and directed by the County Engineer to insure the prevention of wind and water erosion during and upon the completion of construction.

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Effective:

H. Requirements for Subdivisions

- 1. Land suitability.** Each lot created through subdivision, including planned unit developments authorized in the County Zoning Ordinance, must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the local unit of government shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.
- 2. Consistency with other controls.** Subdivision must conform to all official controls of this community. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with this Ordinance can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of the Traverse County Zoning Ordinance, including at least a minimum contiguous lawn area, that is free of limiting factors sufficient for the construction of two standard soil treatment systems. Lots that would require use of holding tanks must not be approved.
- 3. Dedications.** When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of storm water and significant wetlands.
- 4. Platting.** All subdivisions in shoreland areas that create five or more lots or parcels that are 2-1/2 acres or less in size shall be processed as a plat in accordance with Minnesota Statutes, Chapter 505. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after these official controls were enacted unless the lot was approved as part of a formal subdivision.

I. Environmental Review Procedures

- 1. Purpose.** Minnesota Law requires that projects that have the potential to cause significant environmental impacts must undergo special environmental review procedures prior to obtaining approvals and other needed permits. The function of the Minnesota Environmental Review Program is to avoid and minimize damage to Minnesota's environmental resources caused by public and private actions.
- 2. When Required.** The mandatory and exemption categories are established in Minnesota Rules, Parts 4410.4300, 4410.4400 and 4410.4600, or as amended by the State of Minnesota. Subdivision proposals that exceed the stated thresholds must complete the required environmental review process prior to the approval of the subdivision by the County. (Contact the Zoning Administrator for more information on these procedures.)
- 3. Costs Incurred.** In the event that an environmental assessment worksheet or an environmental impact statement is required for a subdivision, the County may require the applicant to pay a fee equal to the actual cost incurred by the County, including the cost of County staff time including direct salary and fringe benefit costs, the cost of consultant or other professional fees incurred in completing any portion of the review process, the cost of printing and distributing documents, the cost of any public hearings or public meetings held in conjunction with the application, and other direct costs of the County in the review process. The County shall provide the applicant with an itemized listing of the costs incurred if requested by the applicant within 30 calendar days of the date of the billing.

J. Registered (Torrens) Land Survey Procedures

It is the intention of this Ordinance that all registered land surveys in the County shall be presented in the form of a standard plat in accordance with the standards set forth in this Ordinance, the Zoning Ordinance, and all other applicable requirements and that the County shall approve the arrangement, sizes, and relationships of the proposed tracts in such a registered land survey before the document is recorded. Unless such an approval has been obtained, no construction or placement of structures or other improvements shall take place on tracts which have been so subdivided by registered land surveys. Further, the County may refuse to improve, repair, or maintain any tracts to be used as streets or roads.

24.06 MINIMUM SUBDIVISION DESIGN STANDARDS

All Plats shall conform, at a minimum, to the standards of this section. The County Board may impose stricter or additional standards as determined necessary to address management of stormwater or drainage; to ensure efficient and safe circulation of traffic in and around the proposed subdivision; to provide for adequate public and private utilities; to provide for safe and adequate water supply and sewage treatment; to ensure compliance with the County's Comprehensive Plan; and to otherwise meet the intent and purpose of the County's zoning and subdivision regulations and to protect the public health, safety and welfare.

A. Conformity to the County Plan

The proposed subdivision shall conform to the County Comprehensive Plan.

B. Street Plan

1. The arrangement, character, width, grade, and location of all streets shall conform to the Comprehensive Plan and to these regulations and shall be considered in their relation to existing and planned streets, to reasonable circulation of traffic, to topographical conditions, to run-off of storm water, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.
2. Continuation of Existing Streets: The arrangement of streets in new subdivisions shall make provision for the appropriate continuation of the existing streets in adjoining areas.
3. Future Projection of Streets: Where adjoining areas are not subdivided, but may be subdivided, the arrangement of streets in a new subdivision shall make provisions for the proper projection of streets into adjoining areas by carrying the new streets to the boundaries of the subdivision of appropriate locations.

C. Streets

1. Widths: All right-of-way widths and road widths shall conform to the following minimum dimensions, the standards as established by the Traverse County Engineer, or as otherwise approved by the County. The County may require greater widths when deemed necessary.
 - a. Local street (rural section) - 66-foot right-of-way width, 22-foot road width.
 - b. Cul-de-Sacs - 80-foot right-of-way radius, 65-foot road radius.
2. Grades: All centerline gradients shall be at least 0.3 percent and shall not exceed 8 percent.
3. Local Streets: Local streets shall be so aligned that their use by through traffic will be discouraged.
4. Cul-de-Sacs: The maximum length of cul-de-sac streets shall be 500 feet measured along the centerline from the intersection of origin to the end of right-of-way unless the County finds that topographic or other considerations necessitate greater length.

Draft: September 17, 2021
Adopted:
Effective:

5. Service Streets (Roads): Where a subdivision abuts or contains an existing or planned major traffic-carrying thoroughfare or a railroad right-of-way, the County Board may require a street approximately parallel to and on each side of such right-of-way for adequate protection of residential properties and to afford separation of through and local traffic. Such service streets shall be located at a distance from the major thoroughfare or railroad right-of-way suitable for the appropriate use of intervening land, as for park purposes in residential districts or for commercial purposes in the appropriate district. Such distances shall also be determined with regard for the requirements of approach grades and future grade separation.
6. Half Streets: Half streets shall be prohibited.
7. Private Streets: Private streets shall not be approved, nor shall public improvements be approved for any private street, except in relation to an approved planned unit development.
8. Hardship to Owners of Adjoining Property Avoided: The street arrangement shall be such so as not to cause hardship to owners of adjoining property in platting their own land and providing convenient access to it.

D. Intersections

1. Angle of Intersection: The angle formed by the intersection of two streets shall not be less than 80 degrees, with 90-degree intersections preferred.
2. Size of Intersections: Intersections of more than four corners shall be prohibited.
3. Corner Radii: Roadways of street intersections shall be rounded by a radius of not less than 20 feet. Corners at the entrances to the turnaround portion of cul-de-sacs shall be rounded by a radius of not less than 20 feet.

E. Trees

Trees shall not be planted within the right-of-way and should preferably be placed three to six feet inside the property line. Any tree branches which hang over the road right-of-way are subject to damage or removal due to right-of-way maintenance or other permitted activities within the right-of-way, for which the County shall not be held liable.

F. Street Names and Signs

Proposed streets obviously in alignment with existing and named streets shall bear the names of such existing streets. In no case shall the name of a proposed street duplicate existing street names, including phonetic similarities. Street name signs shall be placed at all street intersections within or abutting the subdivision and shall conform to the standard of design accepted for all street name signs. Stop and/or Yield signs shall be placed at all streets intersecting with highways, arterial streets and collector streets, and as determined by the Traverse County Engineer or appropriate road authority.

G. Lots

1. Layout: Where possible, side lot lines shall be at right angles to straight street lines or radial to curved street lines. Lots with frontage on two parallel, local residential streets shall be avoided. The lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing land use permits to build or constructing or placing structures or other improvements on all lots in compliance with the Zoning Ordinance and in providing driveway access to buildings on the lots from an approved public street.
2. Size and Dimension: Minimum lot areas and dimensions shall be as set forth in the Traverse County Zoning Ordinance. Land below the ordinary high-water level (OHWL) of a lake or stream classified as a public water in the Traverse County Zoning Ordinance shall not be included within minimum lot area calculations of any lot in a subdivision.

Draft: September 17, 2021
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3. Reduced Lot Widths. To allow reasonable flexibility in the design of lots within a subdivision, lot widths may be reduced at either a front or rear lot line (but not both) when approved by the County and provided that the number of lots created via this flexibility does not result in a net increase in the number of lots beyond what would have been otherwise allowed if all lots met the required minimum lot width.
4. Corner Lots: Corner lots shall be platted at least 10 percent wider than the minimum lot width required.
5. Lot Remnants: Lot remnants which are below the minimum lot size must be added to adjacent or surrounding lots rather than be allowed to remain as an unusable outlot or parcel unless the owner can show plans for the future use of such remnant.
6. Water Courses: Lots abutting upon a water course, drainage way, channel, or stream shall have an additional depth or width, as required to assure house sites that are not subject to flooding. In addition, all lakeshore and stream regulations shall be strictly adhered to.
7. Access: All lots shall front upon a public right-of-way and have access to an improved street or roadway, except as otherwise allowed in the Zoning Ordinance or as otherwise approved by the County in a subdivision review.
8. Double Frontage Lots. Double frontage lots shall be avoided except where necessary to provide separation of residential development from arterial streets or to overcome specific disadvantages of topography and orientation.

H. Monuments

Monuments shall be placed in locations on the boundary of the subdivision and within it as required by Chapter 505 of the Minnesota Statutes, except that delayed monumentation shall not be approved. Durable monuments shall be placed at all lot corners, block corners, angle points, points of curves in streets and at intermediate points as shown on the final plat. Monuments shall be placed at all quarter section and quarter corners within the subdivision or on its perimeter.

I. Sewage Disposal

Each lot shall be provided with a sewage disposal system by either a public sanitary sewer system or a private on-site system. For all lots created after January 23, 1996 that are to be served with a private on-site system, there shall be a minimum of two soil treatment and dispersal areas that support systems as described in MN Rules parts 7080.2200 to 7080.2230 or site conditions described in part 7081.0270, subparts 3 to 7, as applicable.

J. Water Supply

Each lot shall be suitable for being provided with a supply of potable water by either an individual well, central water system or a public water supply.

K. Drainage

The design of each subdivision shall make adequate provision for storm and flood water runoff channels or basins.

L. Easements

The County, when determined necessary or appropriate, may require that the subdivider provide permanent or temporary easements for the purpose of drainage, stormwater retention and/or treatment, public or private utilities, sidewalks, trails, vehicle turn-around areas or other purposes as determined appropriate and in the interest of public safety and the general welfare.

M. Non-Residential Subdivisions

Draft: September 17, 2021
Adopted:
Effective:

In addition to the principles and standards in these regulations, which are appropriate to the planning of all subdivisions, the applicant shall demonstrate to the satisfaction of the County that the street, parcel, and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:

1. Proposed industrial parcels shall be suitable in area and dimensions to the types of industrial development anticipated.
2. Street rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereupon.
3. Special requirements may be imposed by the County with respect to street, curb, gutter, and sidewalk design and construction.
4. Special requirements may be imposed by the County with respect to the installation of public utilities, including water, sewer, and storm water drainage.
5. Every effort shall be made to protect adjacent residential areas from potential nuisance from a proposed commercial or industrial subdivision, including the provision of extra depth in parcels backing upon existing or potential residential development and provisions for a permanently landscaped buffer strip when necessary.

24.07 PARKS, OPEN SPACE, AND NATURAL FEATURES

A. Existing or Proposed Areas

Where a proposed park, playground or open space shown on the Comprehensive Plan is located in whole or in part in a subdivision, the Planning Commission may require that such area or areas be shown on plats in accordance with the requirements specified in this section. Such area or areas shall be dedicated to the township or County by the subdivider if the governing body approves such dedication.

B. Proposed Subdivision Areas

1. The Planning Commission may require that plats show sites of a character, extent and location suitable for the development of a park, playground, or other recreation purposes. The Planning Commission may require that the developer satisfactorily grade any such recreation areas shown on the plat.
2. In all new subdivisions, the County may require 10% of the gross area of the subdivision to be dedicated for public recreation space, school sites or other public use with such percentage being in addition to property dedicated for streets, alleys, easements, or other public ways. When a subdivision is too small for the practical dedication of public land or if no land in the subdivision is suitable for such use, the subdivider may be required to pay a fee of up to 10% of the gross land value of the subdivision to the County Board, to be used for park acquisition or development in accordance with Minnesota Statutes 394.25, subdivision 7, or successor statute.
3. If a new subdivision is designed to be platted in several additions, all public recreation space, school sites or other public use lands in the total subdivision except streets, alleys, or easements other than those leading directly to such sites shall be dedicated at the time the first addition is platted.

24.08 DOCUMENTS TO BE FILED

A. Preliminary Plat

Draft: September 17, 2021
Adopted:
Effective:

Shall contain the following information and/or items:

1. Scale: No less than one inch equals 100 feet.
2. Identification and Description:
 - a. Proposed name of subdivision
 - b. Location by section, township, range or by other legal description.
3. Names and addresses of the owner, subdivider, surveyor, and designer of the plan.
4. Graphic scale.
5. North point.
6. Date of preparation.
7. General location map.
8. Existing conditions in tract and in surrounding area to a distance of 300 feet.
9. Boundary line of proposed subdivision, clearly indicated.
10. Total approximate acreage.
11. Platted streets, railroad right-of-way and utility easements.
12. Boundary lines and ownership of adjoining unsubdivided land.
13. Sewers, water mains, culverts, or other underground facilities.
14. Existing permanent buildings and structures.
15. Topographic contours, showing limiting site characteristics such as water courses, lakes, marsh areas, at ten-foot intervals or less from United States Geological Survey maps or more accurate sources topographic mapping scale for areas of pronounced relief or for problem areas to be at the discretion of the County Board or the Planning Commission.
16. Other information, water supply, sewage disposal, drainage, flood control and soil tests, if requested by the Planning Commission or County Board to aid in its review.
17. For subdivisions involving shoreland-zoned areas:
 - a. The surface water features required in Minnesota Statutes, section 505.02, subdivision 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;
 - b. adequate soils information to determine suitability for buildings and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;
 - c. information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;
 - d. location of 100-year flood plain areas and floodway districts from existing adopted maps or data; and
 - e. a line or contour representing the ordinary high water level, the toe and the top of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.
18. Plan of the Entire Area

- a. Where a tract of land is proposed for subdivision that is a part of a larger logical subdivision unit, the Planning Commission or County Board may order to be prepared a "Plan of the Entire Area", such plan to be used by the Planning Commission and the County Board to aid in judging the proposed plat.

B. Final Plat

Shall contain the following information and/or items:

1. Scale: No less than one inch equals 100 feet.
2. Identification: Same as for Preliminary Plat.
3. Boundaries of the property; lines of all proposed streets and alleys, with their width, any other areas intended for public use.
4. Lines of adjoining streets and alleys, with their width and names.
5. All lot lines and easements, with figures showing their dimensions.
6. An identification system for all lots and blocks.
7. Data required by the Traverse County Surveyor, i.e. accurate angular and linear dimensions for all lines, lot areas, angles and curvatures used to describe boundaries, streets, easements, and other important features.
8. Plans for water supply, sewage disposal, drainage, and flood control.**
9. Soil Borings.**
10. Certification by a registered land surveyor to the effect that the Plat represents a survey made by him and that monuments and markers thereon exist as located and that all dimensional and geodetic details are correct.
11. Notarized certification by Owner, and by any mortgage holder of record, of the adoption of the Plat and the dedication of streets and other public areas.
12. Certification showing that all taxes currently due on the property to be subdivided have been paid in full.

** Provide as attachments to the Final Plat, if required by the County Board or Planning Commission

13. Examples of signature block:

a. Form for approval by the Planning Commission:

This _____ day of _____, 19 _____

Signed _____ Chairman

Signed _____ Secretary

b. Form for approval by the County Board:

This _____ day of _____, 19 _____

Draft: September 17, 2021
Adopted:
Effective:

Signed _____ Chairman

Signed _____ Secretary

c. For acceptance by owner(s)

This _____ day of _____, 19 _____

Signed _____ Owner (co-
owner)

Signed _____ (co-owner)

d. Form for acceptance by mortgage holder(s):

This _____ day of _____, 19 _____

Signed _____ Mortgage
Holder

e. Form for acceptance by registered land surveyor:

This _____ day of _____, 19 _____

Signed _____ Registered
Land Surveyor

f. Form for acceptance by County Recorder:

This _____ day of _____, 19 _____

Signed _____ County
Recorder

14. Supplemental Document Required (At the discretion of the County Board or Planning Commission):

Draft: September 17, 2021
Adopted:
Effective:

- a. An Attorney's opinion of title showing title or control of the property to be subdivided.

24.09 ADMINISTRATION AND ENFORCEMENT

A. Responsible Officials

It shall be the duty of the Traverse County Zoning Administrator, acting on behalf of the Traverse County Board of Commissioners, to see that the provisions of this Ordinance are properly enforced.

B. Jurisdiction and Interpretation

The regulations herein governing plats and the subdivision of land shall apply to all the areas of Traverse County lying outside the corporate limits of municipalities, unless otherwise provided herein. Any subdivision of land within Traverse County subject to this ordinance that is filed for recording must first be prepared, reviewed, and approved in accordance with the provisions of this Ordinance.

Exceptions: This ordinance shall not apply to the following:

1. Subdivisions creating or rearranging lots within a cemetery in accordance with MN Statutes 306, 307 or other applicable state law (subdivision of a parcel to create the external boundaries of a cemetery is not excepted from the provisions of this ordinance);
2. Transfers of small parcels to governmental units in case of encroachments, road right-of-way, or utility easements; or
3. Subdivisions resulting from court orders.

In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. These regulations shall be construed broadly in favor of the County to promote the purposes for which they are adopted.

These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law except as provided in these regulations. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, or other provision of law, the provision which is more restrictive or imposes higher standards shall control.

These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive than such easement, covenant, or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant, or private agreement impose duties and obligations more restrictive than these regulations, and the private provisions are not inconsistent with these regulations, then the private provisions shall be operative and supplemental to these regulations and the determinations made under the regulations.

C. Building Permits and Public Improvements

No building permit shall be issued by any governing official for the construction of any building, structure, or improvement on any land henceforth subdivided until all requirements of this Ordinance have been fully complied with. No public improvements are to be installed and service shall not be provided until approval of the Final Plat is granted and same has been duly recorded in the office of the Traverse County Recorder.

D. Appeals

Draft: September 17, 2021
Adopted:
Effective:

Any person or persons, corporation, or public officer aggrieved by any order, requirement, decision, or determination made by the Traverse County Board of Commissioners pursuant to the provisions of this Ordinance may appeal such grievance to the Traverse County Board of Adjustment by filing with the Board of Adjustment a notice of appeal specifying the grounds therefore. Such notice shall be filed within ten days after any such decision.

The decision of the Traverse County Board of Adjustment shall be subject to appeal to the District Court in Traverse County as provided by law. The Traverse County Board of Adjustment shall function in compliance with State Law.

E. Amendment

This Ordinance may be amended whenever the public necessity, convenience, and the general welfare warrant such amendment. Proceedings for an amendment shall be initiated by:

1. A petition of the owner or owners of property within Traverse County;
2. A recommendation of the Planning Commission; or
3. Action of the County Board.

Upon receipt, in proper form, of the application and other requested material, the Planning Commission shall conduct a public hearing in a location to be prescribed by the Planning Commission. Notice of the time and place of such public hearing shall be given pursuant to Chapter 394.26 of the Minnesota Statutes, or successor statute.

Following the public hearing, the County Planning Commission shall report its findings and recommendations to the County Board. Upon receipt of such report or recommendation, the Board of County Commissioners may hold additional public hearings. After the conclusion of the public hearings if any, the Board of County Commissioners may adopt the amendment or any portion thereof.

After adoption of the amendment by the Board, the publication of the amendment and the filing and recording of the amendment in the office of the County Auditor shall be in accordance with the provisions of Minnesota Statute 375.51.

The County Auditor shall thereafter file a certified copy of the enacted amendment with the County Recorder for record.

F. Violation, a Misdemeanor

It shall be the duty of the Zoning Administrator to enforce these regulations and to bring to the attention of the County Board any violations of these regulations.

Any violation of this Ordinance shall constitute a misdemeanor punishable as allowed by law. Time is not an essential characteristic of any offense under this Ordinance, and each act performed without complying with all restrictions and requirements of this Ordinance shall constitute a separate offense.

In the event of a violation or a threatened violation of this Ordinance, the County Board, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations or threatened violations, and it shall be the duty of the County Attorney to institute such actions.

Any taxpayer or taxpayers of the County may institute mandamus proceedings in District Court to compel specific performance by the proper official or officials of any duty required by this Ordinance.

24.10 MISCELLANEOUS

A. Variances

1. Where the Traverse County Board of Adjustment finds that extraordinary and unnecessary hardship may result from strict compliance with this Ordinance, it may vary the regulations so that the general intent may be preserved and the public interest protected; provided that such variations will not have the effect of nullifying the intent and purpose of the Comprehensive Plan, the Official Map, or the Zoning Ordinance.
2. Where the of Adjustment finds that, due to the special circumstances of a particular plat, the provision of certain required improvements is not requisite in the interest of the public health, safety, and general welfare or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may recommend to the County Board waiver of such requirements subject to appropriate conditions and the County Board shall determine whether such variance shall be granted.
3. Procedure.
 - a. The applicant for a variance shall file an application in writing in the office of the Zoning Administrator on an application form provided by the Zoning Administrator and pay a fee as listed in the County Fee Schedule when the application is filed. An application determined to be incomplete by the Zoning Administrator shall be returned to the applicant within ten (10) business days. Incomplete applications shall not be referred to the Planning Commission until it has been determined to be complete by the Zoning Administrator.
 - b. The County Zoning Administrator shall refer the application to the Board of Adjustment for a public hearing and cause notice of such hearing to be properly published in the legal newspaper not less than ten (10) days prior to the hearing. Property owners within one-quarter mile (1,320 feet) of the affected property or the ten (10) properties nearest the affected property (whichever would provide notice to the greatest number of owners) shall be given notice of the date the Board of Adjustment will consider said application, although failure of any property owner to receive such notification shall not invalidate the proceedings. Notice shall be given the governing body of any city the incorporated limits of which lie within two (2) miles of the proposed variance.
 - c. The applicant or their authorized representative shall appear before the Board of Adjustment and answer any questions concerning the proposed variance.
 - d. A decision shall be made by the County Board, upon recommendation from the Board of Adjustment, within sixty (60) days after the complete application for a variance has been received by the Zoning Administrator. All decisions by the County Board in granting variances shall be final except that any aggrieved person or persons or any department, board or commission of the jurisdiction of the State shall have the right to appeal to the District Court in the county in which the land is located on questions of law and fact within thirty (30) days of the decision of the County Board.
 - e. A certified copy of the granted variance shall be filed with the Traverse County Recorder or Registrar of Titles by the Zoning Administrator.
 - f. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance shall also include the Planning Commission's summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

4. No application for a variance shall be resubmitted for a period of one (1) year from the date that the request is denied, except the Zoning Administrator may allow a new application if, in his/her opinion, new evidence or a change in circumstances warrant it.
5. Work on any project requiring a variance shall begin within one (1) year of the issuance of the variance or it shall expire.
6. In the granting of variances from this Ordinance, the County Board and Board of Adjustment shall require such conditions as will, in their judgement, secure substantially the objectives of the requirements or standards so varied and to protect adjacent properties and the public interest.
7. Any variances granted shall be made by resolution and entered into the minutes setting forth the reasons which justified the resolution.

B. Fees

Fees for subdividing may be established by the Traverse County Board of Commissioners. The County Board may review and revise the fee schedule periodically. The required fee shall be paid by the subdivider to the Zoning Administrator at the time of submission of the materials required by this Ordinance. Fees permitted by State Statute for filing of plats with the County Recorder are excluded from the provisions of this section.

The County may require that an applicant establish an escrow account or other financial security for the purpose of reimbursing the County for direct costs relating to professional services provided during the review, approval and inspection of the project. The County may charge the applicant a rate equal to the value of the service to the County. Services provided by County staff or contract professionals will be billed at an established rate.

C. Validity

Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

D. Effective Date

This Ordinance shall become effective immediately upon its passage and publication.

E. Adoption of Plat Manuals by Reference

The Minnesota Land Surveyors Association "Plat Manual of Minimum Guidelines" and the Minnesota Association of County Surveyors "Common Interest Community Plat Manual of Minimum Guidelines", as revised, are hereby adopted by reference as though a part of this Ordinance.

Adopted This _____ day of _____, 2020.

ATTEST: _____

Traverse County Auditor

SIGNED: _____

Draft: September 17, 2021
Adopted:
Effective:

DRAFT