

Wabasha County Zoning Ordinance Excerpts

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ARTICLE 2

RULES AND DEFINITIONS

SECTION 1. RULES

For purposes of this Ordinance, certain terms or words used herein shall be interpreted as follows:

Subd. 1 The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.

Subd. 2 The word "shall" is mandatory, and not discretionary; the word "may" is permissive.

Subd. 3 Words used in the present tense shall include the future; words used in the singular shall include the plural, and the plural the singular.

Subd. 4 The words "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for," and "occupied for."

Subd. 5 All stated and measured distances shall be taken to the nearest integral foot. If a fraction is one-half (1/2) foot or less, the integral foot next below shall be taken.

Subd. 6 Words not specifically defined herein shall have the meaning as found in Webster's Collegiate Edition Dictionary.

SECTION 2. DEFINITIONS

For the purposes of this Ordinance, certain words and terms are defined as follows:

Subd. 1 **ACCESSORY STRUCTURE.** A subordinate building or structure on the same lot, detached from the principal structure and occupied by or devoted exclusively to an accessory use, which is incidental to the principal use.

Subd. 2 **ACCESSORY USE.** A use on the same lot with, and of a nature which is clearly incidental and subordinate to, the principal use.

Subd. 3 **ADVERTISING DEVICE.** Any billboard, sign, notice, poster, display or other device in view of the general public which directs attention to a product, place, activity, person, institution or business.

Subd. 4 **AGRICULTURAL LAND.** Land that was planted with annually seeded crops, was in a crop rotation seeding of pasture grasses or legumes, or was set aside to receive price support or other payments under United States Code, Title 7, Sections 1421 to 1469, six of the last ten years.

Subd. 5 **AGRICULTURAL OPERATION.** A facility consisting of real or personal property used for the production of crops including fruit and vegetable production, tree farming, livestock, poultry, dairy products, or poultry products,

but not a facility primarily engaged in processing agricultural products. Agricultural operation shall also include certain farm activities and uses as follows: chemical and fertilizer spraying, farm machinery noise, extended hours of operation, manure collection, disposal, spreading or storing, open storage of machinery, feedlots, odors produced from farm animals, crops or products used in farming.

Subd. 6 **AGRICULTURAL USE.** The use of land for agricultural purposes, including but not limited to farming, dairying, pasturage agricultural, forestry, horticulture, viticulture, and animal and poultry husbandry and the necessary accessory uses for packing, treating and storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities.

Subd. 7 **ALLEY.** A public right-of-way, other than a street, providing an additional means abutting property.

Subd. 8 **ALTERATION.** Any change, addition or modification in construction or occupancy of an existing structure.

Subd. 9 **ANIMAL FEEDLOT.** 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 this Ordinance, 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 this Ordinance.

Subd. 10 **ANIMAL FEEDLOT, NEW.** An animal feedlot constructed and operated at 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 years or more.

Subd. 11 **ANIMAL MANURE.** Poultry, livestock, or other animal excreta or a mixture of excreta with feed, bedding, precipitation or other materials.

Subd. 12 **ANIMAL UNIT.** A unit of measure used to compare differences in the production of animal manures that employs as a standard the amount of manure produced on a regular basis by a slaughter steer or heifer, as listed in accordance with Minnesota Rules 7020.0300 Subp. 5.

Subd. 13 **ANTENNA.** Equipment used for transmitting or receiving telecommunication, television, or radio signals, which is located on the exterior of, or attached to any tower, building or structure, but not including "satellite dish antennas".

Subd. 14 **ANTENNA-COMMERCIAL**. Any pole, spire or structure, or any combination, to which an antenna is, or could be attached, or which is designed for an antenna to be attached, and all supporting lines, cables, wires and braces erected for the commercial use of information.

Subd. 15 **ANTENNA-PRIVATE**. Any antenna erected for the non-commercial use of information.

Subd. 16 **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.

Subd. 17 **BEDROCK**. A general term for the rock, usually solid, that underlies soil or other unconsolidated superficial material.

Subd. 18 **BLUFF**. A natural topographic feature such as a hill, cliff, or embankment having the following characteristics:

- A. The slope rises at least twenty-five (25) feet above the toe of the bluff; and
- B. The grade of the slope from the toe of the bluff to a point twenty-five (25) feet or more above the toe of the bluff averages thirty (30) percent or greater;
- C. An area with an average slope of less than eighteen (18) percent over a horizontal distance of fifty (50) feet shall not be considered part of the bluff.

Subd. 19 **BLUFF IMPACT ZONE**. A bluff and land located within 30 feet from the top and toe of a bluff.

Subd. 20 **BLUFFLAND AREAS**. Any land formation in Wabasha County where the geomorphic features of the land conform to the definition of “Bluff” as found in this section.

Subd. 21 **BOARD OF ADJUSTMENT**. A quasi-judicial body, created pursuant to Minnesota State Statute §394.27, whose responsibility is to hear appeals from decisions of any order, requirement, decision or determination of any administrative official and to consider requests for variances permissible under the terms of this Ordinance.

Subd. 22 **BOATHOUSE**. A structure designed and used solely for the storage of boats or boating equipment.

Subd. 23 **BUILDING**. Any structure, either temporary or permanent, having a roof, and used or built for the shelter or enclosure of any person, animal, chattel, or property of any kind.

Subd. 24 **BUILDING, PRINCIPAL**. A building or structure in which is conducted the main or principal use of the lot on which said building or structure is situated.

Subd. 25 **BUILDING HEIGHT.** The vertical distance measured from the ground level adjoining the building to the highest point of the roof surface if a flat roof, to the deck line of mansard roofs, and to the average height between eaves and ridge of gable, hip and gambrel roofs.

Subd. 26 **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.

Subd. 27 **BUILDING SETBACK.** The minimum horizontal distance between a building and the lot line.

Subd. 28 **CABIN.** A dwelling that may be exempt from the requirement for enclosed bathrooms and complete kitchen facilities.

Subd. 29 **CARPORT.** A structure permanently attached to a dwelling having a roof supported by columns, but not otherwise enclosed.

Subd. 30 **CHILD DAY CARE FACILITY.** The provision of child day care provided in family day care homes, group day care homes, child day care centers, nursery schools, day nurseries, head start and extended school age care programs in or out of the child's home.

Subd. 31 **CHILDREN'S CAMP.** A parcel or parcels of land with permanent buildings, tents or other structures together with appurtenances thereon, established or maintained as living quarter where food and lodging or the facilities thereof are provided for ten or more people, operated continuously for a period of five days or more each year for educational, recreational or vacation purposes, and the use of the camp is offered to minors free of charge or for payment of a fee. This definition does not include cabin and trailer camps, fishing and hunting camps, resorts, penal and correctional camps, industrial and construction camps, nor does it include homes operated for care or treatment of children and for the operation of which a license is required under the provisions of Minnesota Statutes Chapter 257.

Subd. 32 **CLEARCUTTING.** An area in which all of the trees have been or will be felled, bucked and skidded in one operation and/or the indiscriminate removal of trees, shrubs, and undergrowth with the intention of preparing real property for development purposes.

Subd. 33 **CLUSTER DEVELOPMENT.** A pattern of subdivision development that places housing units into compact groupings while providing a preserved area of agricultural land for agricultural uses or a network of commonly owned or dedicated open space.

Subd. 34 **COMMERCIAL USE.** The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.

Subd. 35 **COMMUNICATION TOWER.** Any pole, spire, structure, or combination thereof, including supporting lines, cables, wires, braces and masts,

intended primarily for the purpose of mounting an antenna, meteorological device, or similar apparatus, 35 feet or greater in height, above grade.

Subd. 36 **COMMUNITY BUILDING.** Any structure intended for use as educational, recreational, social, service or governmental purposes by the general public.

Subd. 37 **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 controls or building codes, and upon a finding that: 1) certain conditions as detailed in the Zoning Ordinance exist, and 2) the structure and/or land use conform to the Comprehensive Land Use Plan, if one exists, and 3) the structure and/or land use is compatible with the existing neighborhood.

Subd. 38 **CONTIGUOUS PARCEL.** Two or more parcels of land that share a touching edge, property line or boundary. Parcels that are owned by the same individual(s) and located on opposite sides of a road are only considered contiguous when ownership is to the center of the road.

Subd. 39 **COUNTY BOARD.** Includes the County Commissioners, the Board of County Commissioners, or any other word or words meaning the Wabasha County Board of Commissioners.

Subd. 40 **CROPLAND.** Land that could be used primarily for the production of adapted, cultivated, close growing crops and trees for harvest, as determined by the Department of Environmental Services.

Subd. 41 **DAY CARE.** The care of a child in a residence outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24 hour day.

Subd. 42 **DAY CARE, FAMILY.** The day care for no more than ten children at one time of which no more than six are under school age, the total number of which includes all children of any caregiver when the children are present in the residence.

Subd. 43 **DAY CARE, GROUP FAMILY.** The day care for no more than 14 children at any one time, the total number of which includes all children of any caregiver when the children are present in the residence.

Subd. 44 **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 (3) feet above ground.

Subd. 45 **DEVELOPMENT.** Any man-made change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling.

Subd. 46 **DREDGING.** A method for deepening streams, swamps, or coastal waters by removing solids from the bottom.

Subd. 47 **DWELLING.** A structure that is arranged, designed or used as living quarters for one (1) family only. Enclosed bathrooms and complete kitchen facilities shall be included for each dwelling. A manufactured home with the above accommodations located in areas approved for manufactured homes shall be considered a dwelling unit. A camper trailer, camper bus, or tent shall not be considered dwelling units. Garage space, whether in an attached or detached garage, shall not be deemed a part of a dwelling.

A. Dwelling, Farm. A dwelling located on a farm, which the residents of said dwelling either operates or is employed in agricultural activities thereon.

B. Dwelling, Non-Farm. A dwelling located on a parcel of land contiguous to or surrounded by farmland which is under separate ownership and which the resident of said dwelling neither operates nor is employed in agricultural activities thereon.

C. Dwelling, Single Family. A dwelling occupied by only one (1) family, and so designed and arranged as to provide cooking and kitchen accommodations and sanitary facilities for one (1) family only, together with such domestic help as may be necessary to service and maintain the premises and their occupants.

D. Dwelling, Two-Family or Duplex. A dwelling structure on a single lot, having two units attached by common walls and each unit equipped with separate sleeping, cooking, eating, living and sanitation facilities.

E. Dwelling, Multiple Family. A building used or intended to be used as a dwelling by three (3) or more families.

Subd. 48 **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.

Subd. 49 **ESSENTIAL SERVICES.** These uses include poles, towers, telephone booths, wires, cables, conduits, vaults, pipes, mains, pipelines, laterals, stations, substations or other associated or similar transmitting, distributing or regulating facilities of a public utility.

Subd. 50 **EXTRACTIVE USE.** The use of land for surface or sub-surface removal of sand, gravel, rock, industrial minerals, other non-metallic minerals and peat not regulated under Minnesota Statutes, Sections 93.44 to 93.51.

Subd. 51 **FAMILY.** A family is any number of persons living together in a room or rooms comprising of single housekeeping unit and related by blood, marriage, adoption, or any unrelated person who resides therein as though a member of the family including the domestic employees thereof. Any group of persons not so related but inhabiting a single house, shall for the purpose of this Ordinance, be considered to constitute one family for each five (5) persons, exclusive of domestic employees, contained in each such group.

Subd. 52 **FARM.** A parcel of land containing at least forty (40) acres (or quarter quarter section), or 2 or more abutting parcels under the same ownership having an area of at least forty (40) acres (or quarter quarter section), with a minimum of at least twenty (20) acres cropland. Smaller acreage may qualify as a farm if the principal use of the property is for agricultural production. A tree farm would qualify if registered with the State of Minnesota and has forty (40) acres of tree coverage. This definition shall not automatically be applied to any other code or ordinance. This definition as applies to this Zoning Ordinance shall be used only to determine if a property qualifies for a second farm dwelling.

Subd. 53 **FARMYARD.** The area of a farm immediately around the farm residence where accessory buildings are located and are being used exclusively for agricultural operations. The Zoning Administrator shall determine the area of the farmyard. In doing so, the Zoning Administrator shall take into consideration the layout of structures, development of the land, and topographical features of the land.

Subd. 54 **FLOOD.** A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

Subd. 55 **FLOOD FREQUENCY.** The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

Subd. 56 **FLOOD FRINGE.** That portion of the floodplain outside of the floodway. Flood Fringe is synonymous with the term “Floodway Fringe” used in the Flood Insurance Study for Wabasha County.

Subd. 57 **FLOODPLAIN.** The beds proper and the areas adjoining a wetland, lake or watercourse that have been or hereafter may be covered by the regional flood.

Subd. 58 **FLOOD-PROOFING.** The combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

Subd. 59 **FLOODWAY.** The bed of a wetland or lake and the channel of the watercourse and those portions of the adjoining floodplain that are reasonably required to carry or store the regional flood discharge.

Subd. 60 **FLOOR AREA, GROUND.** The area within the exterior walls of the main building or structure as measured from the outside walls at the ground floor level, not including garages, or enclosed or unenclosed porches and not including attached utility or accessory rooms having three or more exterior sides.

Subd. 61 **FOREST LAND CONVERSION.** The clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

Subd. 62 **FORESTRY.** The use and management, including logging, of a forest, woodland or plantation and related research and educational activities.

Subd. 63 **GARAGE, PRIVATE.** An accessory building or portion of a main building designed or used for the storage of motor driven vehicles boats and similar vehicles owned and used by the occupants of the building to which it is accessory.

Subd. 64 **GASOLINE SERVICE STATION.** A building or structure designed or used for the retail sale or supply of fuels, lubricants, air, water and other operating commodities for motor vehicles, and including the customary space and facilities for the installation of such commodities on or in such vehicles, but not including special facilities for the painting, repair, or similar servicing thereof.

Subd. 65 **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.

Subd. 66 **HARDSHIP.** As defined in Minnesota Statutes, Chapter 394.27, Subd. 7.

Subd. 67 **HOME OCCUPATION.** Any occupation, activity or profession carried out for financial gain engaged in by a resident of a home, which is clearly

secondary to the principal use of the premises and retains the exterior character normally associated with a residential dwelling unit.

Subd. 68 **HOTEL OR MOTEL.** Any building or structure or enclosure, or any part thereof, kept, used as, maintained as, or advertised as, or held out to the public to be an enclosure for sleeping accommodations are furnished to the public and furnishing accommodations for period of less than one week.

Subd. 69 **HYDRIC SOILS.** Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

Subd. 70 **HYDROPHYTIC VEGETATION.** Macrophytic plant life growing in water, soil or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

Subd. 71 **INDUSTRIAL USE.** The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

Subd. 72 **INTENSIVE VEGETATION CLEARING.** The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

Subd. 73 **JUNK/SALVAGE YARD.** A place maintained for keeping or storing, or piling in commercial quantities, whether temporarily, irregularly, or continually; buying or selling at retail or wholesale any old, used, or second-hand material of any kind, including used motor vehicles, machinery of any kind, and/or parts thereof, cloth, rugs, clothing, paper, rubbish, bottles, rubber, iron, or other metals, or articles which from its worn condition render it practically useless for the purpose for which it was made and which is commonly classed as junk. This shall include a lot or yard for the keeping of three (3) or more inoperable motor vehicles or the remains thereof for the purpose of dismantling, sale of parts, sale as scrap, storage or abandonment.

Subd. 74 **KENNEL.** Animal: Any place where four (4) or more of any type of domestic or exotic pets over four (4) months of age are for profit boarded, bred, or offered for sale.

Subd. 75 **LIVESTOCK.** Any beef or dairy cattle, swine, sheep, poultry, horses, ponies, deer, elk, emus, ostrich or other exotic animal, or other domesticated farm animal.

Subd. 76 **LODGING ESTABLISHMENT.** A hotel, motel, lodging house, boarding house, resort or similar facility where sleeping facilities are offered to the public.

Subd. 77 **LODGING HOUSE.** Any building or structure or any part thereof, kept, used, maintained as, advertised as, or held out to be a place where sleeping

accommodations are furnished to the public as regular roomers, for periods of one week or more, and have five or more beds to let to the public.

Subd. 78 **LOGGING OPERATION.** Operations associated with felling and moving trees and logs from the stump to the point of delivery, such as, but not limited to, marking dangerous trees and trees/logs to be cut to length, felling, limbing, bucking, debarking, chipping, yarding, loading, unloading, storing, and transporting machines, equipment and personnel to, from and between logging sites.

Subd. 79 **LOT.** A parcel of land legally subdivided by plat, metes and bounds, registered land survey, auditor's plat, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or operation.

Subd. 80 **LOT, CORNER.** A lot located at the intersection of two streets, having two adjacent sides abutting streets; the interior angles of the intersection does not exceed one hundred thirty-five (135) degrees.

Subd. 81 **LOT AREA.** The total horizontal area within the lot lines of the lot.

Subd. 82 **LOT AREA, BUILDABLE.** That portion of the lot remaining after the deletion of any floodplain, road rights-of-way, building setbacks, wetlands or slopes of eighteen (18) or greater; conversely, a lot capable of meeting the requirements of this Ordinance including the provision of adequate area for the installation and maintenance of required on-site sewer and water facilities.

Subd. 83 **LOT COVERAGE.** The part or percentage of the lot occupied by buildings or structures, including accessory buildings or structures and other non-porous surface, such as driveways and parking areas.

Subd. 84 **LOT DEPTH.** The average horizontal distance between the front and rear lot lines.

Subd. 85 **LOT FRONTAGE.** The lot line separating the lot from the road right-of-way.

Subd. 86 **LOT LINES.** The lines bounding a lot as defined in this Ordinance.

Subd. 87 **LOT OF RECORD.** Any lot which is one unit of a plat heretofore duly approved and filed, or a Registered Land Survey that has been recorded in the office of the County Recorder for Wabasha County, Minnesota prior to the effective date of this Ordinance.

Subd. 88 **LOT WIDTH.** The distance between side lot lines measured at the required front setback line.

Subd. 89 **MANUFACTURED HOME.** A structure, transportable in one or more sections, which in the traveling mode, is eight body feet or 2-13

more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that the term includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary and complies with the standards established under the Building Code.

Subd. 90 **MANUFACTURED HOME PARK.** Any site, lot, field, or tract of land upon which two or more occupied manufactured homes are located, either free of charge or for compensation, and includes any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of the manufactured home park.

Subd. 91 **MINI-WAREHOUSE.** Also referred to as a self-service storage facility. A structure containing separate, individual, and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time.

Subd. 92 **MINING/EXCAVATION OPERATION.** The removal of stone, sand and gravel, coal, salt, iron, copper, nickel, petroleum or other material from the land for commercial, industrial, or governmental purposes.

Subd. 93 **MOTOR VEHICLE.** Every vehicle that is self-propelled and every vehicle that is propelled by electric power obtained from overhead trolley wires. Motor vehicle does not include a vehicle moved solely by human power.

Subd. 94 **MOTOR VEHICLE, ABANDONED.** Motor vehicles, defined in subd. 93 of this Section, which meet the definition of abandoned vehicle under Minn. Stat. §168B.011.

Subd. 95 **MOTOR VEHICLE, JUNK.** A motor vehicle as defined in Subd. 93 of this Section which is not able to operate due to mechanical, other functional problems, which does not have affixed thereto a valid current motor vehicle license if of a type requiring a license to operate on the public highways, which is three years old or older, which is extensively damaged, and which has an approximate fair market value equal only to the approximate value of the scrap in it.

Subd. 96 **NONCONFORMITY.** 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.

Subd. 97 **NON-CONFORMING LOT OF RECORD.** Any legal lot of record that at the time it was recorded fully complied with all applicable laws and

ordinances but which does not fully comply with the lot requirements of this Zoning Ordinance concerning minimum area or minimum lot width.

Subd. 98 **NON-CONFORMING STRUCTURE.** A structure the size, dimensions or location of which was lawful prior to the adoption of this Zoning Ordinance, but which fails, by reason of such adoption, or subsequent revisions or amendment, to conform to the present requirements of the zoning district.

Subd. 99 **NON-CONFORMING USE.** A use or activity which was lawful prior to the adoption of this Zoning Ordinance but which fails, by reason of such adoption, or subsequent revisions or amendment, to conform to the present requirements of the zoning district.

Subd. 100 **OBSTRUCTION.** Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel, modification, culvert, building, wire, fence, stockpile, refuse, fill, structure or other matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

Subd. 101 **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.

Subd. 102 **OWNER.** Any individual, firm, association, syndicate, partnership, corporation, trust or any other legal entity having a proprietary interest in the land.

Subd. 103 **PLAIN.** Land having an average slope of less than eighteen (18) percent over a distance of fifty (50) feet or more.

Subd. 104 **PLANNING COMMISSION.** The Wabasha County Planning Commission.

Subd. 105 **PRINCIPAL USE OR STRUCTURE.** All uses or structures that are not accessory uses or structures.

Subd. 106 **PUBLIC WATERS.** All waters as defined in Minnesota Statutes, Section 645.44, Subdivision 8a.

Subd. 107 **REACH.** A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a Reach.

Subd. 108 **RECREATIONAL CAMPING AREA.** Any area, whether privately or publicly owned, used on a daily, nightly, weekly, or longer basis for the accommodation of five or more tents or recreational camping vehicles free of charge or for compensation. "Recreational camping area" excludes children's camps, industrial camps, migrant labor camps, as defined in Minnesota Statutes and state commissioner of health rules, United States forest service camps, state forest service camps, state wildlife management areas or state owned public access areas which are restricted in use to picnicking and boat landing.

Subd. 109 **RECREATIONAL CAMPING VEHICLE.** When used in this Ordinance includes the following:

- A. Any vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses;
- B. Any structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation;
- C. Any portable, temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle; and
- D. Any folding structure mounted on wheels and designed for travel, recreation, and vacation use.

Subd. 110 **REGIONAL FLOOD.** 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 years recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Study.

Subd. 111 **REGULATORY FLOOD PROTECTION ELEVATION.** An elevation no lower than one (1) foot above the elevation of the regional flood plus any increase in flood elevation caused by encroachments on the floodplain that result from designation of floodway.

Subd. 112 **RESORT.** Any building, structure, or enclosure, or any part thereof, located on, or on property neighboring any lake, stream or skiing or hunting area for purposes of providing convenient access thereto, kept, used, maintained, or advertised as, or held out to the public to be an enclosure where sleeping accommodations are furnished to the public, and primarily to those seeking recreation, for periods of one day, one week, or longer, and having for rent five or more cottages, rooms, or enclosures.

Subd. 113 **RIGHT-OF-WAY.** A strip of land acquired by purchase dedication, prescription or condemnation and intended to be occupied or occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, utility lines and other similar uses.

Subd. 114 **RIGHT-OF-WAY LINES.** The lines that form the boundaries of a right-of-way.

Subd. 115 **SANITARY LANDFILL.** A disposal site employing methods of disposing of solid wastes in a manner that minimizes environmental hazards by spreading, compacting to the smallest practical volume and applying cover material over all exposed wastes at the end of each operating day.

Subd. 116 **SEASONAL LABOR CAMP.** 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.

Subd. 117 **SELECTIVE CUTTING.** The removal of single scattered trees, provided a continuous tree cover is maintained within the structure setback areas.

Subd. 118 **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.

Subd. 119 **SENSITIVE RESOURCE MANAGEMENT.** The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

Subd. 120 **SETBACK.** The minimum horizontal distance between a structure or sewage treatment system, or other facility and the ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line or other items as stated throughout this Ordinance.

Subd. 121 **SEWAGE TREATMENT SYSTEM.** A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in the Wabasha County Individual Sewage Treatment Ordinance.

Subd. 122 **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.

Subd. 123 **SHORELAND.** Land located within the following distances from public waters: One thousand (1,000) feet from the ordinary high water level of a lake, pond, the Mississippi River and its backwaters, or flowage, and three hundred (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. The limits of shorelands may be reduced whenever the waters involved are bounded by natural topographic divides which may extend landward from the waters for lesser

distances and when approved by the Commissioner of the Department of Natural Resources.

Subd. 124 **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 fifty (50) percent of the structure setback.

Subd. 125 **SIGN.** The use of any words, numerals, pictures, figures, devices, or trademarks by which any information is made known, such as are used to show an individual, firm, profession, or business, and are visible to the general public.

Subd. 126 **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.

Subd. 127 **SINK HOLE.** A depression in the earth's surface caused by dissolving of underlying limestone, salt, or gypsum. Drainage is provided through underground channels that may be enlarged by the collapse of a cavern roof.

Subd. 128 **STEEP SLOPE.** 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 this Ordinance. Where specific information is not available, steep slopes are lands having average slopes over eighteen (18) percent, as measured over horizontal distances of fifty (50) feet or more, that are not bluffs.

Subd. 129 **STREET.** Any right-of-way that affords primary means of access by pedestrians and vehicles to abutting properties.

Subd. 130 **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, manufactured homes, travel trailers/vehicles not meeting any exemption criteria specified in this Ordinance, and other similar items. Fences under 6 feet tall are excluded from this definition.

Subd. 131 **STRUCTURAL ALTERATION.** Any changes in the supporting members of a building such as bearing walls, columns, beams or girders or any substantial change in the roof and exterior walls.

Subd. 132 **SUBDIVISION**. Land that is divided into two or more lots for the purpose of sale, rent, lease, or development including planned unit developments.

Subd. 133 **SURFACE WATER ORIENTED COMMERCIAL USE**. The use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts, and restaurants with transient docking facilities are examples of such use.

Subd. 134 **TIMBER**. Standing trees that because of their size, quality and number are marketable.

Subd. 135 **TIMBER HARVESTING**. The removal of timber from a woodland for commercial purposes including, but not limited to, paper or wood products.

Subd. 136 **TOE OF THE BLUFF**. The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from gentler to steeper slope above (<18% to >18%). If no break in the slope is apparent, the toe of the bluff shall be determined to be the lower end of the lowest fifty (50) foot segment, measured on the ground, with an average slope exceeding eighteen (18) percent.

Subd. 137 **TOP OF THE BLUFF**. The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler slope above (>18% to <18%). If no break in the slope is apparent, the top of the bluff shall be determined to be the upper end of the highest fifty (50) foot segment, measured from the ground, with an average slope exceeding eighteen (18) percent slope.

Subd. 138 **USE**. The purpose for which land or buildings thereon are designed, arranged or intended to be occupied or used, or for which they are occupied or maintained.

Subd. 139 **VARIANCE**. A modification of a specific permitted development standard required in an official control, including this Ordinance, to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, or unique circumstances as defined and elaborated upon in Minn. Stat. § 394.27.

Subd. 140 **VISUALLY INCONSPICUOUS**. Difficult to be seen and not readily noticeable from any point on the river or valley during the time when the leaves are on the deciduous trees.

Subd. 141 **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 a surface water feature, placement 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.

Subd. 142 **WATERSHED MANAGEMENT OR FLOOD CONTROL STRUCTURE.** A dam, flood wall, wing dam, dike, diversion channel, or an artificially deepened or widened stream channel following the same or approximately the same course as the natural channel, or any other structure for altering or regulating the natural flow condition of a river or stream. The term "watershed management or flood control structure" does not include pilings, retaining walls, gabion baskets, rock riprap, or other facilities intended primarily to prevent erosion and which must be authorized by permit from the Commissioner of Natural Resources.

Subd. 143 **WETLAND.** Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands shall have hydric soils, predominantly hydric vegetation, and display wetland hydrology.

Subd. 144 **WETLAND ON AGRICULTURAL LAND.** Wetland where greater than fifty (50) percent of its basin is located on agricultural land.

Subd. 145 **WOODED OR WOODLAND.** An area of at least one acre in size with a stand of trees that has a canopy cover, as shown on the most recent aerial photographs, of at least fifty (50) percent, having a minimum width of at least one hundred (100) feet.

Subd. 146 **WOODY VEGETATION.** Includes trees that are not timber.

Subd. 147 **YARD.** An open space at the grade line between a building and the adjoining lot lines, unoccupied and unobstructed from the ground upward. Yard measurements shall be the minimum horizontal distance between a lot line and the nearest line of the principal building.

A. Yard, Front. A yard extending across the full width of the lot between the front line and the nearest line of the principal building.

B. Yard, Rear. A yard extending across the full width of the lot between the rear lot line and the nearest line of the principal building.

C. Yard, Side. A yard extending from the front yard to the rear yard between the side lot line and the nearest line of the principal building.

Subd. 148 **ZONING ADMINISTRATOR.** The person(s) employed by the Board of County Commissioners to carry out the provisions of this Ordinance, or that person's designee.

Subd. 149 **ZONING DISTRICT.** The sections of the County for which the regulations governing the height, area, and use of buildings, and/or use of premises are the same as delineated by this Ordinance.

Subd. 150 **ZONING MAP.** The areas comprising those zoning districts and boundaries of said districts as shown upon the map attached hereto and made a part of this Ordinance, being designated as County of Wabasha Official Zoning Map, with all proper notations, references, and other information shown thereon.

ARTICLE 3

PERFORMANCE STANDARDS

SECTION 1. PURPOSE AND INTENT

The performance standards established in this Article are designed to encourage a high standard of development by providing assurance that neighboring land uses will be compatible. The performance standards are also designed to prevent and eliminate those conditions that cause blight. Those standards shall include protection of significant or unique natural features whose loss could diminish the scenic, ecological or economic benefits to the County. All future development in all districts shall be required to meet these standards. The standards shall also apply to existing development where so stated.

Before any building permit or use permit is approved, the Department of Environmental Services shall determine whether the proposed use will conform to the performance standards. The developer or landowners shall supply data necessary to demonstrate such conformance. Such data may include description of equipment to be used, hours of operation, method of refuse disposal and type and location of exterior storage.

SECTION 2. NUISANCE STANDARDS

Subd. 1 Noise. Any use established shall be so operated that no undue noise resulting from said use is perceptible beyond the boundaries of the property on which the use is located. This standard shall not apply to incidental traffic, parking, loading, construction, farming or maintenance operations.

Subd. 2 Vibration. Any use creating periodic earth-shaking vibration shall be prohibited if undue vibrations are perceptible beyond the boundaries of the property on which the use is located. The standard shall not apply to vibrations created during the process of construction.

Subd. 3 Glare. In all districts, any lighting used for exterior illumination shall be arranged as to deflect light away from any adjoining property or from public roads.

Subd. 4 Heat. Any use producing intense heat shall be performed with the necessary shielding to prevent such heat from being detectable at the lot line of the site on which the use is located.

Subd. 5 Smoke and Particulate Matter. Any use established, enlarged or remodeled after the effective date of this Ordinance shall be so operated as to limit the adverse effect of smoke or particulate matter on adjacent properties.

Subd. 6 Toxic or Noxious Matter. All uses shall be operated so as not to discharge toxic, or noxious matter in such concentration as to be detrimental to the use and enjoyment of adjacent property. Discharge means movement of toxic or noxious matter across the surface of the ground, or through volatilization into the atmosphere, or percolation through the subsoil, to nearby property beyond the boundaries of the lot wherein such use is located.

Subd. 7 Exterior Storage. In residential districts, all lots shall be maintained and kept in a reasonably clean and neat condition. This requirement shall include the removal of dead trees and brush; the removal of inoperable machines, appliances, fixtures, and equipment so damaged, deteriorated or obsolete as to have no substantial value and which constitute junk; the removal of lumber piles and building materials not being used in actual construction on the premises.

Subd. 8 Automobiles. In Agricultural or Residential Districts, no person shall place, park, permit to remain, store or leave upon any premises, except in a completely enclosed building, any motor vehicle which does not have affixed to it a valid current motor vehicle license, or parts or pieces from it, when such motor vehicle or parts or pieces are in a rusted, wrecked, partially dismantled or junked condition or in an unoperative or abandoned condition; and the owner of such motor vehicle or parts or pieces, and the owner and occupant of premises upon which located shall be obligated to remove them to a licensed junk yard or other authorized place of deposit or storage. The term "motor vehicle" as used in this section does not apply to farm equipment.

SECTION 3. NUISANCE ABATEMENT

Subd. 1 Notice of Violation; Procedure. Whenever the Zoning Administrator determines that a nuisance exists under one of the standards defined in Section 2 of this Article, he shall serve notice of the nuisance upon the owner or occupant of the Property. The notice shall be sent by certified mail to the property address, and shall identify the nuisance and order it to be terminated. The notice shall specify the steps to be taken to terminate the nuisance and the time, not to exceed 30 days, within which the nuisance must be terminated.

Subd. 2 Penalties for Non-Abatement; Procedure. If the nuisance is not abated within the time specified, the Zoning Administrator shall report that fact to the County Board. The Board, after 10 days written notice to the owner or occupant, and an opportunity for a hearing, may provide for the abatement by the County, in

which case all costs of abatement, including administrative and legal costs, may be assessed to the Property. Alternatively, the County Board may seek an order of the court directing the abatement of the nuisance.

Subd. 3 Review By Other Agencies. In determining compliance with the performance standards of this article, the Zoning Administrator may refer any matter to such governmental agencies or other entities as deemed necessary to obtain their review and comments as to such compliance.

Subd. 4 Immediate Threats to Public Health or Safety. Notwithstanding subdivision two above, if the nuisance poses an immediate threat to the health or safety of the public, the County may abate the nuisance without hearing, and the charges shall be assessable to the Property in the same manner described in subdivision two.

SECTION 4. BUILDING REGULATIONS

Subd. 1 No building or structure shall be erected, converted, enlarged, reconstructed or structurally altered without complying with the provisions of this Ordinance.

Subd. 2 No building or structure shall exceed the height or bulk herein established for the district in which the building is located.

Subd. 3 Building Permits shall be required and issued by the County in accordance with its adoption of the Minnesota State Building Code.

Subd. 4 All Manufactured Homes and structures used for dwelling or sleeping purposes shall be of a size not less than 480 square feet with the shortest side of the structure not less than 16 feet in width. The manufactured homes and structures shall have permanent, approved foundations.

SECTION 12. ENVIRONMENTAL HAZARD ABATEMENT

Subd. 1 Environmental hazards are a threat to the health, safety and general welfare of the public. 3-9

Subd. 2 Development permits, variances and final plats shall not be approved until all known environmental hazards situated on the subject property have been abated in a manner prescribed by law. Environmental hazards include, but not limited to, the following:

- A. Unused or improperly sealed wells, cisterns, pits, tanks, and similar hazards.
- B. Unapproved sites where manmade articles are stored, abandoned or discarded.
- C. Improperly discarded appliances.
- D. Inoperative or unlicensed motor vehicles, combustion engines and parts.
- E Any man-made product that is hazardous to life forms, or that has a hazardous by-product.
- F. Abandoned, dilapidated, or burned out structures.
- G. Other uses similar to those listed above.

ARTICLE 4

BLUFFLAND AREA PROTECTION

SECTION 1. INTENT AND PURPOSE

Wabasha County recognizes the historic, environmental and economic values of the bluffs that line the rivers, creeks, and valleys of the County. These standards set out to protect and preserve the sensitive physical features of the bluffland areas by regulating development, preventing erosion and maintaining vegetative cover on the slopes and tops of the bluffs.

SECTION 2. SCOPE

These standards shall regulate the setback of structures, sanitary waste treatment facilities and row crops from bluff impact zones to protect the existing and/or natural scenic values, significant historic sites, vegetation, soils, water and bedrock from disruption by man-made structures or facilities. These standards will also regulate alterations of the natural vegetation and topography.

SECTION 3. GENERAL REGULATIONS

Subd. 1 New structures and accessory facilities (except stairways, lifts and landings) shall not be placed within bluff impact zones.

Subd. 2 Notwithstanding subdivision one, a pre-existing structure located within a bluff impact zone may be reconstructed, if damaged by fire, weather or other force of nature or act of God, provided the damage is less than 50% of the fair market

value of the damaged structure. And conforms to Section 4 (type II review process) of this article.

Subd. 3 Setback from the top and toe of bluff to any structure in any district shall be no less than thirty (30) feet.

Subd. 4 No person shall begin a new mining or quarrying activity within three hundred (300) feet of the toe or top of a bluff without a conditional use permit.

Subd. 5 No towers, with the exception of emergency towers, shall be located within one-quarter (1/4) mile of the bluff impact zone.

Subd. 6 Stairways and lifts may be allowed to achieve access up and down bluffs and steep slopes to shore areas or plains. All stairways and lifts on bluffs and in shoreland areas shall be visually inconspicuous, and meet the following design requirements:

A. Stairways and lifts shall not exceed four (4) feet in width on residential lots. Wider stairways may be used for commercial properties, public open space recreational properties, and planned unit developments.

B. Landings for stairways and lifts on residential lots shall not exceed thirty-two (32) square feet in area. Landings larger than thirty-two (32) square feet may be used for commercial properties, public open space recreational properties, and planned unit developments.

C. Canopies or roofs are not allowed on stairways, lifts, or landings.

D. 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.

E. Stairways, lifts, and landings shall be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water and lower areas assuming Summer, leaf-on conditions, whenever practical.

F. Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore and lower areas, provided that the dimensional and performance standards of sub-items A-E are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.

Subd. 7 No grading, excavating or filling within the bluff impact zones, except for approved erosion control measures. Erosion control projects within the bluff impact zone shall comply with A. and B. below:

A. Altered areas shall be stabilized to acceptable erosion control standards consistent with the field office technical guides of the Wabasha Soil and Water Conservation District and the USDA, Natural Resources Conservation Service.

B. Plans to place fill or excavated materials in bluff impact zones shall be prepared by a qualified professional for continued slope stability, and approved by the Department of Environmental Services. All costs to be born by the applicant.

Subd. 8 The top or toe of bluffs shall be certified by a registered land surveyor or Zoning Administrator.

Subd. 9 Vegetation Alterations. Vegetation alterations shall be subject to the standards found in Article 13 of the Wabasha County Zoning Ordinance.

SECTION 4. TTPE II REVIEW PROCESS

Subd. 1

Applications for requiring a Type II Review Process shall be made to the Zoning Administrator. In order to be considered a complete application, the applicable fee shall be paid and the completed application shall be accompanied by a site plan showing such information as is necessary to show compliance with this Ordinance, including but not limited to:

A. Legal description of the property.

B. Site plan showing parcel, building dimensions and distance from

property lines, road right of ways, streams, lakes, rivers.

C. Location of all buildings and their square footage.

D. Driveways, access roads, parking, sidewalks (as applicable) and utilities.

E. Landscaping and screening plans.

F. Drainage plan.

G. Sanitary sewer and water plan with estimated use per day, septic compliance, well compliance and 2nd septic site location

H. Soil type.

I. The applicant shall have coordinated with County employees to obtain all necessary township, county, state and federal permits and shall provide such other information as necessary and reasonable to adequately review the requests.

J. Evaluation report and recommendations from a certified, licensed geo-technical engineer or qualified geotechnical engineer assessing the property and proposed expansion plan identifying the following:

The site plan/evaluation will include at a minimum the following:

- 1) Slopes in classes of 0-14.9%, 15-24.9% and greater than 25% based on two foot (2') contour within 100 feet of any site disturbance.
- 2) Location of all water bodies including but not limited to streams, lakes and wetlands within 1000 ft
- 3) Existing natural and topographic features.
- 4) Location of all proposed and existing buildings and driveway features.
- 5) Location of all existing vegetation including meadow, forest and scrub lands broken down by those areas of vegetation which will be removed as well as vegetation to be preserved; specifications for revegetation shall also be included.
- 6) Specific methods which will be utilized to control soil erosion and sedimentation, soil loss and excessive storm water runoff both during and after construction.
- 7) A statement and description of the stability of the soils on site and the appropriateness of the construction method proposed.
- 8) Hydrology, drainage and flooding analysis to include a statement on the effect of the proposed development upon water bodies or wetlands in the vicinity of the project.
- 9) A statement describing the underlying geology attesting to the stability of the site.
- 10) Calculations of the area of proposed disturbance of each slope class on each proposed lot as well as within any proposed road right-of-way.
- 11) Grading plan for the construction site and all access routes.
- 12) Testing for fissures in the rock formations in reference to potential ground water contamination.

Subd. 2. NOTIFICATION AND PUBLIC HEARING

A. Upon receipt in proper form of the application and other required material, and the applicable fee, the Zoning Administrator shall review the application for completeness. Upon determining that the application is complete, the Zoning Administrator shall forward the entire application and supporting documents to the Planning Commission. Where necessary, the Zoning Administrator shall make comments and recommendations regarding the application.

B. The Planning Commission shall hold at least one (1) public hearing in a location to be prescribed by the Planning Commission. Such public hearing may be continued as allowed by law and additional hearings may be held.

C. Notice of the time, place and purpose of any public hearing shall be given by publication in a newspaper of general circulation in the town, municipality or other area concerned and in the official newspaper of the County at least ten (10) days before the hearing.

D. Written notice of the meeting will be sent to all property owners of record within one-quarter (1/4) mile of the affected property or to the ten (10) properties nearest to the affected property, whichever would provide notice to the greatest number of owners. Written notice shall also be given to the affected Board of Town Supervisors and the Council of any municipality within two miles of the affected property.

Subd. 3. APPROVAL, APPROVAL WITH CONDITIONS OR DENIAL

The County Planning Commission shall make its decision upon field review and public hearing process and forward its recommendations to the Board of County Commissioners. In reporting its recommendations to the Board of County Commissioners, the County Planning Commission shall report its findings and all facts in connection with the application, and may suggest conditions and guarantees deemed necessary for the protection of the public interest. Upon receipt of the report of the Planning Commission, the Board of County Commissioners shall make a decision upon the application. (60-day rule applies)

Subd. 4. FINDINGS

In considering a request for a variance requiring a Type II Review Process, the Planning Commission shall apply the following standards:

A. Whether the proposed replacement/expansion will contribute to the hillside character in a positive manner protecting the natural environment, ecosystems integrity and biodiversity that would protect wildlife and environmentally sensitive areas and special natural features of the site such as landforms, rock outcropping, mature trees and vegetation, drainage courses, hilltops and ridgelines.

B. Whether the proposed replacement/expansion will implement methods for collection, conveyance, control and treatment of storm water, mitigate potential impacts on and downstream watercourse systems.

C. Whether the proposed replacement/expansion provides safe access for residents, visitors and emergency service providers as to avoid unstable or hazardous portions of the site and protect lives and property from hazardous conditions such as landslides, erosion etc.

D. Whether the proposed replacement/expansion addresses the geological conditions of the site prior to any construction to ensure that the most appropriate methods and materials are used to develop the site, in reference to building location, adequate utilities, access roads, drainage, soil erosion control measures and other necessary facilities that are being provided in accordance with the law and ordinances.

E. Whether other factors bearing on the public health, safety and welfare would dictate either denial or grant approval of the proposed replacement/expansion.

CHAPTER 6

NONMETALLIC MINING AND PROCESSING

6.01 Definitions

The following terms shall have the meanings indicated in this chapter.

(1) Nonmetallic mining. Operations or activities for the extraction from the earth of mineral aggregates and nonmetallic minerals, and related operations or activities, including but not limited to excavation, grading, or dredging if the purpose of those operations or activities is the extraction of mineral aggregates and nonmetallic minerals and related processes, including but not limited to stockpiling, crushing, screening, scalping, dewatering, and blending.

(2) Nonmetallic mineral. A product, commodity or material consisting principally of naturally occurring, organic or inorganic, nonmetallic, nonrenewable material. Nonmetallic minerals include, but are not limited to, stone, sand, gravel, asbestos, beryl, diamond, clay, coal, feldspar, peat, talc and topsoil.

(3) Nonmetallic mineral processing. Any combination of crushing, grinding, mixing, loading, transferring, stockpiling, or washing of a nonmetallic mineral at a stand alone facility or as part of a facility which may include but not be limited to the following: lime plant, hot mix asphalt plant, portland cement plant, washing facility, screening facility, rail loading facility or any other facility that processes nonmetallic minerals.

(4) Nonmetallic Mining Site, Project Site, or Site. The location where a nonmetallic mining operation is proposed or conducted including all surface areas from which minerals are removed, related storage and processing areas, areas where nonmetallic mining refuse is deposited and areas disturbed by the nonmetallic mining operation and by activities including, but not limited to, the construction or improvement of roads or haulage ways.

6.02 Exemptions

(1) Excavations or grading by a person solely for domestic use at their residence or farm.

(2) Excavation or grading conducted for highway construction purposes within the highway or railroad right-of-way, excavation or grading done for highway safety.²

(3) Preparing a construction site for a project which has been issued a building or zoning permit and/or is consistent with applicable zoning ordinances or restoring land following a flood or natural disaster.

(5) Excavations for building construction purposes on the construction site for a project which has been issued a building and/or zoning permit.

(6) Any activities conducted at a solid or hazardous waste disposal site required to prepare, operate or close a solid waste disposal facility.

(7) Temporary (<120 consecutive days) hot-mix asphalt plants and temporary (<120 consecutive days) concrete ready-mix batch plants.

6.03 Permits. No new nonmetallic mine and/or processing facility, the expansion of a previously permitted nonmetallic mine and/or processing facility, or the expansion of a nonconforming nonmetallic mine and/or processing facility shall commence prior to obtaining a conditional use permit as per this chapter.

(1) Application. Each application shall be judged on its own merits. Wabasha County reserves the right to deny any application to engage in non-metallic mining or processing. An application for a conditional use permit to operate a nonmetallic mine or processing facility shall include the information as follows:

(a) The name and address of the operator and landowner.

(b) Legal description of the parcel(s) upon which the nonmetallic mine or processing facility is to be located and the total acreage.

(c) An operational plan which describes the material to be mined or processed (include list of chemicals used in any processing), mode of operation, the types of activities that will occur at the site, estimated amount of material to be mined or processed, blasting cycles, estimated duration of the operation including phases, hours of operation and other pertinent information to explain the request in detail.

(d) A water usage plan which shall include the estimated amount of groundwater used on a daily basis.

(e) A plan that includes fencing, screening, and/or sloping necessary to minimize noise, dust, erosion, and other adverse effects of the activity.

(f) A reclamation plan that adheres to the provisions of chapter 24 and has prior approval by the Wabasha County Board of Commissioners. (An application for a nonmetallic mine will not be considered complete until the reclamation plan has first been approved by the Wabasha County Board of Commissioners.)

(g) A map of the existing conditions that includes a topography map with contour lines at ten (10) foot intervals, drainage features, structures within 1500 feet, and all wells within 1500 feet.

(h) A map of the proposed operation that includes structures to be erected, locations to be excavated, stockpiles of overburden and aggregate, erosion control structures, and a permanent site reference point.

(i) The owner/applicant shall submit an analysis prepared by an engineer licensed in the State of Minnesota for the existing geological conditions both in the extraction area and the subterranean extraction area and the impacts of the mining operation, including the applicability of the reclamation plan, on area hydrology, springs, or karst formations. The County reserves the right to have this information reviewed by any geologist or hydrologist, an employee of the Soil and Water Conservation District, or employee of the USDA Natural Resources Conservation Service, or any professional at the discretion of the County.

(j) A Transportation Impact Study that adheres to the provisions of section 6.08 and has been reviewed by Wabasha County and determined to be complete and adequate. The Study shall be performed at the expense of the applicant. A nonmetallic mine or processing facilities may be exempt from a Transportation Impact Study if one or more of the following criteria applies.

1. The mine or processing facility is a temporary use (< 120 total calendar days) to be used for construction projects in Wabasha County or an adjacent County.
2. The mine or processing facility generates less than 30 heavy vehicle trips per day and will not cause a cumulative impact of more than 30 heavy vehicle trips per day on any public road from similar operations.
3. The aggregate from the nonmetallic mine will be primarily for road projects or for the agriculture industry in Wabasha County or an adjacent County.

(k) An Environmental Assessment Worksheet (EAW) completed by the applicant. An Environmental Impact Statement may be required in lieu of an EAW when initiated by the Planning Commission or County Board as a discretionary authority.

(l) Proof of a current MNG49 Permit issued by the Minnesota Pollution Control Agency (MPCA) or a copy of the complete MNG49 Permit application submitted to MPCA (if required).

(m) In addition to the information to be submitted as outlined above, underground resource extraction facilities shall also include the following:

1. A description of the stability of lands overlaying the underground workings.
2. Locations of adits, ventilation shafts, and other surface openings.
3. Detailed description of water handling procedures, including dewatering and processing water.
4. Detailed description of the fate and transport of groundwater into and out of the mine workings.

6.04 Performance standards

The County Board and/or Planning Commission reserves the right to review site specific details and impose additional restrictions or conditions to the issuance of a Conditional Use Permit as it deems necessary to protect the health, safety and general welfare of the public. All conditions of the Conditional Use Permit and all performance standards apply to all heirs, successors, and assigns and shall run with the land until such time as the CUP is modified, amended, or terminated. Conditions may include, but are not limited to, performance characteristics, enhanced setbacks, and matters relating to appearance in order to mitigate potential nuisances and land use conflicts. Minimum performance standards are as follows:

- (1) No stockpiles, excavation activity, or mining activity shall occur within fifty (50) linear feet of neighboring property boundaries unless the adjacent parcel is under common ownership with the mine landowner and the land is within the permitted mine boundary.

- (2) No excavation activity or mining activity shall occur within one hundred (100) linear feet of any public road right-of-way unless the local road authority consents to a lesser setback. Stockpiles may be located within this area, but shall be at least fifty (50) linear feet from the right-of-way.

- (3) Each nonmetallic mine and/or processing site (regardless of size declared on a CUP application) shall be limited to a total of fifty acres for the use of nonmetallic mining and/or nonmetallic mineral processing at any given point in time. To adhere to this requirement and to allow for the continuation of mining at a site, reclamation of land altered by mining or processing shall first be conducted so as not to exceed this threshold.

- (4) Stockpiles of overburden shall have a vegetative cover established on them so as to prevent sediment from leaving the site and being deposited onto neighboring property.

- (5) Mineral washing that utilizes chemical additives shall have all sediment ponds/basins constructed according to plans designed by a MN Licensed Professional Engineer and shall be lined with an impervious liner or shall be constructed of concrete. Sediment from a settling pond/basin shall be disposed of in a manner approved by the Minnesota Pollution Control Agency.

- (6) Nonmetallic mines located within three hundred (300) feet of two (2) or more residential structures shall have safety fencing at least four (4) feet high at the top of any slope greater than 100% with a vertical rise equal to or greater than thirty (30) feet present for more than two weeks.

(7) Notification must be provided to the Wabasha County Zoning Department, the Wabasha County Sheriff's Department, and all residents within one thousand (1000) feet of the mine at least twenty-four (24) hours in advance of any blasting.

(8) Nonmetallic mining and processing must at all times remain at least fifteen (15) feet above the established groundwater table of the surrounding area (elevation of groundwater table to be verified by the DNR Area Hydrologist).

(9) Lighting at any nonmetallic mine or processing facility shall utilize downlight fixtures.

(10) A minimum of two air samples shall be collected and analyzed by an independent licensed environmental consultant at the expense of the owner/operator to screen for airborne silica at the edge of the property prior to starting a mine or processing facility. Air samples shall also be taken by an independent licensed environmental consultant at the expense of the landowner at an interval determined by the Wabasha County Planning Commission or County Board and submitted within 30 calendar days to the Wabasha County Planning and Zoning Department. Sampling shall be conducted during a period of normal operation at a location and time established by the Zoning Administrator in accordance to the schedule adopted by the Planning Commission or County Board. Air quality shall adhere to MPCA standards for air quality.

(11) The owner/applicant of any nonmetallic mine or processing facility shall enter into a road use agreement with Wabasha County for costs of any road impact identified by the Wabasha County Engineer or identified in the Transportation Impact Study. The road use agreement shall be drafted by the applicant, but will require approval as to its format and terms from the Wabasha County Engineer and Attorney's Office. The County reserves the right to deny permits for mining sites having inadequate infrastructure, as determined by the County, to support anticipated traffic characteristics of the proposed operation unless the road use agreements accommodates infrastructure improvements supporting the intended use.

(12) Nonmetallic mines and/or processing facilities shall adhere to a setback of 1500 feet as measured from the property line of the parcel(s) on which the site has been designated to any existing residential dwelling or well, however, a lesser setback is allowed if a consent letter signed by the owner of a well or residential dwelling located within this setback is submitted with the application for a Conditional Use Permit. In no way shall the setback be reduced to be less than 300 feet unless the dwelling or well is under the same ownership as the mine or processing facility.

(13) A monitoring well located hydrogeologically down gradient of any wet processing facility shall be installed at the expense of the owner/operator and prior to the start of operation. Water quality samples shall be collected and analyzed by an independent licensed environmental consultant at the expense of the landowner prior to the start of operation and

on an annual basis. Water samples shall screen for contaminants identified for regulation in the federal Safe Water Drinking Act.

(14) Nonmetallic mines and/or processing facilities shall not be located on a bluff (defined in the Zoning Ordinance) or within 300 feet of the toe or top of a bluff.

(15) Underground resource extraction shall adhere also to the following:

(a) No resource extraction activities shall occur within a 1500 ft. horizontal radius of any residential or farm well.

(b) Designs for mining under public roads shall require approval of the road authority.

(c) Mining or tunneling must maintain a 200 ft. vertical extension setback from permanent surface structures.

(16) Any other standard the County Board of Commissioners or the County Planning Commission deem appropriate.

6.05 Reclamation

All nonmetallic mines that obtain a permit as required under section 6.03 shall reclaim the mine as per the reclamation plan as required under chapter 24 once all mining activity on the property has ceased.

6.06 Transportation Impact Study

(1) The applicant of a nonmetallic mine or nonmetallic mineral processing facility that is required to complete a Transportation Impact Study, as per this chapter, shall be responsible for all costs of an independent study for the proposed operation. The applicant shall be responsible for obtaining the services of a qualified professional traffic engineer licensed in the State of Minnesota to prepare the Transportation Impact Study.

(2) Wabasha County will review the Transportation Impact Study and has the sole authority to determine the completeness and adequacy of any Transportation Impact Study. The County reserves the right to hire any qualified professional as part of an independent review for any or all of the Transportation Impact Study. All costs associated with any independent review shall be the responsibility of the applicant.

(3) The Transportation Impact Study shall identify the proposed operation's impacts on the transportation system and the potential improvements necessary to mitigate level of service, operational impacts, structural impacts, safety impacts, or any other impacts of the proposed operation. Potential improvements shall be identified as location/road specific and shall include an estimated cost for each potential improvement.

(4) The Transportation Impact Study shall be comprehensive and encompass all existing and proposed accesses, all intersections, and all public roads within a geographic range of significant impact as determined by the Wabasha County Engineer for the proposed nonmetallic mineral mine or processing facility. The Transportation Impact Study shall include, but not be limited to, the information as follows:

- (a) Preparer's name and all contributing persons and their qualifications.
- (b) Project description.
- (c) Identification on a detailed road map the desired haul route.
- (d) Map of all access points.
- (e) Existing traffic and road conditions including road structure and condition information; bridge structure and condition information; geometry, features and traffic control on routes; ADTs and (if requested) vehicle classification distribution; operational conditions of intersections; peak hours, turning movements and levels of service; gap or que length information (when requested).
- (f) Projected traffic without proposed mining or processing facility which includes future projected ADTs, peak hour movements and level of service; existing and known proposed traffic generators affecting impacts; gap or que length information (if requested); and map of adjacent land uses and accesses (if requested).
- (g) Proposed mining operation traffic which includes traffic generation at peak hours and other operating times; figures showing traffic movements and volumes on route(s); assumptions, calculations and other information used in analysis.
- (h) Figures showing ADTs and HCADTs, peak hour movements, level of service, and (where requested) gap or que lengths for present and future conditions with proposed mining; access review for adequacy; and identification of level of service, operational, structural and safety impacts.
- (i) All costs expected to be incurred to maintain safe and desirable roadway surface conditions attributable to the proposed mining operations including but not limited to surface repair, street cleaning/sweeping, and shoulder repair shall be paid for by the applicant.
- (j) Summary of all impacts and potential improvements including estimated costs for all potential improvements (including estimated costs of right of way and engineering) itemized by improvement.
- (k) All costs associated with any recommendations or requirements of the Traffic Impact Study shall be paid for by the applicant.

6.07 Indemnification.

The Operator of any nonmetallic mine shall hold the County, its officers, employees, and agents harmless against all claims by third parties for damages or costs arising out of, resulting from, or related to mineral extraction, processing, property damage, and reclamation on the subject property or incurred in the development of the subject property. The Operator shall indemnify the County for all costs, damages, or expenses incurred by the County arising from such claims, including attorney's fees.

ARTICLE 8

ZONING DISTRICTS AND DISTRICT PROVISIONS

SECTION 1. ZONING DISTRICTS

The zoning districts shall apply as designated on the Zoning Map and defined within this Ordinance and applicable state or federal regulations. Three types of zoning districts are utilized. All lands under jurisdiction of this Ordinance shall be designated as lying within one, and only one, primary zoning district. In addition, one or more overlay districts may apply.

PRIMARY DISTRICTS

A-1, Agricultural Protection

A-2, Agriculture/Urban Fringe

A-3, Agriculture/Low-Density Residential

R-1, Rural Residential District

OVERLAY DISTRICTS

FP, Floodplain

S, Shoreland

SECTION 2. ZONING MAP

The location and boundaries of the districts established by this Ordinance are set forth on the zoning maps which are hereby incorporated as a part of this Ordinance. It shall be the responsibility of the Zoning Administrator to maintain and update the maps and amendments.

SECTION 3. DISTRICT BOUNDARIES

The boundaries of zoning districts, as shown on the County of Wabasha Official Zoning Map accompanying and made a part of this Ordinance, unless otherwise shown, are the centerline of streets, alleys or the subdividing or boundary lines of

recorded plats or the extension thereof, railroad rights-of-way lines, and the corporate limits of cities within Wabasha County.

SECTION 4. ZONING BOUNDARY INTERPRETATION

Appeals from the Commissioners or any administrative officer's determination of the exact location of district boundary lines shall be heard by the Board of Adjustment.

Where interpretation is needed as to the exact location of the boundaries of the Floodplain, FP District, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the Board of Adjustment shall make the necessary interpretation based on a recommendation from the DNR Area Hydrologist, elevations of the regional (100 year) flood profile and other available technical data.

SECTION 5. PERMITTED USES

No structures, or land shall be used for any purpose except a Permitted Use unless one or more of the following exceptions applies:

Subd. 1 A Conditional Use Permit is issued in accordance with the provisions of this Ordinance.

Subd. 2 A Conditional Use Permit is issued by a Township under the authority granted it in Minnesota Statutes Section 462.3595. A certified copy of the permit must be recorded or registered in the office of the county recorder. The conditional use permit shall include the legal description of the property to which the conditional use applies.

Subd. 3 The structure is a non-conforming structure or the use is a non-conforming use as defined in this ordinance.

Subd. 4 Normal maintenance of a non-conforming structure or use is permitted, including necessary non-structural repairs and incidental alterations which do not extend or intensify the non-conforming use.

SECTION 6. USES NOT PROVIDED FOR IN ZONING DISTRICT

Whenever, in any zoning district, a use is neither specifically permitted nor denied, the use shall be considered prohibited. In such case, the Board or the Planning Commission, on their own initiative or upon request of a property owner, may conduct a study to determine if the use is acceptable and, if so, what zoning8-3

district would be most appropriate and the determination as to conditions and standards relating to development of the use. The County Board or Planning Commission, upon receipt of the study, shall, if appropriate, initiate an amendment to the Zoning Ordinance to provide for the particular use under consideration or shall find that the use is not compatible for development within the County.

ARTICLE 9

A-1, AGRICULTURAL PROTECTION DISTRICT

SECTION 1. PURPOSE

The purpose of this district is to maintain, conserve and enhance agricultural lands that have been historically valuable for crop production, pastureland, and natural habitat for plant and animal life. This district is intended to encourage long-term agricultural uses; preserve prime or productive agricultural farmland, forest lands and natural resources; and stabilizing public expenditures for public services by restricting the location and density of non-farm dwellings and other non-farm land uses. Residential development may be allowed in this District at an overall density not to exceed 1 dwelling per 80 acres (or half quarter section).

SECTION 2. PERMITTED USES

The following are Permitted Uses in the A-1 District:

Subd. 1 Single-family farm and non-farm dwellings, in accordance with Section 4 of this Article.

Subd. 2 A maximum of one additional farm dwelling, which may be permanent or temporary, located in the farmyard to accommodate any of the following purposes; any temporary structure shall be removed when the need is terminated:

- A. Full-time farm labor, individual or family
- B. Property owner's family members
- C. Property owner, retired from operation of farm
- D. Person(s) that provides supportive care to the property owner due to health, age or infirmity.

The additional farm dwelling may not be split off and sold as a separate parcel, and the property owner shall record a deed restriction so indicating. The deed restriction may include language indicating that this requirement is "per Wabasha County Zoning Ordinance Article 9, Section 2, Subd. 2., and will be valid only as long as that subdivision is valid."

Subd. 3 Any agriculture operation including tree farms.

Subd. 4 Feedlots as regulated in Article 5 of this Ordinance.

Subd. 5 Any one temporary building for the sale of on-site farm produce provided that such building shall conform to Wabasha County Highway Setback Distances, as may be amended from time to time, and further provided that adequate off-street parking shall be available.

Subd. 6 Plant nurseries and sales.

Subd. 7 Child Day Care Facility, in conformance with Minnesota State Statutes and Rules.

Subd. 8 Mining, quarrying, excavating, or filling of land existing prior to the adoption of this ordinance, subject to standards of Article 6 of this Ordinance.

Subd. 9 Accessory structures and uses customarily incidental to any of the above permitted uses when located on the same property.

SECTION 3. CONDITIONAL USES

In the A-1, Agricultural Protection District, the following uses may be allowed subject to obtaining a conditional use permit in accordance with the provisions of Article 18 of this Ordinance.

Subd. 1 Non-Farm Dwellings that meet the following criteria:

A. Dwellings that do not have direct access onto a State, County, Township or other public road but do meet the lot access requirements of Section 4, Subd. 6 of this Article.

B. The development of two or more dwellings as a result of entitlement transfers as authorized through Section 5, Subd. 2 of this Article.

C. The development of two or more dwellings in accordance with Section 6 of this Article.

Subd. 2 Lodging Establishments in accordance with the Wabasha County Lodging Ordinance.

Subd. 3 Recreational Campground Areas in accordance with the Wabasha County Manufactured Home Park and Recreational Camp Area Ordinance.

Subd. 4 Recreational residence, hunting cabin, camping cabin or similar use.

Subd. 5 Any seasonal labor camp.

Subd. 6 Any park or recreational area operated by a governmental agency.

Subd. 7 Hunting club or shooting preserve.

Subd. 8 Any commercial indoor or outdoor recreation facilities including, but not limited to, golf courses, driving ranges, tennis courts, skiing, swimming pools, motocross, recreational trail and park facilities, in conformance with the provisions of Article 3 Section 12 of this Ordinance.

Subd. 9 Any community building, church, cemetery or memorial garden.

Subd. 10 Government buildings and structures.

Subd. 11 Any public or private school.

Subd. 12 Family restaurants without drive through facilities.

Subd. 13 A private aircraft landing field and associated facilities.

Subd. 14 Any commercial radio and television towers and transmitters, in accordance with Article 3 Section 13 of this Ordinance.

Subd. 15 Any veterinary clinic, public stable, commercial kennel for the raising of fur bearing animals or commercial kennel.

Subd. 16 Any sanitary landfills and sewage disposal works including any non-agricultural lagoon provided that the operation is in accordance with Minnesota Pollution Control Agency regulations.

Subd. 17 Commercial and industrial uses primarily intended to serve the agricultural community, including the following and similar uses:

Commercial Fishing.

Contractors and Builders.

Farm implement Service, Supplies and Sales.

Fishing Service, Supplies and Sales.

Light Manufacturing.

Marine Service, Supplies and Sales, small scale.

Mini-Warehouse, Warehousing and Storage.

Vehicle Service, Supply and Sales, small scale.

Welders.

Subd. 18 Ethanol Plants.

Subd. 19 Junk/salvage reclamation yards in accordance with Article 3 Section 12 of this Ordinance.

Subd. 20 Any new mining, quarrying, excavating, or filling of land commencing on or after the adoption of this ordinance subject to the standards in Article 6 of this Ordinance.

Subd. 21 Temporary or seasonal off-site roadside produce stands.

Subd. 22 Advertising devices in accordance with Article 3 Section 17 of this Ordinance.

Subd. 23 Accessory structures and uses customarily incidental to any of the above conditional uses when located on the same property.

SECTION 4. GENERAL DISTRICT REGULATIONS

Any lot in the A-1, Agricultural Protection District on which any permitted or conditionally permitted use is erected shall meet the following minimum standards:

Subd. 1 Density.

A. One dwelling unit per 80 acres (or half quarter section) unless a parcel meets the definition of Farm in Article 2 of this Ordinance and an additional dwelling is permitted by Section 3 of this Article.

B. Subdivisions to create lots for non-farm, single family dwellings shall be permitted subject to the following requirements:

1 The tract of land involved comprises at least eighty (80) contiguous acres, or one half quarter section, in common ownership.

2. The number of single family dwellings allowed shall be calculated as follows:

(a) The total acreage of the tract shall be calculated.

(b) Eighty (80) acres, or one half quarter section, shall be subtracted from this total for each existing dwelling unit.

(c) The result from (a) and (b) above shall be divided by eighty (80) acres, or the number of remaining half quarter sections on the tract. This shall be the number of dwellings allowed on the entire tract.

3. Lot Size: Each new dwelling is to be retained on a separate lot, configured as follows:

(a) The lot shall contain a minimum of two (2) dry, buildable acres.

(b) The lot is large enough and so situated as to meet the standards contained in Minnesota Rules Part 7080 (MPCA Individual Sewage Treatment Systems Standard).

C. If the lot is less than 80 acres the property owner(s) shall:

1. Sign and record a deed restriction to apply to the remainder of the tract from which the dwelling eligibility was derived. The restriction shall limit any further residences, divisions or non-agricultural development of the remainder of the tract,

OR

2. Plat the entire tract. Each dwelling shall be placed on a separately subdivided lot. The remainder of the platted land shall be platted as an outlot or outlots and will not be eligible for further subdivision to create additional buildable parcels.

The purpose of these requirements is to ensure that land may only be used once for the purpose of determining residential density. Land already used to calculate allowable density may not be combined or reconfigured with any other land for additional residential development purposes.

D. Any subdivision resulting in a lot that is less than one half quarter section shall require a survey. The survey shall be filed with the Wabasha County Surveyor prior to recording the deed in the Wabasha County Recorder's Office.

Subd. 2 Yard and Setback Requirements. Every permitted, conditionally permitted dwelling, or accessory structure shall meet the following yard and/or setback requirements:

A. All yards and setbacks shall conform to the established setbacks of this Article and other County Ordinances for Wabasha County Roads, Township Roads, Public Easements, Shoreland Areas, Floodplain Areas, Bluffland Areas, Subdivisions and all other items for which setbacks are regulated.

B. Each lot shall have a minimum width of sixty six (66) feet at an existing public road right-of-way line. However, the County Board may allow a lot that does not abut right of way, provided that the Owner has presented the County with proof it has an easement right to access the road.

C. Front Yard of all Structures.

1. All setbacks shall conform to Wabasha County Highway Setback Distances, as may be amended from time to time.

2. In the event any building is located on a lot at the intersection of two (2) or more roads or highways, such lot shall have a front yard abutting each such road or highway.

D. Side and Rear Yard.

1. Side and rear yard setbacks shall be a minimum of fifty (50) feet.

E. Any building in which the keeping of livestock or fur bearing animals or any kennels (when such keeping results in the accumulation of animal wastes) is carried on shall maintain a separation of two hundred (200) feet from any dwelling on adjacent property.

F. New feedlots shall not be allowed within 1,000 feet from any existing residence (dwelling) other than the feedlot operator's, except farmyards that existed prior to the adoption of this ordinance.

G. In accordance with Minnesota State Statutes Section 394.25, Subd. 3C, Part d, new residences (dwellings) shall not be allowed within 1,000 feet from any existing feedlot, unless the new residence is built to replace an existing residence. A county may grant a variance from this requirement under Minnesota State Statutes Section 394.27, Subd. 7.

Subd. 3 Bluff Setback. For any use or structure in the A-1 District, the setback from the top and toe of bluff shall be no less than thirty (30) feet.

Subd. 4 Height Requirements. Every permitted, conditionally permitted or accessory building shall meet the following height requirements:

A. Agricultural buildings shall be exempt from the height requirements.

B. Buildings other than agricultural buildings shall not exceed thirty-five (35) feet in height.

Subd. 5 Exceptions. Certain uses are exempted from meeting the lot size, yard and height requirements. These exceptions are listed in Article 3, Section 19.

Subd. 6 Lot Access Requirements. Every lot or plot of land on which a non-farm single family dwelling is constructed shall abut and have direct vehicular access to a State, County, Township or other public road. A private access strip no less than thirty three (33) feet wide abutting a public road may be approved by the Planning Commission, upon recommendation by the County Engineer, as a conditional use in lieu of the standard road frontage requirement, if the intent is to preserve active agricultural land or practices, forest land or other natural resources. If the access strip will serve or has the potential to serve three (3) or more dwellings, it shall be sixty six (66) feet in width and abut a public road as approved by the Planning Commission, upon recommendation by the County Engineer. The strip shall not be an easement, but owned in fee with the division. Maintenance shall be the complete responsibility of the property owner(s).

Subd. 7 Minimum Parcel Width. No parcel created after the adoption of this Ordinance shall be less than two hundred feet in width, except as allowed by the County Board.

Subd. 8 Dwellings on Separately Surveyed Parcels. Each dwelling shall be sited on a separately surveyed or described parcel.

SECTION 5. FARM DENSITY ENTITLEMENTS

Subd. 1 Property in the A-1 District may be subdivided into lots to contain non-farm residences at an overall maximum density of 1 unit per 80 acres (or half quarter section). Such requirements include, but are not limited to, the platting of a parcel to contain the non-farm dwelling, the parcel having a certain minimum frontage on a public road, and the parcel meeting certain minimum lot access requirements. The non-farm dwelling may be allowed as a conditional use in accordance with the requirements of this Article if it does not meet the frontage and access requirements.

Subd. 2 Entitlements for residential density may be transferred to contiguous property under common ownership provided that any resulting residential development meets the minimum requirements of this Ordinance, the Subdivision Ordinance and all other applicable codes and ordinances. The purpose of allowing such transfers is to preserve productive farmlands, forest lands and other natural resources and to minimize the effects of residences on the environment and nearby farm operations. In no case shall the use of entitlement transfers be used to increase the residential density in the A-1 district. Any transfer that results in the development of two (2) or more residential lots from one parcel shall require the issuance of a Conditional Use Permit.

Subd. 3 The owner(s) of the eligible parcel must sign and record a deed restriction or plat the entire tract, as described below, to apply to the remaining portion of the property that is not being used for residential development. The purpose of these requirements is to ensure that land may only be used once for the purpose of determining residential density. Land already used to calculate allowable density may not be combined or reconfigured with any other land for additional residential development purposes.

A. Sign and record a deed restriction to apply to the remainder of the tract from which the dwelling eligibility was derived. The restriction shall limit any further residences, divisions or non-agricultural development of the remainder of the tract,

OR

B. Plat the entire tract. Each dwelling shall be placed on a separately subdivided lot. The remainder of the platted land shall be platted as an outlot or outlots and will not be eligible for further subdivision to create additional buildable parcels.

SECTION 6. CONDITIONAL USE - 2 OR MORE RESIDENTIAL LOTS

Subd. 1 The approval of a conditional use by the Planning Commission shall consider the following criteria:

A. Whether there are portions of the land that are capable of supporting long-term agricultural activities or have a CER rating of 65 or greater as shown on a CER ratings map to be maintained by Wabasha County.

B. Whether the development is sited and designed not to impact adjacent agricultural uses, forestland, natural resources, or similar environmentally sensitive features, and so as to not impede the orderly development of incorporated areas or the expansion of existing unincorporated residential areas.

Subd. 2 Through the conditional use process, the County Board may authorize the following modifications from the requirements of this Ordinance:

A. Lot area of less than 2 acres dry buildable land, but in no instance less than the standards contained in Minnesota Rules Part 7080 (MPCA Individual Sewage Treatment Systems Standard).

B. Less than 200 ft. frontage on a State, County, Township, or Public Road.

C. A reduction in side or rear yard setbacks.

D. Other design standards determined to be applicable by the Planning Commission and that the Planning Commission would otherwise have the authority to vary in accordance with Article 19 of this Ordinance.

SECTION 7. NON-CONFORMING RESIDENCES

Subd. 1 Residential structures that exist on lots of record outside the Shoreland District as of the adoption of this Ordinance, which do not meet the minimum district regulations of this Article, shall be allowed to be maintained or rebuilt in the event of fire or emergency.

Subd. 2 If any residential non-conforming use or structure is destroyed by floods to an extent of 50 percent or more of its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the Ordinance. The applicable provisions for establishing new uses or new structures in Article 14 will apply depending upon whether the use or structure is in the Floodway, Flood Fringe, or General Flood Plain District, respectively.

ARTICLE 10

A-2, AGRICULTURE/URBAN FRINGE DISTRICT

SECTION 1. PURPOSE

The intent of the A-2 District is to provide for agricultural use and urban expansion in close proximity to existing incorporated urban centers within Wabasha County by conserving agricultural land, forest lands and natural resources, and stabilizing public expenditures for public services, until such time as urban services may become available. It is not the intent of this district to promote more urban development, but rather to promote sustainable agriculture by closely coordinating the use of land between agricultural and urban land uses.

It is the intent that urban development be deferred in this District until an orderly transition from farm to urban uses can be achieved by either the annexation of areas adjacent to the incorporated limits of existing urban centers or the extension of public or other centralized sewage collection and treatment systems. Urban development should be directed to those areas not considered to be prime agricultural land.

It is intended that the status of all areas in this district be reviewed jointly by the appropriate planning bodies who shall determine whether there should be a transfer of all or any part of such area to some other appropriate land use, or to indicate any changes in the existing Land Use Plan for the particular political entity or change in the Capital Program of the community affecting this district.

SECTION 2. PERMITTED USES

Subd. 1 Single family farm dwellings and non-farm dwellings in accordance with Section 4 of this Article.

Subd. 2 A maximum of one additional farm dwelling, which may be permanent or temporary, located in the farmyard to accommodate any of the following purposes:

- A. Full-time farm labor, individual or family.
- B. Property owner's family members.
- C. Property owner, retired from operation of farm.
- D. Person(s) that provides supportive care to the property owner due to health, age or infirmity.

The additional farm dwelling may not be split off and sold as a separate parcel, and the property owner shall record a deed restriction so indicating. The deed restriction may include language indicating that this requirement is "per Wabasha County zoning ordinance Article 10, Section 2, Subd. 2., and will be valid only as long as that subdivision is valid."

Any temporary structure shall be removed when the need is terminated.

Subd. 3 Any agriculture operation including tree farms.

Subd. 4 Feedlots as regulated in Article 5 of this Ordinance.

Sudd. 5 Any one temporary building for the sale of on-site farm produce provided that such building shall conform to Wabasha County Highway Setback Distances, as may be amended from time to time, and further provided that adequate off-street parking shall be available.

Subd. 6 Plant nurseries and sales.

Subd. 7 Child day care facility, in conformance with Minnesota State Statutes and Rules.

Subd. 8 Mining, quarrying, excavating, or filling of land existing prior to the adoption of this ordinance, subject to standards of Article 6 of this Ordinance.

Subd. 9 Accessory structures and uses customarily incidental to any of the above permitted uses when located on the same property.

SECTION 3. CONDITIONAL USES

In the A-2, Agriculture/Urban Fringe District, the following uses may be allowed subject to obtaining a conditional use permit in accordance with the provisions of Article 18 of this Ordinance.

Subd. 1 Non-Farm Dwellings that meet the following criteria:

- A. Dwellings that do not have direct access onto a State, County, Township or other public road but do meet the lot access requirements of Section 4, Subd. 6 of this Article.
- B. The development of two or more dwellings as a result of entitlement transfers as authorized through Section 6, Subd. 2 of this Article.
- C. The development of two or more dwelling as a cluster development in accordance with Section 7 of this Article.

Subd. 2 Lodging Establishments in accordance with the Wabasha County Lodging Ordinance.

Subd. 3 Recreational Residence, Hunting Cabin or Camping Cabin.

Subd. 4 Recreational Campground Areas in accordance with the Wabasha County Manufactured Home Park and Recreational Camp Area Ordinance.

Subd. 5 Any commercial indoor or outdoor recreation facilities including, but not limited to, golf courses, driving ranges, tennis courts, skiing, swimming pools, motocross, paintball, recreational trails and park facilities in accordance with Article 3 Section 13 of this Ordinance.

Subd. 6 Any new mining, quarrying, excavating, or filling of land commencing on or after the adoption of this Ordinance, subject to the standards in Article 6 of this Ordinance.

Subd. 7 Any community building, church, cemetery or memorial garden.

Subd. 8 Government buildings and structures.

Subd. 9 Any public or private school.

Subd. 10 Any veterinary clinic, public stable, commercial kennel for the raising of fur bearing animals or commercial kennel.

Subd. 11 Hospitals, sanitariums, convalescent homes, or homes for the aged.

Subd. 12 Family restaurants without drive through facilities.

Subd. 13 A private aircraft landing field and associated facilities.

Subd. 14 Any commercial radio and television towers and transmitters in accordance with Article 3 Section 13 of this Ordinance.

Subd. 15 Commercial and industrial uses primarily intended to serve the agricultural community, including the following and similar uses:

Commercial Fishing.

Contractors and Builders.

Farm implement Service, Supplies and Sales.

Fishing Service, Supplies and Sales.

Marine Service, Supplies and Sales, small scale.

Mini-Warehouse, Warehousing and Storage.

Light Manufacturing.

Vehicle Service, Supply and Sales, small scale.

Welders.

Subd. 16 Ethanol Plants.

Subd. 17 Temporary or seasonal off-site roadside produce stands.

Subd. 18 Advertising signs (billboards) in accordance with Article 3 Section 17 of this Ordinance.

Subd. 19 Accessory structures and uses customarily incidental to any of the above conditional uses when located on the same property.

SECTION 4. GENERAL DISTRICT REGULATIONS

Any lot in the A-2, Agriculture/Urban Fringe District on which any permitted or conditionally permitted use is erected shall meet the following minimum standards:

Subd. 1 Density.

A. One dwelling unit per 40 acres (or quarter quarter section) unless a parcel meets the definition of Farm in Article 2 of this Ordinance and an additional dwelling is permitted by Section 3 of this Article.

B. Subdivisions to create lots for non-farm, single family dwellings shall be permitted subject to the following requirements:

1. The tract of land involved comprises at least forty (40) contiguous acres, or one quarter quarter section, in common ownership.

2. The number of single family dwellings allowed shall be calculated as follows:

(a) The total acreage of the tract shall be calculated.

(b) Forty (40) acres, or one quarter quarter section, shall be subtracted from this total for each existing dwelling unit.

(c) The result from (a) and (b) above shall be divided by forty (40) acres, or the number of remaining quarter quarter sections on the tract. This shall be the number of dwellings allowed on the entire tract.

3. Lot Size: Each new dwelling is to be retained on a separate lot, configured as follows:

(a) The lot shall contain a minimum of two (2) dry, buildable acres.

(b) The lot is large enough and so situated as to meet the standards contained in Minnesota Rules Part 7080 (MPCA Individual Sewage Treatment Systems Standard).

C. If the lot is less than 40 acres the property owner(s) shall:

1. Sign and record a deed restriction to apply to the remainder of the tract from which the dwelling eligibility was derived. The restriction shall limit any further residences, divisions or non-agricultural development of the remainder of the tract,

OR

2. Plat the entire tract. Each dwelling shall be placed on a separately subdivided lot. The remainder of the platted land shall be platted as an outlot or outlots and shall not be eligible for further subdivision to create additional buildable parcels.

The purpose of these requirements is to ensure that the land shall only be used once for the purpose of determining residential density. Land already used to calculate allowable density may not be combined or reconfigured with any other land for additional residential development purposes.

D. Any subdivision resulting in a lot that is less than one **quarter** quarter section shall require a survey. The survey shall be filed with the Wabasha County Surveyor prior to recording the deed in the Wabasha County Recorder's Office.

Subd. 2 Yard and Setback Requirements. Every permitted dwelling, conditionally permitted dwelling, or accessory structure shall meet the following yard and/or setback requirements:

A. All yards and setbacks shall conform to the established setbacks of this Article and other County Ordinances for Wabasha County Roads, Township Roads, Public Easements, Shoreland Areas, Floodplain Areas, Bluffland Areas, Subdivisions and all other items for which setbacks are regulated.

B. Each lot shall have a minimum width of sixty-six (66) feet an existing public road right-of-way line. However, the County Board may allow a lot that does not abut right of way, provided that the Owner has presented the County with proof it has an easement right to access the road.

C. Front Yard.

1. All setbacks shall conform to Wabasha County Highway Setback Distances, as may be amended from time to time.

2. In the event any building is located on a lot at the intersection of two (2) or more roads or highways, such lot shall have a front yard abutting each such road or highway.

D. Side and Rear Yard.

1. Side and rear yard setbacks shall be a minimum of fifty (50) feet.

E. Any building in which the keeping of livestock or fur bearing animals or any kennel (when such keeping results in the accumulation of animal wastes) is carried on shall maintain a separation of two hundred (200) feet from any dwelling on adjacent property.

F. New feedlots shall not be allowed within 1,000 feet from any existing residence (dwelling) other than the feedlot operator's, except farmyards that existed prior to the adoption of this ordinance.

G. In accordance with Minnesota State Statutes Section 394.25, Subd. 3C, Part d, new residences (dwellings) shall not be allowed within 1,000 feet from any existing feedlot, unless the new residence is built to replace an existing residence. A county may grant a variance from this requirement under Minnesota State Statutes Section 394.27, Subd. 7.

Subd. 3 Bluff Setback. For any use or structure in the A-2 District, the setback from the top and toe of bluff shall be no less than thirty (30) feet.

Subd. 4 Height Requirements. Every permitted, conditionally permitted or accessory building shall meet the following height requirements:

A. Agricultural buildings shall be exempt from the height requirements.

B. Buildings other than agricultural buildings shall not exceed thirty-five (35) feet in height.

Subd. 5 Exceptions. Certain uses are exempted from meeting the lot size, yard and height requirements. These exceptions are listed in Article 3, Section 19.

Subd. 6 Lot Access Requirements. Every lot or plot of land on which a second farm residence or non-farm single family dwelling is constructed shall abut and have direct vehicular access to a State, County, Township or other public road. A private access strip no less than thirty three (33) feet wide abutting a public road may be approved by the Planning Commission, upon recommendation by the County Engineer, in lieu of the standard road frontage requirement, if the intent is to preserve active agricultural land or practices, forest land or other natural resources. If the access strip will serve or has the potential to serve four (4) or more dwellings, it shall be sixty-six (66) feet in width and abut a public road as approved by the Planning Commission, upon recommendation by the County Engineer. The strip shall not be an easement, but owned in fee with the division. Maintenance shall be the complete responsibility of the property owner(s).

Subd. 7 Minimum Parcel Width. No parcel created after the adoption of this Ordinance shall be less than two hundred (200) feet in width, except as allowed by the County Board.

Subd. 8 Dwellings on Separately Surveyed Parcels. Each dwelling shall be sited on a separately surveyed or described parcel.

SECTION 5. ORDERLY REDEVELOPMENT

Subd. 1. All dwellings shall be so located on each lot as to permit re-subdivision or redevelopment, the orderly extension of streets and other infrastructure, and the efficient provision of public services if and when central sewer and water systems become available.

Subd. 2. The County may require, at its option, any subdivision within the A-2 Agriculture/Urban Fringe District to provide an urban overlay plat which shall show in concept the following:

A. How the land within the subdivision will be subdivided into urban lots in the future.

B. The layout of future streets or extensions.

C. Easements for the extension of municipal sewer and water, and drainage and utility easements.

SECTION 6. FARM DENSITY ENTITLEMENTS

Subd. 1 Property in the A-2 District may be subdivided into lots to contain non-farm residences at an overall maximum density of 1 unit per 40 acres (or quarter quarter section). Such requirements include, but are not limited to, the platting of a parcel to contain the non-farm dwelling, the parcel having a certain minimum frontage on a public road, and the parcel meeting certain minimum lot access requirements. The non-farm dwelling may be allowed as a conditional use in accordance with the requirements of this Article if it does not meet the frontage and access requirements.

Subd. 2 Entitlements for residential density may be transferred to contiguous property under common ownership provided that any resulting residential development meets the minimum requirements of this Ordinance, the Subdivision Ordinance and all other applicable codes and ordinances. The purpose of allowing such transfers is to preserve productive farmlands, forest lands and other natural resources and to minimize the effects of residences on the environment and nearby farm operations. In no case shall the use of entitlement transfers be used to increase the residential density in the A-2 district. Any transfer that results in the development of two (2) or more residential lots from one parcel shall require the issuance of a Conditional Use Permit and to the extent feasible be developed as a cluster development.

Subd. 3 The owner(s) of the eligible parcel shall sign and record a deed restriction or plat the entire tract, as described below, to apply to the remaining portion of the property that is not being used for residential development. The purpose of these requirements is to ensure that land shall only be used once for the purpose of determining residential density. Land already used to calculate allowable density

may not be combined or reconfigured with any other land for a additional residential development purposes.

A. Sign and record a deed restriction to apply to the remainder of the tract from which the dwelling eligibility was derived. The restriction shall limit any further residences, divisions or non-agricultural development of the remainder of the tract;

OR

B. Plat the entire tract. Each dwelling shall be placed on a separately subdivided lot. The remainder of the platted land shall be platted as an outlot or outlots and shall not be eligible for further subdivision to create additional buildable parcels.

SECTION 7. CONDITIONAL USE - CLUSTER DEVELOPMENTS

Subd. 1 Any residential development that results in two or more dwelling units shall be developed in accordance with Sections 4 and 5 of this

Article and to the extent feasible, as a cluster development. All cluster developments shall require the approval of a conditional use by the Planning Commission, which shall consider the following criteria.

A. Whether there are portions of the land that are capable of supporting long-term agricultural activities or have a CER rating of 65 or greater, as shown on a CER ratings map to be maintained by Wabasha County.

B. Whether the development is sited and designed to not impact adjacent agricultural uses, forestland, natural resources, or similar environmentally sensitive features, and so as to not impede the orderly development of incorporated areas or the expansion of existing unincorporated residential areas.

C. A cluster development shall be considered infeasible if it cannot meet the requirements of Sections 4 and 5 of this Article to ensure orderly re-subdivision and redevelopment if and when central sewer and water systems become available.

Subd. 2 Through the conditional use process, the Planning Commission may authorize the following modifications from the requirements of this Ordinance:

A. Lot area of less than 2 acres dry buildable land, but in no instance less than the standards contained in Minnesota Rules Part 7080 (MPCA Individual Sewage Treatment Systems Standard).

B. Less than 200 ft. frontage on a State, County, Township, or Public Road.

C. A reduction in side or rear yard setbacks.

D. Other design standards determined to be applicable by the Planning Commission and that the Planning Commission would otherwise have the authority to vary in accordance with Article 18 of this Ordinance.

SECTION 8. JOINT REVIEW BY AFFECTED PUBLIC ENTITIES

All proposed Subdivisions, variances, or conditional uses within this district shall be submitted to the incorporated community and appropriate township for review and comment. The proposal shall be submitted to the affected public entity at least ten (10) days prior to the scheduled appearance before the Planning Commission. All review and comments by the affected entity shall be submitted in writing to the Wabasha County Planning Commission.

SECTION 9. NON-CONFORMING RESIDENCES

Subd. 1 Residential structures that exist on lots of record outside of the Shoreland District as of the adoption of this Ordinance, which do not meet the minimum district regulations of this Article, shall be allowed to be maintained or rebuilt in the event of fire or emergency.

Subd. 2 If any residential non-conforming use or structure is destroyed by floods to an extent of 50 percent or more of its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the Ordinance. The applicable provisions for establishing new uses or new structures in Article 14 will apply depending upon whether the use or structure is in the Floodway, Flood Fringe, or General Flood Plain District, respectively

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ARTICLE 11

A-3 AGRICULTURE/LOW DENSITY DISTRICT

SECTION 1. PURPOSE

The intent of the A-3 District is to provide for agricultural use and low density residential in areas where there is less prime agricultural land and where large farms and feedlot operations are more scattered than in the A-1 or A-2 Districts, while maintaining the rural character of the County. Urban development should be directed to those areas not considered to be prime agricultural land or forest land areas nor is it meant to increase public expenditures for public services. Any land zoned as the A-3 Agriculture/Low Density District shall currently have access to public roads, infrastructure and other such services as are necessary to support residential lots.

SECTION 2. PERMITTED USES

Subd.1 Single family farm dwellings and non-farm dwellings in accordance with Section 4 of this Article.

Subd. 2 A maximum of one additional farm dwelling, which may be permanent or temporary, located in the farmyard to accommodate any of the following purposes:

- A. Full-time farm labor, individual or family.
- B. Property owner's family members.
- C. Property owner, retired from operation of farm.
- D. Person(s) that provides supportive care to the property owner due to health, age or infirmity.

The additional farm dwelling may not be split off and sold as a separate parcel, and the property owner shall record a deed restriction so indicating. The deed restriction may include language indicating that this requirement is "per Wabasha County zoning ordinance Article 11, Section 2, Subd. 2., and will be valid only as long as that subdivision is valid."

Any temporary structure shall be removed when the need is terminated.

Subd. 3 Any agriculture operation including tree farms.

Subd. 4 Feedlots as regulated in Article 5 of this Ordinance.

Subd. 5 Any one temporary building for the sale of on-site farm produce provided that such building shall conform to Wabasha County Highway Setback Distances, as may be amended from time to time, and further provided that adequate off-street parking shall be available.

Subd. 6 Plant nurseries and sales.

Subd. 7 Child day care facility, in conformance with Minnesota State Statutes and Rules.

Subd. 8 Mining, quarrying, excavating or filling of land existing prior to adoption of this ordinance, subject to standards of Article 6 of this Ordinance.

Subd. 9 Accessory structures and uses customarily incidental to any of the above permitted uses when located on the same property.

SECTION 3. CONDITIONAL USES

In the A-3 Agriculture/Low Density Residential Zoning District, the following uses may be allowed subject to obtaining a conditional use permit in accordance with the provisions of Article 18 of this Ordinance.

Subd. 1 Non-Farm Dwellings that meet the following criteria:

- A. Dwellings that do not have direct access onto a State, County, Township or other public road but do meet the lot access requirements of Section 4, Subd. 7 of this Article.
- B. The development of two or more dwellings as a result of entitlement transfers as authorized through Section 6, Subd. 2 of this Article.
- C. The development of two or more dwelling as a cluster development in accordance with Section 7 of this Article.

Subd. 2 Lodging Establishments in accordance with the Wabasha County Lodging Ordinance.

Subd. 3 Recreational Campground Areas in accordance with the Wabasha County Manufactured Home Park and Recreational Camp Area Ordinance.

Subd. 4 Recreational Residence, Hunting Cabin or Camping Cabin.

Subd. 5 Any commercial indoor or outdoor recreation facilities including, but not limited to, golf courses, driving ranges, tennis courts, skiing, swimming pools, motocross, paintball, recreational trails and park facilities in accordance with Article 3 Section 12 of this Ordinance.

Subd. 6 Any new mining, quarrying, excavating, or filling of land commencing on or after the adoption of this ordinance, subject to the standards in Article 6 of this Ordinance.

Subd. 7 Any community building, church, cemetery or memorial garden.

Subd. 8 Government buildings and structures.

Subd. 9 Any public or private school.

Subd. 10 Any veterinary clinic, public stable, commercial kennel for the raising of fur bearing animals or commercial kennel.

Subd. 11 Hospitals, sanitariums, convalescent homes, or homes for the aged.

Subd. 12 Family restaurants without drive through facilities.

Subd. 13 A private aircraft landing field and associated facilities.

Subd. 14 Any commercial radio and television towers and transmitters in accordance with Article 3 Section 13 of this Ordinance.

Subd. 15 Commercial and industrial uses primarily intended to serve the agricultural community, including the following and similar uses:

Commercial Fishing.

Contractors and Builders.

Farm implement Service, Supplies and Sales.

Fishing Service, Supplies and Sales.

Marine Service, Supplies and Sales, small scale.

Mini-Warehouse, Warehousing and Storage.

Light Manufacturing.

Vehicle Service, Supply and Sales, small scale.

Welders.

Subd. 16 Temporary or seasonal off-site roadside produce stands.

Subd. 17 Advertising signs (billboards) in accordance with Article 3 Section 17 of this Ordinance.

Subd. 18 Accessory structures and uses customarily incidental to any of the above conditional uses when located on the same property.

SECTION 4. GENERAL DISTRICT REGULATIONS

Any lot in the A-3 Agriculture/Low Density Residential Zoning District on which any permitted or conditionally permitted use is erected shall meet the following minimum standards:

Subd. 1 Density.

A. One dwelling unit per 10 acres unless a parcel meets the definition of Farm in Article 2 of this Ordinance and an additional dwelling is permitted by Section 3 of this Article.

B. Subdivisions to create lots for non-farm, single family dwellings shall be permitted subject to the following requirements:

1. The tract of land involved comprises at least ten (10) contiguous acres, as defined in this ordinance, in common ownership.
2. The number of single family dwellings allowed shall be calculated as follows:

(a) The total acreage of the tract shall be calculated.

(b) Ten (10) acres shall be subtracted from this total for each existing dwelling unit.

(c) The result from (a) and (b) above shall be divided by ten (10) acres. This shall be the number of dwellings allowed on the entire tract.

3. Lot Size: Each new dwelling is to be retained on a separate lot, configured as follows:

(a) The lot shall contain a minimum of two (2) dry, buildable acres.

(b) The lot is large enough and so situated as to meet the standards contained in Minnesota Rules Part 7080 (MPCA Individual Sewage Treatment Systems Standard).

C. If the lot is less than 10 acres the property owner(s) shall:

1. Sign and record a deed restriction to apply to the remainder of the tract from which the dwelling eligibility was derived. The restriction shall limit any further residences, divisions or non-agricultural development of the remainder of the tract,

OR

2. Plat the entire tract. Each dwelling shall be placed on a separately subdivided lot. The remainder of the platted land shall be platted as an outlot or outlots and shall not be eligible for further subdivision to create additional buildable parcels.

The purpose of these requirements is to ensure that the land shall only be used once for the purpose of determining residential density. Land already used to calculate allowable density may not be combined or reconfigured with any other land for additional residential development purposes.

D. Any subdivision resulting in a lot that is less than ten acres shall require a survey. The survey shall be filed with the Wabasha County Surveyor prior to recording the deed in the Wabasha County Recorder's Office.

Subd. 2 Yard and Setback Requirements.

Every permitted, conditionally permitted dwelling, or accessory structure shall meet the following yard and/or setback requirements:

A. All yards and setbacks shall conform to the established setbacks of this Article and other County Ordinances for Wabasha County Roads, Township Roads, Public Easements, Shoreland Areas, Floodplain Areas, Bluffland Areas, Subdivisions and all other items for which setbacks are regulated.

B. Each lot shall have a minimum width of sixty-six (66) feet at an existing public road right-of-way line. However, the County Board may allow a lot that does not abut right of way, provided that the Owner has presented the County with proof it has an easement right to access the road.

C. Front Yard of all Structures.

1. All setbacks shall conform to Wabasha County Highway Setback Distances, as may be amended from time to time.

2. In the event any building is located on a lot at the intersection of two (2) or more roads or highways, such lot shall have a front yard abutting each such road or highway.

D. Side and Rear Yard.

1. Side and rear yard setbacks shall be a minimum of 20 feet.

E. Any building in which the keeping of livestock or fur bearing animals or any kennel (when such keeping results in the accumulation of animal wastes) is carried on shall maintain a separation of two hundred (200) feet from any dwelling on adjacent property.

F. New feedlots shall not be allowed within 1,000 feet from any existing residence (dwelling) other than the feedlot operator's, except farmyards that existed prior to the adoption of this ordinance.

G. In accordance with Minnesota State Statutes Section 394.25, Subd. 3C, Part d, new residences (dwellings) shall not be allowed within 1,000 feet from any existing feedlot, unless the new residence is built to replace an existing residence. A county may grant a variance from this requirement under Minnesota State Statutes Section 394.27, Subd.

Subd. 3 Bluff Setback.

For any use or structure in the A-3 District, the setback from the top and toe of bluff shall be no less than thirty (30) feet.

Subd. 4 Height Requirements.

Every permitted, conditionally permitted or accessory building shall meet the following height requirements:

- A. Agricultural buildings shall be exempt from the height requirements.
- B. Buildings other than agricultural buildings shall not exceed thirty-five (35) feet in height.

Subd. 5 Exceptions.

Certain uses are exempted from meeting the lot size, yard and height requirements. These exceptions are listed in Article 3, Section 19.

Subd. 6 Lot Access Requirements.

Every lot or plot of land on which a second farm residence or non-farm single family dwelling is constructed shall abut and have direct vehicular access to a State, County, Township or other public road. A private access strip no less than thirty three (33) feet wide abutting a public road may be approved by the Planning Commission, upon recommendation by the County Engineer, in lieu of the standard road frontage requirement, if the intent is to preserve active agricultural land or practices, forest land or other natural resources. If the access strip will serve or has the potential to serve four (4) or more dwellings, it shall be sixty-six (66) feet in width and abut a public road as approved by the Planning Commission, upon recommendation by the County Engineer. The strip shall not be an easement, but owned in fee with the division. Maintenance shall be the complete responsibility of the property owner(s).

Subd. 7 Minimum Parcel Width.

No parcel created after the adoption of this Ordinance shall be less than two hundred (200) feet in width, except as allowed by the County Board.

Subd. 8 Dwellings on Separately Surveyed Parcels.

Each dwelling shall be sited on a separately surveyed or described parcel.

SECTION 5. MINIMUM CRITERIA AND FINDINGS FOR REZONING LAND TO THE A-3 DISTRICT

Subd. 1 Land for which an application is made for a rezoning to the A-3 Agriculture/Low Density Residential Zoning District shall be found by the Planning Commission to have a CER rating of less than 65 as shown on a CER ratings map to be maintained by Wabasha County.

Subd. 2 Land for which an application is made for a rezoning to the A-3 Agriculture/Low Density Residential Zoning District shall be found by the Planning Commission to be able to support the proposed low residential density. The applicant must provide the following information as part of the rezoning application:

A. An explanation of soil erosion and sedimentation control measures, that are consistent with the Wabasha County Soil Conservation District guidelines or other applicable technical materials.

B. An explanation of how sewage facilities will conform to the Wabasha County Individual Sewage Treatment Ordinance.

C. An explanation of how the provision of water will conform to the Wabasha County Water Quality Ordinance.

D. Acknowledgement that utility permits for essential services must be approved in accordance with Article 7 Essential Services.

Subd. 3 Land for which an application is made for a rezoning to the A-3 Agriculture/Low Density Residential Zoning District shall be found by the Planning Commission to be sited and designed so as not to conflict with adjacent agricultural uses, the orderly development of incorporated areas, or the expansion of existing unincorporated residential areas, and so that it may efficiently receive county or municipal services.

Subd. 4 Any application for a rezoning of land to the A-3 Agriculture/Low Density Residential Zoning District shall be accompanied by an application for preliminary plat so that the Planning Commission may determine that the development of the land for which rezoning is being considered would conform with the regulations set forth for the A-3 District in this Ordinance.

SECTION 6. FARM DENSITY ENTITLEMENTS

Subd. 1 Property in the A-3 District may be subdivided into lots to contain non-farm residences at an overall maximum density of 1 unit per 10 acres. Such requirements include, but are not limited to, the platting of a parcel to contain the non-farm dwelling, the parcel having a certain minimum frontage on a public road, and the parcel meeting certain minimum lot access requirements. The non-farm dwelling may be allowed as a conditional use in accordance with the requirements of this Article if it does not meet the frontage and access requirements.

Subd. 2 Entitlements for residential density may be transferred to contiguous property under common ownership provided that any resulting residential

development meets the minimum requirements of this Ordinance, the Subdivision Ordinance and all other applicable codes and ordinances. The purpose of allowing such transfers is to preserve productive farmlands, forest lands and other natural resources and to minimize the effects of residences on the environment and nearby farm operations. In no case shall the use of entitlement transfers be used to increase the residential density in the A-3 district. Any transfer that results in the development of two (2) or more residential lots from one parcel shall require the issuance of a Conditional Use Permit and to the extent feasible be developed as a cluster development.

Subd. 3 The owner(s) of the eligible parcel shall sign and record a deed restriction or plat the entire tract, as described below, to apply to the remaining portion of the property that is not being used for residential development. The purpose of these requirements is to ensure that land shall only be used once for the purpose of determining residential density. Land already used to calculate allowable density may not be combined or reconfigured with any other land for a additional residential development purposes.

A. Sign and record a deed restriction to apply to the remainder of the tract from which the dwelling eligibility was derived. The restriction shall limit any further residences, divisions or non-agricultural development of the remainder of the tract,
OR

B. Plat the entire tract. Each dwelling shall be placed on a separately subdivided lot. The remainder of the platted land shall be platted as an outlot or outlots and shall not be eligible for further subdivision to create additional buildable parcels.

SECTION 7. CONDITIONAL USE - CLUSTER DEVELOPMENTS

Subd. 1 Any residential development that results in two or more dwelling units shall be developed in accordance with Section 4 of this Article and to the extent feasible, as a cluster development. All cluster developments shall require the approval of a conditional use by the Planning Commission, which shall consider the following criteria.

A. Whether there are portions of the land that are capable of supporting long-term agricultural activities or have a CER rating of 65 or greater, as shown on a CER ratings map to be maintained by Wabasha County.

B. Whether the development is sited and designed to not impact adjacent agricultural uses, forestland, natural resources, or similar environmentally sensitive features, and so as to not impede the orderly development of incorporated areas or the expansion of existing unincorporated residential areas.

Subd. 2 Through the conditional use process, the Planning Commission may authorize the following modifications from the requirements of this Ordinance:

- A. Lot area of less than 2 acres dry buildable land, but in no instance less than the standards contained in Minnesota Rules Part 7080 (MPCA Individual Sewage Treatment Systems Standard).
- B. Less than 200 ft. frontage on a State, County, Township, or Public Road.
- C. A reduction in side or rear yard setbacks.
- D. Other design standards determined to be applicable by the Planning Commission and that the Planning Commission would otherwise have the authority to vary in accordance with Article 19 of this Ordinance.

SECTION 8. NON-CONFORMING RESIDENCES

Subd. 1 Residential structures that exist on lots of record outside of the Shoreland District as of the adoption of this Ordinance, which do not meet the minimum district regulations of this Article, shall be allowed to be maintained or rebuilt in the event of fire or emergency.

Subd. 2 If any residential non-conforming use or structure is destroyed by floods to an extent of 50 percent or more of its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the Ordinance. The applicable provisions for establishing new uses or new structures in Article 14 will apply depending upon whether the use or structure is in the Floodway, Flood ringe, or General Flood Plain District, respectively.

ARTICLE 18

CONDITIONAL USES

SECTION 1. CONDITIONAL USES

Within the unincorporated area of the County, all uses designated under this Ordinance as conditional uses shall be required to obtain a conditional use permit approved by the Board of County Commissioners.

SECTION 2. APPLICATION

Applications for conditional use permits shall be made to the Zoning Administrator. In order to be considered a complete application, the applicable fee shall be paid and the application shall be accompanied by a site plan showing such information as is necessary to show compliance with this Ordinance, including but not limited to:

- Subd. 1 Legal description of the property.
- Subd. 2 Site plan showing parcel and building dimensions.
- Subd. 3 Location of all buildings and their square footage.

Subd. 4 Curb cuts, driveways, access roads, parking spaces, off-street loading areas, sidewalks and utilities.

Subd. 5 Landscaping and screening plans.

Subd. 6 Drainage plan.

Subd. 7 Sanitary sewer and water plan with estimated use per day.

Subd. 8 Soil type.

Subd. 9 The applicant shall have obtained all necessary township, county, state and federal permits and provide such other information as necessary and reasonable to adequately review the requests.18-2

SECTION 3. NOTIFICATION AND PUBLIC HEARING

Subd. 1 Upon receipt in proper form of the application and other required material, and the applicable fee, the Planning Commission shall hold at least one (1) public hearing in a location to be prescribed by the Planning Commission. Such public hearing may be continued from time to time and additional hearings may be held.

Subd. 2 Notice of the time, place and purpose of any public hearing shall be given by publication in a newspaper of general circulation in the town, municipality or other area concerned and in the official newspaper of the County at least ten (10) days before the hearing.

Subd. 3 Written notice of the meeting will be sent to all property owners of record within one-quarter (1/4) mile of the affected property or to the ten (10) properties nearest to the affected property, whichever would provide notice to the greatest number of owners. Written notice shall also be given to the affected Board of Town Supervisors and the Council of any municipality within two miles of the affected property.

SECTION 4. APPROVAL, DISAPPROVAL OR MODIFICATION

The County Planning Commission shall make its decision upon the application and forward its recommendations to the Board of County Commissioners. In reporting its recommendations to the Board of County Commissioners, the County Planning Commission shall report its findings with respect thereto and all facts in connection therewith, and may designate conditions and require guarantees deemed necessary for the protection of the public interest. Upon receipt of the report of the Planning Commission, the Board of County Commissioners shall make a decision upon the application for a conditional use permit.

SECTION 5. FINDINGS

In considering a conditional use permit application, the Planning Commission shall apply the following standards:

Subd. 1 Whether the conditional use will be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, or would substantially diminish and impair property values within the immediate vicinity.

Subd. 2 Whether the conditional use would impede the normal and orderly development and improvement of surrounding vacant property for uses predominant to the area.

Subd. 3 Whether adequate utilities, access roads, drainage, soil erosion control measures and other necessary facilities have been or are being provided.

Subd. 4 Whether adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

Subd. 5 Whether adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these would constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

Subd. 6 Whether other factors bearing on the public health, safety and welfare would dictate either approval or grant of the conditional use permit.

SECTION 6. CONDITIONAL USE PERMITS WITHIN FLOODPLAINS AND SHORELAND AREAS

Subd. 1 A copy of an application for a conditional use permit within any designated Floodplain or Shoreland district shall be forwarded to the Minnesota Department of Natural Resources by the Zoning Administrator sufficiently in advance so that the Commissioner of the Department of Natural Resources will receive it at least ten (10) days prior to the required hearing.

Subd. 2 A copy of all decisions granting any conditional use permit within any designated floodplain or shoreland district shall be forwarded to the Department of Natural Resources within ten (10) days after such decision.

Subd. 3 Procedures to be followed by the Planning Commission in passing on conditional use permit applications within all Floodplain Districts shall be as follows:

A. The applicant shall be required to furnish each of the following information and such additional information as deemed necessary by the Planning Commission for determining the suitability of the particular site for the proposed use:

1. Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood-proofing measures, and the relationship of the above to the location of the stream channel.

2. Specifications for building construction and materials, flood-proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.

B. The information described in Section 6 Subd. 1 shall be transmitted to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.

C. Based upon the technical evaluation of the designated engineer or expert, the Planning Commission shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

Subd. 4 In passing on conditional use permit applications for projects in a Floodplain or Shoreland district, the Planning Commission shall consider all relevant factors specified in other sections of this Ordinance, as well as the following additional factors:

A. The danger to life and property due to increased flood height or velocities caused by encroachments.

B. The danger that materials may be swept onto other lands or downstream to the injury of others or in a fashion that may block bridges, culverts or other hydraulic structures.

C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

E. The importance of the services provided by the proposed facility to the County.

F. The requirements of the facility for the specific location in the Floodplain or shoreland area as proposed by the Applicant.

G. The availability of alternative locations not subject to potential flooding for the proposed use.

H. The compatibility of the proposed use with existing adjacent development and development anticipated in the foreseeable future.

I. The relationship of the proposed use to the Comprehensive Land Use Plan and Floodplain 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.

L. Such other factors which are relevant to the purposes of this Ordinance.

Subd. 5 Procedures to be followed by the Planning Commission in passing on conditional use permit applications for the replacement of wetlands in addition to other factors in this Ordinance, shall include:

A. The applicant shall be required to furnish the following information and additional information necessary to determine the suitability of the particular project:

1. Three (3) copies of the replacement plan to the Department of Environmental Services. The replacement plan shall contain all plan sheets, drawn to scale; wetland designation; wetland acreage; acreage to be destroyed or diminished; activity description; location of replacement wetland; the acreage of replaced wetland; and a time schedule for completion.
2. Specifications for construction of the wetland replacement project.
3. Items required in Subdivision 3, Item A.

Subd. 6 In passing on a conditional use permit application that involves the replacement of a wetland, the Planning Commission shall consider all relevant factors specified in this Ordinance as well as the following additional factors:

- A. The ratio of replaced wetland acreage to wetland acreage destroyed or diminished.
- B. The location of the destroyed or diminished wetland and the replaced wetland.
- C. The value and type of the destroyed or diminished wetland and the replaced wetland.
- D. The replacement schedule for the constructed wetland.
- E. The availability of alternatives that would avoid or minimize the impact on the wetland to be replaced.
- F. The consistency of the replacement plan with the Wabasha County Comprehensive Local Water Plan.
- G. The replacement plan follows the principles listed below in order of priority:
 1. Avoid direct or indirect impacts that may destroy or diminish the wetland. Limit the degree or magnitude of the wetland activity and its implementation.
 3. Rectify impacts by replacement.
 4. Reduce or eliminate long-term impact.
- H. The replacement activities will be conducted consistent with the ecology of the affected landscaped area.
- I. An inspection schedule exists to monitor the success of the replacement plan and correct any inadequacies.

Subd. 7 Upon consideration of the factors listed above and the purpose of this Ordinance, the Planning Commission shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this Ordinance and/or preserve and protect the public health, safety and welfare. Such conditions may include, but are not limited to, the following:

- A. Modification of waste treatment and water supply facilities.
- B. Limitations on period of use, occupancy, and operation.
- C. Imposition of operational controls, sureties, and deed restrictions.
- D. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
- E. Flood-proofing measures, in accordance with the State Building Code and this Ordinance. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood-proofing measures are consistent with the Regulatory Flood Protection Elevation and associated flood factors for the particular area.

SECTION 7. COMPLIANCE

Any use permitted under the terms of any conditional use permit shall be established and conducted in conformity with the terms of such permit.

SECTION 8. REVIEW

A periodic review of the permit and its conditions shall be maintained. The permit shall be issued for a particular use on a specific parcel and not for a particular person or firm.

SECTION 9. REVOCATION

A violation of any condition set forth in a conditional use permit shall be a violation of this Ordinance and such permit shall be subject to revocation by the County Board.

SECTION 10. DISCONTINUANCE

A conditional use permit shall become void if the property is not utilized for the purpose intended by the permit within one year after being granted by the Board, or if the use allowed by the conditional use permit is discontinued for a period of ninety (90) days.

SECTION 11. RECORDING

Subd. 1 A certified copy of any conditional use permit shall be filed with the County Recorder for record. The conditional use permit shall include the legal description of the property involved.

Subd. 2 The Zoning Administrator shall be responsible for recording with the County Recorder any conditional use permit issued by the Board.

Subd. 3 The Zoning Administrator shall provide to the applicant a copy of the order issued by the Board of Commissioners stating that it has been filed with the County Recorder's Office.

SECTION 12. REAPPLICATION

Subd. 1 No application for a conditional use permit which has been denied in whole or in part shall be resubmitted for a period of six (6) months from the date of said order of denial.

CHAPTER 24

NONMETALLIC MINING RECLAMATION

24.01 Purpose. The purpose of this chapter is to ensure the effective reclamation of nonmetallic mining sites on which nonmetallic mining takes place and to ensure the end use of a nonmetallic mine is consistent with the Comprehensive Plan for Wabasha County.

24.02 Severability. Should any portion of this chapter be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected.

24.03 Definitions. In this chapter:

(1) Board of Adjustment. A Board established pursuant to Chapter 394.27 Minn. Stats.

(2) Department. The County Planning and Zoning Department.

(3) Enlargement. Any vertical or horizontal increase beyond dimensions of the original application for the project site.

(4) Environmental Pollution. The contaminating or rendering unclean or impure the air, land, or waters of the State or making the same injurious to public health, harmful for commercial or recreational use or deleterious to animal or plant life.

(5) Highwall. A vertical or nearly vertical face in solid rock or a slope of consolidated or unconsolidated material that exceeds 3:1.

(6) Licensed Professional Geoscientist. A person who is qualified by licensure or certification under Chapter 326.02 to Chapter 326.15 Min. Stats to practice professional geoscience.

(7) Modification. Any vertical or horizontal decrease within the dimensions of the original application for the project site.

(8) Nonmetallic Mineral. A product, commodity or material consisting principally of naturally occurring, organic or inorganic, nonmetallic, nonrenewable material. Nonmetallic minerals include, but are not limited to, stone, sand, gravel, asbestos, beryl, diamond, clay, coal, feldspar, peat, talc and topsoil.

(9) Nonmetallic Mining. Operations or activities for the extraction from the earth of mineral aggregates and nonmetallic minerals, and related operations or activities, including but not limited to excavation, grading, or dredging if the purpose of those operations or activities is the extraction of mineral aggregates and nonmetallic minerals and related processes, including but not limited to stockpiling, crushing, screening, scalping, dewatering, and blending.

(10) Nonmetallic Mining Reclamation or Reclamation. The rehabilitation of a nonmetallic mining site to achieve a land use specified in an approved nonmetallic mining reclamation plan, including removal or reuse of nonmetallic mine refuse, grading of the nonmetallic mine site, removal, storage and replacement of topsoil, stabilization of soil conditions, reestablishment of vegetative cover, control of surface water and groundwater, prevention of environmental pollution and if practicable the restoration of plant, fish and wildlife habitat.

(11) Nonmetallic Mining Refuse. Waste soil, rock, mineral, liquid, vegetation and other waste material resulting from a nonmetallic mine operation. This term does not include merchantable by-products resulting directly from or displaced by the nonmetallic mine operation that are to be removed from the nonmetallic mine prior to completion of the reclamation of the mine or incorporated into the post mine land use specified in the approved reclamation plan.

(12) Nonmetallic Mining Site, Project Site, or Site. The location where a nonmetallic mining operation is proposed or conducted including all surface areas from which minerals are removed, related storage and processing areas, areas where nonmetallic mining refuse is deposited and areas disturbed by the nonmetallic mining operation and by activities including, but not limited to, the construction or improvement of roads or haulage ways.

(13) Operator. Any person or business entity engaged in nonmetallic mining who/which applies for or holds a nonmetallic mine reclamation permit issued under a nonmetallic mine reclamation ordinance whether individually, jointly, or through subsidiaries, agents, employees, contractors, or subcontractors.

(14) Permit. Any permit which may be required under this chapter of an operator as a condition precedent to commencing or continuing nonmetallic mining at a project site.

(15) Person. An individual operator, corporation, limited liability company, partnership, association, municipality, interstate agency, state agency or federal agency.

(16) Planning Commission. The Wabasha County Planning Commission.

(17) Professional Engineer. A person who is qualified by licensure or certification under Chapter 326.02 to Chapter 326.15 Min. Stats to practice professional engineering.

(18) Qualified Natural Resources Professional. A person who by training and experience can make natural resources recommendations. Examples include foresters, soil scientists, hydrologists, forest engineers, ecologists, fishery and wildlife biologists, or technically trained specialists in such fields.

(19) Replacement of Topsoil. The replacement or redistribution of topsoil or topsoil substitute material to all areas where topsoil was actually removed or affected by nonmetallic mining conducted under this chapter, unless the reclamation plan, approved pursuant to this chapter, provides otherwise, for the purposes of providing adequate vegetative cover and stabilization of soil conditions needed to achieve the approved post mining land use and as required by the reclamation plan.

(20) Topsoil. That material (normally the A and upper part of the B horizon) which, based upon the official national cooperative soil survey, is acceptable for respreading on the surface of regraded areas to provide a medium which sustains a dense plant growth and soil stability needed to achieve the approved post mining land use specified in the reclamation plan approved under this chapter.

(21) Topsoil Substitute. Soil or other unconsolidated material either used alone or mixed with other beneficial materials and which can provide the plant growth, site stability and other attributes necessary to meet the success standards approved in the reclamation plan.

(22) Unreclaimed Acre or Unreclaimed Acres. Those unreclaimed areas in which nonmetallic mining has occurred after issuance of a reclamation permit per this chapter and are not yet certified as reclaimed under 24.10(1)(c).

24.04 Applicability.

(1) This chapter is applicable in the unincorporated areas of the County for any new nonmetallic mine, the expansion of a previously permitted nonmetallic mine, or a nonconforming nonmetallic mine required to comply with the provisions of the Wabasha County Zoning Ordinance.

(2) It is the responsibility of the operator to obtain all applicable local, state, and federal permits or approvals.

24.05 Exempt Activities. This chapter does not apply to the following activities:

- (1) Excavations or grading by a person solely for domestic use at his residence or farm.
- (2) Excavation or grading conducted for highway construction purposes within the highway or railroad right-of-way, excavation or grading done for highway safety.
- (3) Preparing a construction site for a project which has been issued a building or zoning permit and/or is consistent with applicable zoning ordinances or restoring land following a flood or natural disaster.
- (4) Excavations for building construction purposes on the construction site for a project which has been issued a building and/or zoning permit.
- (5) Any activities conducted at a solid or hazardous waste disposal site required to prepare, operate or close a solid waste disposal facility.

24.06 Permits. Upon the effective date of this chapter, no new nonmetallic mine, the expansion of a previously permitted nonmetallic mine, or the expansion of a nonconforming nonmetallic mine shall commence prior to obtaining a nonmetallic mining reclamation permit.

(1) The application for a permit shall be submitted to the department on forms provided by the department. The application for a mining reclamation permit shall be signed and dated by the applicant and shall be accompanied by information which shall include, but not be limited to, the following:

- (a) The name and address of the operator.
- (b) A signed copy of the lease or a letter signed by the owner(s) of record which authorizes the operator to enter upon the lessor's land for the purpose of mining as defined in this chapter. The expiration date of the lease or agreement shall clearly be indicated thereon.
- (c) A legal description and general location map of the tracts of land to be involved and affected by the proposed operation and the approximate total number of acres involved.
- (d) A description of the nature of the deposit and the mining methods that will be used to extract and process the material.
- (e) The elevation of observed or estimated groundwater as determined by existing hydrogeological information, in relation to the site elevation reference point. In specific instances where the existing hydrogeologic information is insufficient for purposes of the reclamation plan, the applicant may supplement such information with the opinion from a professional hydrologist.
- (f) The mine operator shall have a survey performed by a qualified natural resources professional for the biological resources, cultural resources, plant communities and wildlife use at and adjacent to the proposed or operating mine site.

(g) A general map which shall be drawn at a scale of no less than 1 inch equals 200 feet and shall include the following:

1. The extent of the deposit and the property boundaries of the operator's owned or leased land and the location of other owners' property boundaries at the point where they abut the boundary of the project site.
2. Topography of affected lands at contour intervals no wider than ten (10) feet.
3. Location and names of all streams, lakes, other water features and roads on or within 300 feet of the project site.
4. Location of all man made features on or adjacent to the site and the purpose for which each man made feature and the adjoining land is used.
5. Boundaries of previous excavations, stockpiles, sediment basins, wash plants or other land previously affected by nonmetallic mining on the site.
6. Location and description of mining site boundary stakes which delineate the permit area and a permanent reference point.
7. Location of phase boundary stakes if the site will be mined in phases.

(h) A reclamation plan, which shall be drafted by a qualified natural resources professional (as defined in this ordinance), shall have all horizontal and vertical measurements referenced to a permanent reference point. The reclamation plan, including maps, information about the site, a description of the proposed reclamation and post mine land use including methods and procedures to be used and a proposed timetable for completion of various stages of reclamation of the nonmetallic mining site, including provisions for interim reclamation, shall be provided as follows:

1. Five copies of a plan of the proposed reclamation, including erosion control practices necessary during reclamation, final slope angles, high wall reduction, benching, terracing and other structural slope stabilization measures including a description of anticipated topography, water impoundments, artificial lakes and anticipated post mining land use. Site specific engineering analysis performed by a professional engineer shall be required for slopes steeper than 3 foot horizontal:1 foot vertical.
2. Description of the volume of topsoil or topsoil substitute and other earth materials that will be necessary to complete the proposed reclamation, and the methods for stripping, storage, stabilization, reapplication and conservation methods that will be used during replacement. If off-site material will be used in site reclamation, a description of the source, nature and volume of material.
3. Description of plans for disposition of man made features and related facilities after cessation of mining unless they serve to support the post mine land use.
4. The estimated cost of reclamation for each stage of the project or the entire site if staging is not planned.
5. A seeding plan which shall include methods of seed bed preparation, seeding rates, mulching, netting and/or other techniques needed to accomplish soil and slope stabilization.
6. A timetable of the commencement, duration, and cessation of reclamation activities.
7. Quantifiable standards for revegetation adequate to show that a suitable stand of vegetation has been established which will support the post mine land use. Standards for revegetation may be based on the percent of vegetative cover, productivity, plant density, diversity or other applicable measures.

8. A description of how the reclamation plan addresses the long-term safety of the reclaimed mining site. The description shall include a discussion of site-specific safety measures to be implemented at the site and include measures that address public safety with regard to adjacent land uses.

(i) Certification of Reclamation Plan. The operator shall provide a signed certification that reclamation will be carried out in accordance with the reclamation plan. The landowner or lessor, if different from the operator, shall also provide signed certification that they concur with the reclamation plan and will allow its implementation.

(j) Other Information. The County may require the submittal of such other information as may be necessary to determine the feasibility of the proposed reclamation.

(2) All nonmetallic mining sites subject to this chapter shall be reclaimed in conformance with the standards contained below:

(a) General Standards.

1. Nonmetallic mining refuse shall be reused in accordance with a reclamation plan. Other solid waste shall be disposed of in accordance with applicable rules of the Wabasha County Solid Waste Ordinance.

2. Nonmetallic mining reclamation shall be conducted, to the extent practicable, to minimize the area disturbed by nonmetallic mining and to provide for reclamation of portions of the site while nonmetallic mining continues on other portions of the site.

3. All nonmetallic mining sites shall be reclaimed in a manner so as to comply with federal, state and local regulations governing public health safety and welfare.

4. When the land use required by the reclamation plan approved pursuant to this chapter requires plant, fish or wildlife habitat, it shall be restored, to the extent practicable, to a condition at least as suitable as that which existed before the lands were affected by nonmetallic mining operations.

5. Reclamation of nonmetallic mining sites shall comply with any other applicable federal, state and local laws including those related to environmental protection, zoning or land use control.

(b) Before disturbing the surface of a nonmetallic mining site and removal of topsoil, all necessary measures for diversion and drainage of runoff from the site to prevent pollution of waters of the state shall be installed in accordance with the reclamation plans approved pursuant to this chapter. Diverted or channelized runoff resulting from reclamation may not adversely affect neighboring properties.

(c) Groundwater Protection.

1. A nonmetallic mining site shall be reclaimed in a manner to protect ground quantity so as to not cause a permanent lowering of the water table that could adversely impact area hydrology, springs, or any karst formations.

2. Nonmetallic mining reclamation shall be conducted in a manner which does not cause groundwater quality standards for the state of Minnesota to be exceeded at the point of standards application.

(d) Topsoil Management

1. Removal. Topsoil and topsoil substitute shall be provided as specified in the reclamation plan approved pursuant to this chapter in order to achieve reclamation to the approved post mining land use. Removal of on-site topsoil and topsoil substitute material, when specified in the reclamation plan, shall be performed prior to any mining activity associated with any specific phase of the mining operation. Topsoil and overburden must remain at the project site in order to be used for reclamation.

2. Volume. The operator shall obtain the volume required to perform final reclamation by removal of onsite topsoil or topsoil substitute material or by obtaining topsoil or substitute material as needed to make up the volume of topsoil as specified in the reclamation plan approved pursuant to this chapter.

3. Storage. Once removed, topsoil or topsoil substitute material shall, as required by the reclamation plan approved pursuant to this chapter, either be used in contemporaneous reclamation or stored in an environmentally acceptable manner. The location of stockpiled topsoil or topsoil substitute material shall be chosen to protect the material from erosion or further disturbances or contamination. Runoff water shall be diverted around all locations in which topsoil or topsoil substitute material is stockpiled.

(e) Final Grading and Slopes.

1. All areas affected by mining shall be addressed in the reclamation plan approved pursuant to this chapter to provide that a stable and safe condition consistent with the post mining land use is achieved. The reclamation plan may:

a. Designate highwalls or other un-mined and undisturbed natural solid bedrock as stable and safe and not in need of reclamation or

b. Designate other areas affected by mining including slopes comprised of unconsolidated materials that exceed a 3:1 slope, whether or not graded, as stable and safe.

c. For slopes designated under b. the regulatory authority shall require that either a site specific engineering analysis performed by a registered professional engineer to demonstrate that an acceptable slope stability factor is attainable at a steeper slope.

2. Final reclaimed slopes covered by topsoil or topsoil substitute material may not be steeper than a 3:1 horizontal to vertical incline unless stable slopes can be demonstrated based on site-specific engineering analysis performed by a registered professional engineer. All areas in the nonmetallic mine site where topsoil or topsoil substitute is to be reapplied shall be graded or otherwise prepared prior to topsoil or topsoil substitute material redistribution to provide the optimum adherence between the topsoil or topsoil substitute material and the underlying material.

3. When the approved post-mining land use includes a body of water, the approved final grade at the edge of a body of water shall extend vertically 6 feet below the lowest seasonal water level. A slope no steeper than 3:1 shall be created at a designated location or locations, depending on the size of the water body to allow for a safe exit.

(f) Topsoil or topsoil substitute material shall be redistributed in accordance with the reclamation plan approved pursuant to this chapter in a manner which minimizes compaction and prevents erosion. Topsoil or topsoil substitute material shall be uniformly redistributed except where uniform redistribution is undesirable. Topsoil or topsoil substitute material redistribution may not be performed during or immediately after a precipitation event until the soils have sufficiently dried.

(g) Except for permanent roads or similar surfaces identified in the reclamation plan approved pursuant to this chapter, all surfaces affected by nonmetallic mining shall be reclaimed and stabilized by revegetation or other means. Revegetation and site stabilization shall be in accordance with the approved reclamation plan and shall be performed as soon as practicable after mining activity has permanently ceased in any part of the mine site.

(i) Assessing Completion of Successful Reclamation.

1. The criteria for assessing when reclamation is complete and, therefore, when the financial assurance may be released shall be specified in the reclamation plan approved pursuant to this chapter. Criteria to evaluate reclamation success shall be quantifiable.

2. Compliance with the revegetation success standards in the approved reclamation plan shall be determined by:

a. On-site inspections by department staff.

b. Reports presenting results obtained during reclamation evaluations including summarized data on revegetation, photo documentation or other evidence that the criteria approved in the reclamation plan to ascertain success have been met.

c. A combination of inspections or reports.

3. In those cases where the post mining land use specified in the reclamation plan requires a return of the mining site to a pre-mining condition, the operator shall obtain baseline data on the existing plant community for use in the evaluation of reclamation success pursuant to this section.

4. Revegetation success may be determined by:

a. Comparison to an appropriate reference area.

b. Comparison to baseline data acquired at the mining site prior to its being affected by mining.

c. Comparison to an approved alternate technical standard.

(j) Intermittent mining may be conducted provided that the possibility of intermittent cessation of operations is addressed in an operator's reclamation permit, no environmental pollution or erosion of sediments is occurring, and financial assurance for reclamation pursuant to this chapter is maintained covering all remaining portions of the site that have been affected by nonmetallic mining and that have not been reclaimed.

(k) During the period of site reclamation, after the operator has stated that reclamation is complete, but prior to release of financial assurance, the operator shall perform any maintenance necessary to prevent erosion, sedimentation or environmental pollution, comply with the standards of this subchapter, or to meet the goals specified in the reclamation plan approved pursuant to this chapter.

(3) Standards Applied to All Permits.

(a) The filing of an application shall grant the department the right of access onto the site and contiguous lands owned or leased by the applicant for any purposes relative to this chapter.

(b) All excavation and phase boundaries shall be staked or otherwise marked and the operator shall notify the department that the site is staked at least 2 workdays prior to commencing operations on a site. Stakes shall be made of steel, fiberglass or other material acceptable to the department. Stakes may be removed after reclamation is completed and accepted. Painted wood lath may be used for operations of six months or less. Staking may be waived with department approval if an operation boundary is the same as an existing fence line or other easily identifiable feature.

(c) The operator shall comply with contemporaneous and final reclamation plans for the site.

(d) The operator shall notify the department in writing that interim or final reclamation has been completed. The notice may include documentation that the quantifiable standard for revegetation contained in the reclamation plan has been met. All stages within a site shall also comply with the notification requirements above. When a stage is complete, the operator shall notify the department for approval of the reclamation before entering the next stage.

(e) Unless permitted under State and/or Federal authority, no solid or hazardous waste shall be stored, buried, or deposited in or on any nonmetallic mining site.

(f) The County Board of Commissioners may apply such other requirements as are reasonably necessary to ensure progressive and final reclamation in a manner consistent with this chapter and to limit environmental pollution including but not limited to the financial assurance provisions of this chapter.

(4) Public Notice and Right of Hearing

(a) Public Notice

1. The department shall publish a public notice of application as soon as reasonable upon the receipt of a complete application for a nonmetallic mine reclamation permit.

2. The notice shall be published in a newspaper of general circulation in the area concerned and in the official newspaper of the County at least ten days before a scheduled hearing. The notice shall contain the following:

a. The reason for the public hearing.

b. The opportunity for a public hearing pursuant to this section.

c. The location at which the public may review the application.

3. Copies of the notice shall be forwarded by the department to the clerk of the municipality in which the proposed site is located and owners of land within ¼ mile of the boundaries of the parcel or parcels of land on which the proposed site is located.

(5) The Planning Commission will consider complete applications and the County Board shall have final authority to approve, disapprove, or modify.

(a) In considering a reclamation permit, the Planning Commission shall apply the following:

1. Whether the end use will be consistent with the Wabasha County Comprehensive Plan.
2. Whether the end use will be injurious to the use and enjoyment of other property owners or would diminish and impair property values in the immediate vicinity.
3. Whether adequate soil erosion control measures are being provided.
4. Whether groundwater quality and quantity will be adversely affected in the immediate vicinity.
5. Whether other factors bearing on the public health, safety, and general welfare would arise from the granting of the permit.

(b) Permit Duration

1. A nonmetallic mine reclamation permit issued under this chapter shall last through the operation and reclamation of the mining site, unless suspended or revoked pursuant to this chapter.
2. If the mine operator is not the landowner, the reclamation permit duration shall not exceed the duration of the mine lease unless the lease is renewed or the permit is transferred to a subsequent lessee pursuant to this chapter.

(c) When all final reclamation required by a reclamation plan conforming to this chapter is certified as complete per the Wabasha County Board of Commissioners, the department shall issue a written statement to the operator of the nonmetallic mining site, thereby terminating the reclamation permit.

24.07 Project Site Modification or Enlargement and Transfer of Permit.

(1) Permit Modification.

- (a) If the department finds that, because of changing conditions, the nonmetallic mining site no longer is in compliance with this chapter it shall issue an order to modify the permit. This modifying order may require the operator to amend or submit new application information, financial assurance or other information to ensure compliance with this chapter.
- (b) If an operator wishes to modify a permit or application, the operator shall submit a written request for a permit modification and supporting information which documents that the modification will comply with this chapter.
- (c) The operator of a nonmetallic mine that holds a reclamation permit issued under this chapter shall request a modification of such permit if changes occur to the area to be mined, the nature of the planned reclamation, or other aspects of mining required by the reclamation plan approved pursuant to this chapter. Such application for permit modification shall be acted on using the standards and procedures of this chapter.

(2) Transfer of Permit. When one operator succeeds to the interest of another in an uncompleted site, the Wabasha County Board of Commissioners shall release the first operator of the responsibilities imposed by the permit only if:

- (a) Both operators are in compliance with the requirements and standards of this chapter.
- (b) The new operator assumes the responsibility of the former operator to complete the reclamation of the entire project site by a written, witnessed document.

(c) The new operator posts financial assurance pursuant to this chapter.

(3) Site Enlargement. Any proposed enlargement shall be considered by the Planning Commission, subject to the standards and procedures of this chapter.

24.08 Fees.11

(1) Application and Annual Extension Fee.

(a) An application for a permit shall be accompanied by a fee established by the Wabasha County Board. Each successive year, on or before January 31st, a fee established by the Wabasha County Board of Commissioners shall be submitted for each unreclaimed acre rounded to the nearest whole acre not released pursuant to this chapter.

24.09 Financial Assurance.

(1) The County Board shall determine the initial required financial assurance level of the project site. Following approval of the permit, and as a condition of the permit, except for governmental units, the County shall require financial assurance to be filed with the County Treasurer equal to 110% of the estimated cost of fulfilling reclamation. Upon notification of the required financial assurance levels by the County Board, but prior to commencing nonmetallic mining, the operator shall file with Wabasha County said financial assurance conditioned on faithful performance of all requirements of this chapter, and the permit. Upon notification by the Wabasha County Environmental Services Department of financial assurance or deposit approval and conformance with permit conditions, the operator may commence nonmetallic mining and reclamation operations.

(2) Cash and Bond Requirements.

(a) An operator shall post a bond, cash deposits, irrevocable letters of credit or other security, in such form and sum as the County Board may require covering the cost of reclamation of the property.

(b) Bonds shall be issued by a surety company licensed to do business in this state.

(c) Each bond shall provide that the bond shall not be canceled by the surety, except after not less than 90 days notice to the department, in writing, by registered or certified mail. Not less than 30 days prior to the expiration of the 90 day notice of cancellation, the operator must deliver to Wabasha County a replacement bond or approved alternate financial assurance in absence of which all nonmetallic mining shall cease.

(d) The bond shall be payable to "Wabasha County, Minnesota".

(e) Bonds may be provided to Wabasha County for stages of phases of a site, but in no instance shall the bond be for an area less than 1 acre. Nonmetallic mining shall be limited to the phases which have bonds approved for them.

(3) Financial Assurance Re-evaluation.

(a) The County Board may reevaluate and adjust accordingly the amount of the project financial assurance. Reclaimed areas may be released from the financial assurance and the amount of the financial assurance may be lowered proportionately.

(b) The operator shall notify the department in writing at the time he or she determines that reclamation of a portion of the site or the entire site is complete.

(c) The department shall notify the operator in writing within 60 days of receipt of the notification whether or not the reclamation is complete as determined by the County Board for all or part of the mine or if weather conditions or snow cover make a determination impractical.

(4) Financial Assurance Release. The County Board shall release the operator's financial assurance if it finds, after inspection of the project site and review of documentation provided by the operator, that the operator has fully carried out and completed reclamation of the project site in accordance with the reclamation plan, and has otherwise complied with this chapter. Completion of reclamation shall be determined pursuant to the procedures listed in this chapter.

(5) Financial assurance shall provide that it may not be canceled by the surety or other holder or issuer except after not less than a 90 day notice to Wabasha County in writing by registered or certified mail. Not less than 30 days prior to the expiration of the 90 day notice of cancellation, the operator shall deliver to Wabasha County a replacement financial assurance. In the absence of this replacement financial assurance, all mining shall cease until the time it is delivered and in effect.

(6) The operator of a nonmetallic mining site shall notify Wabasha County by certified mail of the commencement of voluntary or involuntary proceedings under bankruptcy code, 11USC, et seq., naming the operator as a debtor, within 10 days of commencement of the proceeding.

24.10 Administrator and Enforcement.

(1) Inspections

(a) The department administrator or designee may enter the premises of a nonmetallic mining site in the performance of their official duties or pursuant to a special inspection warrant in order to inspect those premises and to ascertain compliance with this chapter and permit or to investigate an alleged violation.

(b) Each active project site shall be inspected by department personnel at least once annually to ensure that the site is in conformance with the operator's permit and shall make a report of the inspection. The report of the inspection may contain a map or diagram which illustrates the area that has been affected by nonmetallic mining, the area that has been reclaimed and the unreclaimed area and shall document any activity that is inconsistent with the terms of the permit for the site. The operator shall be provided a copy of the information obtained during the inspection. The department may, at its discretion, substitute the information obtained in this inspection for the annual operator reporting requirement contained in 24.11 provided the operator submits the certification specified in 24.11(1)(g) to the department within 30 days of receipt of the inspection report.

(c) The department shall inspect a nonmetallic mining site for which an operator has submitted a report under 24.06(3)(e) of the completion of reclamation or interim reclamation within 60 days of receipt of the report and make a determination in writing. If it is determined that interim or final reclamation is complete, including revegetation meeting the quantifiable standard as specified in the reclamation plan approved under 24.06(1)(h), Wabasha County shall issue the mine operator a written certification of completion.

(2) Enforcement.

(a) The County Board of Commissioners may issue orders to enforce this chapter.

(3) Waiver of Liability.

(a) In carrying out any of the provisions of this chapter or in exercising any power or authority granted to them thereby, there shall be no personal liability upon the department, its agents and employees.

(b) In such matters, it is understood that they act as agents and representatives of the County.

(c) In performing their duties, department staff, in so far as practical, shall conform to safety rules governing mining sites.

24.11 Annual Operator Reporting. Annual operating reports that satisfy the requirements of this section shall be submitted to the Wabasha County Planning and Zoning Department by the operator of nonmetallic mining sites.

(1) Contents. The annual report shall include the following:

(a) The name and address of the operator.

(b) The parcel identification number.

(c) The Nonmetallic Mine Reclamation Permit number.

(d) The acreage currently affected by nonmetallic mining and not yet reclaimed.

(e) The amount of acreage that has been reclaimed to date, on a permanent basis and the amount reclaimed on an interim basis.

(f) A plan, map or diagram, drawn to scale, accurately showing the acreage described in pars. (d) and (e).

(g) The following certification signed by the operator: "I certify that this information is true and accurate, and that the nonmetallic mining site described herein complies with all conditions of the applicable nonmetallic mine reclamation permit."

(2) Deadline. The annual report shall cover the activities for a calendar year and be submitted by January 31st for the year prior.

(3) When Reporting May End. Annual reports shall be submitted by an operator for all active and intermittent mining sites to the department for each calendar year until the nonmetallic mine reclamation is complete and a notice as specified in 24.06(3)(e) is filed with the department.

TYPE II REVIEW PROCESS

SECTION 1.

Applications for requiring a Type II Review Process shall be made to the Zoning Administrator. In order to be considered a complete application, the applicable fee shall be paid and the completed application shall be accompanied by a site plan showing such information as is necessary to show compliance with this Ordinance, including but not limited to:

Subd. 1 Legal description of the property.

Subd. 2 Site plan showing parcel, building dimensions and distance from property lines, road right of ways, streams, lakes, rivers.

Subd. 3 Location of all buildings and their square footage.

Subd. 4 Driveways, access roads, parking, sidewalks (as applicable) and utilities.

Subd. 5 Landscaping and screening plans.

Subd. 6 Drainage plan.

Subd. 7 Sanitary sewer and water plan with estimated use per day, septic compliance, well compliance and 2nd septic site location

Subd. 8 Soil type.

Subd. 9 The applicant shall have coordinated with County employees to obtain all necessary township, county, state and federal permits and shall provide such other information as necessary and reasonable to adequately review the requests.

Subd. 10 Evaluation report and recommendations from a certified, licensed geo-technical engineer or qualified geotechnical engineer assessing the property and proposed expansion plan identifying the following:

The site plan/evaluation will include at a minimum the following:

A. Slopes in classes of 0-14.9%, 15-24.9% and greater than 25% based on two foot (2') contour within 100 feet of any site disturbance.

B. Location of all water bodies including but not limited to streams, lakes and wetlands within 1000 ft

C. Existing natural and topographic features.

D. Location of all proposed and existing buildings and driveway features.

E. Location of all existing vegetation including meadow, forest and scrub lands broken down by those areas of vegetation which will be removed as well as vegetation to be preserved; specifications for revegetation shall also be included.

F. Specific methods which will be utilized to control soil erosion and sedimentation, soil loss and excessive storm water runoff both during and after construction.

G. A statement and description of the stability of the soils on site and the appropriateness of the construction method proposed.

H. Hydrology, drainage and flooding analysis to include a statement on the effect of the proposed development upon water bodies or wetlands in the vicinity of the project.

I. A statement describing the underlying geology attesting to the stability of the site.

J. Calculations of the area of proposed disturbance of each slope class on each proposed lot as well as within any proposed road right-of-way.

K. Grading plan for the construction site and all access routes.

L. Testing for fissures in the rock formations in reference to potential ground water contamination.

SECTION 2. NOTIFICATION AND PUBLIC HEARING

Subd. 1 Upon receipt in proper form of the application and other required material, and the applicable fee, the Zoning Administrator shall review the application for completeness. Upon determining that the application is complete, the Zoning Administrator shall forward the entire application and supporting documents to the Planning Commission. Where necessary, the Zoning Administrator shall make comments and recommendations regarding the application.

Subd. 2 The Planning Commission shall hold at least one (1) public hearing in a location to be prescribed by the Planning Commission. Such public hearing may be continued as allowed by law and additional hearings may be held.

Subd. 3 Notice of the time, place and purpose of any public hearing shall be given by publication in a newspaper of general circulation in the town, municipality or other area concerned and in the official newspaper of the County at least ten (10) days before the hearing.

Subd. 4 Written notice of the meeting will be sent to all property owners of record within one-quarter (1/4) mile of the affected property or to the ten (10) properties nearest to the affected property, whichever would provide notice to the greatest number of owners. Written notice shall also be given to the affected Board of Town Supervisors and the Council of any municipality within two miles of the affected property.

SECTION 3. APPROVAL, APPROVAL WITH CONDITIONS OR DENIAL

The County Planning Commission shall make its decision upon field review and public hearing process and forward its recommendations to the Board of County Commissioners. In reporting its recommendations to the Board of County Commissioners, the County Planning Commission shall report its findings and all facts in connection with the application, and may suggest conditions and guarantees deemed necessary for the protection of the public interest. Upon receipt of the report of the Planning Commission, the Board of County Commissioners shall make a decision upon the application. (60-day rule applies)

SECTION 4. FINDINGS

In considering a request for a variance requiring a Type II Review Process, the Planning Commission shall apply the following standards:

In considering a request for a variance requiring a Type II Review Process, the Planning Commission shall apply the following standards:

Subd. 1 Whether the proposed replacement/expansion will contribute to the hillside character in a positive manner protecting the natural environment, ecosystems integrity and biodiversity that would protect wildlife and environmentally sensitive areas and special natural features of the site such as landforms, rock outcropping, mature trees and vegetation, drainage courses, hilltops and ridgelines.

Subd. 2 Whether the proposed replacement/expansion will implement methods for collection, conveyance, control and treatment of storm water, mitigate potential impacts on and downstream watercourse systems.

Subd. 3 Whether the proposed replacement/expansion provides safe access for residents, visitors and emergency service providers as to avoid unstable or hazardous portions of the site and protect lives and property from hazardous conditions such as landslides, erosion etc.

Subd. 4 Whether the proposed replacement/expansion addresses the geological conditions of the site prior to any construction to ensure that the most appropriate methods and materials are used to develop the site, in reference to building location, adequate utilities, access roads, drainage, soil erosion control measures and other necessary facilities that are being provided in accordance with the law and ordinances.

Subd. 5 Whether other factors bearing on the public health, safety and welfare would dictate either denial or grant approval of the proposed replacement/expansion.