

# **Goodhue County Zoning Ordinance Excerpts**

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# **NON-CONFORMING ZONING ORDINANCE**

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## Goodhue County Zoning Ordinance

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## **ARTICLE 1    GENERAL PROVISIONS**

### **SECTION 1.    TITLE**

This Ordinance shall be known as the Goodhue County Zoning Ordinance, and will be referred to herein as "this Ordinance".

### **SECTION 2.    PURPOSE**

The purpose of this Ordinance is to promote and protect the public health, safety and general welfare of the people of Goodhue County. This Ordinance will protect and preserve prime agricultural land by limiting the density of residential development in these areas. This Ordinance will assist in the economic growth of the County by providing a basis for reasonable and orderly residential, commercial and industrial development. At the same time, this Ordinance shall encourage farmers, residents and businesses to protect the land from erosion, loss of wetlands, loss of water quality, and loss of woodlands.

### **SECTION 3.    JURISDICTION**

This Ordinance shall be in effect in all areas of Goodhue County lying outside the limits of incorporated municipalities.

### **SECTION 4.    SCOPE**

From and after the effective date of this Ordinance and subsequent amendments, the use of all land and every building or structure or portion of a building erected or altered and every use within a building or use accessory thereto shall be in conformity with this Ordinance. Historical sites and monuments as well as marshes, wooded sites and steep slope areas may be included in this area. Any development in those areas shall be subject to the reviews of the Planning Commission.

### **SECTION 5.    INTERPRETATION**

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of public health, safety, comfort, convenience and general welfare. Where the provisions of this Ordinance impose greater restrictions than those of any statute, other ordinance or regulation, the provisions of this Ordinance shall be controlling. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this Ordinance, the provisions of each statute, other ordinance, or regulation shall be controlling.

### **SECTION 6.    SEVERABILITY**

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

## **ARTICLE 2 FUNCTIONS OF THE ZONING ADMINISTRATOR, PLANNING COMMISSION, AND BOARD OF ADJUSTMENT**

### **SECTION 1. ENFORCEMENT**

- Subd. 1. The provisions of this Ordinance shall be administered by the office of the Zoning Administrator.
- Subd. 2. When any work has been stopped by the Zoning Administrator for any reason whatsoever, it shall not again be resumed until the reason for the work stoppage has been completely removed.
- Subd. 3. It shall be the duty of the County Attorney and the County Sheriff, when called upon by the County Board of Commissioners to perform such duties as may be necessary to enforce the provisions of this Ordinance.

### **SECTION 2. DUTIES AND POWERS OF THE OFFICE OF ZONING ADMINISTRATOR**

- Subd. 1. Determine if applications comply with the terms of this Ordinance.
- Subd. 2. Conduct inspections of structures and use of land to determine compliance with the terms of this Ordinance.
- Subd. 3. Maintain permanent and current records of this Ordinance, including but not limited to, maps, amendments, conditional uses, variances, appeals and applications.
- Subd. 4. Receive, file and forward all applications for appeals, variances, conditional uses, and amendments to the designated official bodies.
- Subd. 5. Record of First Floor Elevation. The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the Floodplain. The Zoning Administrator shall also maintain a record of the elevation to which structures and alterations or additions to structures are flood-proofed.
- Subd. 6. Provide and maintain a public information bureau relative to matters arising out of this Ordinance.

### **SECTION 3. ADMINISTRATIVE ASSISTANCE**

When authorized by the Town Board of any township in Goodhue County, the Town Clerk, or any other agent appointed by the Town Board, shall serve as assistant to the Zoning Administrator in administering the terms of this Ordinance to the extent of the following:

- Subd. 1. Receives applications as required under this Ordinance, collect fees for same, and grant building permit applications, that in his opinion, meet requirements of the Zoning Ordinance.
- Subd. 2. Forward a copy of all application fees collected and building permit applications to the County Zoning Administrator.
- Subd. 3. Report suspected violations of the terms of this Ordinance to the County Zoning Administrator.
- Subd. 4. All fees collected under this Ordinance shall be paid to Goodhue County. A township may charge additional fees.

#### **SECTION 4. PERMIT REQUIRED**

On and after the effective date of this Ordinance, it shall be unlawful to proceed with the change of use, erection, enlarging or structural alteration of any building without first procuring a building permit.

- Subd. 1. No permit shall be issued unless such building or land use is designed and arranged to conform to the provisions of this Ordinance.
- Subd. 2. Application for a permit shall be signed by the applicant or his authorized agent and filed with the Zoning Administrator's office.
- Subd. 3. The applications shall contain the following information: the location and dimensions of the lot or premises; the nature of the proposed construction alteration and repair; the estimated cost; the present and proposed use of land or any structure on the premises. In addition to the above information, applications for permits within the Floodplain shall show elevation of the lot; existing and proposed structures, fill or storage of material; and the location of all information in relation to the stream channel.
- Subd. 4. To each application, there shall be included a site plan. (per Land Use Management Departments "Site Plans – Requirements for Site Plans).
1. The site plan must be drawn utilizing a straightedge.
  2. The site plan is to be drawn so that north is orientated to the top of the page. The plan must include a north arrow.
  3. The entire parcel relating to the application must be shown. If the application or permit involves only a portion of the parcel, a key or vicinity map shall be included showing the entire parcel.
  4. One copy of the site plan completed in ink or black-line print format on either an 8 ½" x 11" or 11" x 17" sheet of paper must be provided.
  5. The site plan shall include the following information:
    - a. All dimensions of the property boundaries.
    - b. All existing and proposed structures with the use and status (i.e. existing, proposed, etc.) Clearly labeled on the structure.
    - c. The distance of all buildings and structures from the sites property lines.
    - d. The dimensions and square footage of buildings and structures.
    - e. The distance between adjacent buildings and on-site structures.
    - f. The location and names of adjacent streets and roads.
    - g. Existing wells and private sewage disposal systems.
    - h. Property access points, driveways, and parking areas.
    - i. All easements.
    - j. Type of paving.
    - k. Indicate the orientation (facing) of the building and locate the front door.
    - l. All areas of the site to be disturbed by grading and excavation associated with construction of buildings or other site improvements shall be outlined and labeled. The Zoning Administrator may require a grading plan if grading activity will impact environmentally sensitive areas including but not limited Floodplain areas, Shoreland areas, Steep Slopes, and Sites with Karst Features. A grading plan included:
      - 1) Existing and proposed two foot contours; and
      - 2) An erosion and sediment control plan.
- Subd. 5. Upon receipt of an application for a permit, the Administrator shall examine the same to determine whether the proposed construction, alteration, repair, enlargement, demolition or

removal and proposed use shall comply with the provisions of this Ordinance, all building and health ordinances or regulations of the County, and the State law, and upon so determining affirmatively he shall issue a permit to the applicant in the manner and form as approved by the County Board.

- Subd. 6. Fees for such permits shall be pursuant to fee schedules and amendments, thereto, as established by the County Board.
- Subd. 7. If it shall be determined that for any reason, the permit requested may not be issued, the Administrator shall return the application, with the fee deposited, to the applicant, with a memorandum stating the reason for refusing to issue said permit.
- Subd. 8. A building permit is valid only to the fee owner of the property at the time of the granting of the permit. No permit or its provisions are transferable.

## **SECTION 5. PLANNING COMMISSION**

- Subd. 1. The Goodhue County Board of Commissioners hereby establishes the Goodhue County Planning Commission. The Planning Commission shall consist of not less than seven (7) members appointed by the Chairman of the Board of Commissioners and ratified by the Board.
- Subd. 2. At least four (4) member shall be residents of the portion of the County outside the corporate limits of the municipalities.
- Subd. 3. The term of each member shall begin on January 1 and continue through December 31. A person may be appointed to fill an unfinished term; in such cases, the new member's first year of their first term shall be considered January 1 of the upcoming year. Each member shall serve for a period of three (3) years except the term of the officer appointed by the Board shall be annually.
- Subd. 4. Each member may be eligible at the discretion of the County Board for reappointment, but not more than three (3) consecutive three (3) year terms. A minimum of one term (3 years) is required between the end of a term limit (9 years) and the start of a new series of appointment terms.
- Subd. 5. No more than one (1) voting member of the Planning Commission shall serve as an officer or employee of the County.
- Subd. 6. No voting member of the Planning Commission shall receive, during the two (2) years prior to appointment, any substantial portion of his income from business operations involving the development of land within Goodhue County for the development of land for urban and urban related purposes.
- Subd. 7. The County Board may designate any County officer or employee as an ex-officio member of the Commission.
- Subd. 8. The Commission shall call for the removal of any member for non-performance of duty or misconduct in office. If a member has four (4) consecutive unexcused absences in any one year, the secretary shall certify this fact to the Commission and the Commission shall notify the County Board shall appoint a replacement for the unexpired term, as if the member has resigned.
- Subd. 9. Should any vacancy occur among the members of this Planning Commission by reason of death, resignation, disability or otherwise, immediate notice thereof shall be given to the Chairman of the County Board by the secretary. Should any vacancy occur among the officers of the Planning Commission, the vacant office shall be filled in accordance with the provisions of this subdivision, such officer to serve the unexpired term of the office in which such vacancy shall occur.
- Subd. 10. The members of the Commission may be compensated in an amount determined by the County Board and may be paid their necessary expenses in attending meetings of the

Commission and in the conduct of the business of the Commission.

- Subd. 11. The Commission, at its first regular meeting in January of each year, shall elect a Vice Chair for the year. The immediate Vice Chair shall serve as the Chair for the year. The County Zoning staff is designated as the Official Secretary for the Planning Commission. The Planning Commission shall cooperate with the Planner, Zoning Administrator, and other employees of the County in preparing and recommending to the Board for adoption, comprehensive plans and amendments to the Comprehensive Plan. The Planning Commission shall also review and make recommendations to the Board all applications for conditional use permits and plans for the subdivision of land.
- Subd. 12. The Board may by ordinance assign additional duties and responsibilities to the Planning Commission including but not restricted to the conduct of public hearings, the authority to order the issuance of some or all categories of conditional use permits, the authority to approve some or all categories of subdivisions of land, and the authority to approve some or all categories of planned unit developments. The Planning Commission may be required by the board to review any comprehensive plans and official controls and any plans for public land acquisition and development sent to the County for that purpose by any local unit of government or any state or federal agency and shall report therein in writing to the Board.

#### **SECTION 6. BOARD OF ADJUSTMENT**

- Subd. 1. A Board of Adjustment is hereby established and vested with such authority as is hereinafter provided and as by Minnesota Statutes 394.21 through 394.37.
- Subd. 2. The Board of Adjustment shall consist of six (6) regular members. All members shall be appointed for a term of three (3) years but not more than three (3) consecutive three (3) year terms. A minimum of one term (3 years) is required between the end of a term limit (9 years) and the start of a new series of appointment terms. Each member may be eligible at the discretion of the County Board of Commissioners for reappointment.
- Subd. 3. The term of each member shall begin on January 1 and continue through December 31. A person may be appointed to fill an unfinished term; in such cases the new member's first year of their first term shall be considered April 1 of the upcoming year.
- Subd. 4. At least three members of such Board of Adjustment shall be from the unincorporated area of the County and one member shall also be a member of the County Planning Commission. No elected official of the County, no employee of the Board of County Commissioners shall serve as a member of the Board of Adjustment.
- Subd. 5. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a Board member from voting thereon shall be decided by a majority vote of all regular Board members except the member who is being challenged.
- Subd. 6. In the event a vacancy occurs as a result of death, incapacity, resignation or removal of any member of the Board of Adjustment, a new member shall be appointed as above provided.
- Subd. 7. The Board of Adjustment may call for the removal of any member for non-performance of duty or misconduct in office. If a member has four (4) consecutive unexcused absences in any one year, the secretary shall certify this fact to the Board of Adjustment and the Board of Adjustment shall notify the County Board along with suggested action. The County Board shall appoint a replacement for the unexpired term, as if the member had resigned.
- Subd. 8. The Board of Adjustment shall be paid compensation and all members of the Board may be paid their necessary expenses in attending meetings of the Board and in the conduct of the business of the Board.
- Subd. 9. At its first regular meeting in April of the year, the Board of Adjustment shall elect a Vice-Chairman from among its members. The immediate Vice-Chair shall serve as the Chair for the year. The Board shall adopt rules for the transaction of its business and shall keep a public record of its proceedings, findings and determinations. The Zoning Administrator or the Assistant shall act as secretary of the Board.

- Subd. 10. The meetings of the Board of Adjustment shall be held at the call of its chairman and at such other times as the Board in its rules of procedures may specify.
- Subd. 11. The Board of Adjustment shall have the authority to order the issuance of variances, hear and decide appeals from and review any order, requirement, decision or determination made by any administrative official charged with enforcing any ordinance adopted pursuant to the provision of Minnesota Statute, Sections 394.21 to 394.37, order the issuance of permits for buildings in areas designated for future use on an official map and perform such other duties as required by the official controls. Such appeal may be taken by any person aggrieved or by any officer, department, board or bureau of a town, municipality, county or state.
- Subd. 12. An appeal from any order, requirement, decisions or determination of any administrative official shall be taken within thirty (30) days after receipt of notice of the decision by the Board of Adjustment by filing with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the appellant and the officer from whom the appeal is taken and to the public and decide the same within sixty (60) days after the date of filing the appeal. An appeal stays all proceedings in furtherance of the action appealed from unless the Board of Adjustment to whom the appeal is taken certifies that by reason of the facts stated in the certificate, a stay would cause imminent peril to life or property. The Board of Adjustment may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and to that end shall have all the powers of the officer from whom the appeal was taken and may direct the issuance of a permit. The reasons for the Board's decision shall be stated in writing.

The notice of appeal shall state:

- A. The particular order, requirement, decision or determination from which the appeal is taken.
- B. The name and address of the appellant.
- C. The grounds for the appeal.
- D. The relief requested by the appellant.
- E. All necessary state and federal permits.
- F. The variance request and a statement outlining the unique or particular situation or peculiar hardship involved in creating the need for a variance.



## **ARTICLE 3 ZONING AMENDMENTS/REZONINGS/OFFICIAL MAPPING**

### **SECTION 1. ZONING AMENDMENTS**

The County Board may issue an amendment to the Zoning Ordinance or Zoning Map to reflect changes in conditions in the County or to correct mistakes in the ordinance or map.

The Floodplain designation on the Official Zoning Map shall not be removed from Floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regional flood and is contiguous to lands outside the Floodplain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he determines that, through other measures, lands are adequately protected for the intended use. All amendments to this Ordinance, including amendments to the Official Zoning Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given ten (10) days written notice of all hearings to consider an amendment to this Ordinance and said notice shall include a draft of the Ordinance amendment or technical study under consideration.

### **SECTION 2. APPLICATION**

- Subd. 1. An application for amendment, extension or addition to the regulations of this Ordinance shall be filed with the Zoning Administrator by one of the following:
- A. A petition from a resident or residents living within the jurisdiction of this Ordinance.
  - B. A recommendation of the Planning Commission.
  - C. Action by the County Board.
- Subd. 2. Said application shall be filed at least twenty (20) days prior to the hearing thereof.
- Subd. 3. An application for an amendment not initiated by the Planning Commission shall be referred to the Planning Commission for study and report and may not be acted upon by the Board until it has received the recommendations of the Planning Commission.
- Subd. 4. Required information accompanying application to change the wording of this Ordinance shall contain the following:
- A. Stated reason for change requested.
  - B. Statement on compatibility with the County Comprehensive Plan.
  - C. Text of portion of the existing ordinance to be amended.
  - D. Proposed amended text and statements outlining any other effects that the amendment may have on other areas of this Ordinance.
  - E. Additional information as may be requested by the Planning Commission.
- Subd. 5. Required information accompanying applications to change district boundaries shall contain the following:
- A. The names and addresses of the petitioner or petitioners and their signatures to the petition.
  - B. If the parcel(s) requesting zoning change cannot be described as an aliquot part of a Public Land Survey Section, (the minimum division being described as a Quarter Quarter of a Section), a Certificate of Survey prepared and signed by a Minnesota

Licensed Surveyor shall contain the following information:

1. A boundary survey (drawn to scale) and the description of the area proposed to be rezoned
  2. A statement indicating the parcel identification numbers which are affected by rezone request; indicate if the proposed area is a split or combination of parcels; (any splits must be accompanied by a description of the remainder)
  3. Any improvements such as buildings, fences, roads, driveways, etc. within 200 feet of the proposed boundary of the area to be rezoned
  4. Vicinity map
- C. The current district classification of the area and the proposed district classifications.
- D. The current use and the proposed use of the land (a statement of the type, extent, area, etc.).
- E. The reason for the requested change of zoning district.
- F. A copy of the soil map showing the soils types within the proposed boundary and the surrounding area.
- G. Prime Farmland Rating of the soil types in F.
- H. A statement of how the requested change is compatible with the Goodhue County Comprehensive Plan including but not limited to the following:
1. The environmental impacts of the proposed use of land on the:
    - a. groundwater
    - b. natural plant and animal communities
    - c. existing trees and vegetation
    - d. bluffland stability
    - e. shoreland stability
  2. The compatibility with surrounding land uses
  3. The physical and visual impacts on any scenic or historic amenities within or surrounding the proposed parcel.
  4. The housing density of the affected Section
  5. The impact on any surrounding agricultural uses
  6. The impact on the existing transportation infrastructure
  7. The impact on surrounding zoning districts
- I. A statement concerning the cumulative effect and compatibility of the requested zoning change on the affected Township and any cities located within 2 miles of the proposed parcel.
- J. Additional information as may be requested by the Planning Commission or zoning staff.

### **SECTION 3. PROCEDURE**

- Subd. 1. Upon receipt of the proper application and other requested material for amendment or rezoning, the Planning Commission shall hold a public hearing in a location to be prescribed. Such public hearings 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 hearings 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. For district boundary changes or zoning use changes, Subdivision 1 and 2 of this Section shall apply, plus written notice of public hearings shall be sent by letter to all property owners of record within five hundred (500) feet of the affected property in incorporated areas, and one-half (½) mile in unincorporated areas, the affected Board of Town Supervisors and the Municipal Council of any municipality within two (2) miles of the affected property.
- Subd. 4. The failure to give mailed notice to the individual owners, or defects in the notice shall not invalidate the proceedings provided a bona fide attempt to comply with this Subdivision has been made.

- Subd. 5. In areas where joint planning review processes are authorized the Planning Commission may refer the proposed amendment request for review, comments, and recommendations prior to the public hearing.

#### **SECTION 4. ACTION AND AUTHORIZATION**

- Subd. 1. Following the closing of the public hearing, the Planning Commission shall request a representative of the Zoning Office to report its findings and recommendations on the proposed amendment or rezoning to the County Board at their next regularly scheduled Board meeting.
- Subd. 2. Upon the filing of such report or recommendation, the County Board may hold such public hearings upon the amendment as it deems advisable. After the conclusion of the hearings, if any, the County Board may adopt the amendment of any part thereof in such form as it deems advisable. The amendment shall be effective only if a majority of all members of the Board concur in its passage.
- Subd. 3. The Planning Commission shall base its recommendation to the County Board upon consideration of the elements contained in Section 2, subdivision 5 of this Article, information provided with the application, information gathered from the public hearing, and any additional information provided by staff. The recommendation shall be supported by findings and reasons contemporaneously adopted by the Planning Commission.
- Subd. 4. The County Board shall base its decision on consideration of the elements contained in Section 2, subdivision 5 of this Article, information provided with the application, information gathered from the public hearing, and any additional information provided by the public, the proponents or staff which is made a part of the record by the Board. The recommendation shall be supported by findings and reasons contemporaneously adopted by the County Board.

#### **SECTION 5. FEES**

All applications for a zoning district boundary change or amendment to this Ordinance shall be accompanied by a fee set by resolution of the County Board.

Additional fees may be charged to the applicant for actual costs incurred by the County for legal, engineering and planning consultant assistance necessary for proper review and consultation to assist the Planning Commission and County Board in its decision-making.

#### **SECTION 6. RECORDING**

Upon the adoption of any ordinance or other official control including any maps and charts supplemented to or as a part thereof, the County Auditor shall file a certified copy thereof with the County Recorder for record. Ordinances, resolutions, maps or regulations filed with the County Recorder pursuant to this Ordinance do not constitute encumbrances on real property.

#### **SECTION 7. EFFECTIVE DATE**

The amended Ordinance shall become effective after adoption by the County Board and due publication thereof.

#### **SECTION 8. OFFICIAL MAPPING**

Land that is needed for future street and highway purposes and as sites for other necessary public facilities and services is frequently diverted to nonpublic uses which could have been located on other lands without hardship or inconvenience to the owners. When this happens, public uses of land may be denied or may be obtained later only at prohibitive cost or at the expense of dislocating the owners and occupants of the land. Identification on official maps of land needed for future public uses permits both the public and private property owners to adjust their building plans equitably and conveniently before investments are made which will make such adjustments difficult to accomplish.

#### **SECTION 9. ADOPTION BY STATUTE**

All Official Maps within the unincorporated areas of Goodhue County shall comply with the minimum standards as set forth in Minnesota Statutes 394.361, and the following requirements:

- A. The Planning Commission shall recommend for adoption by the County Board Official Maps and amendments thereto covering all or any portion of the unincorporated area of the County.
- B. The County Board Chair shall sign, with the County Administrator attesting, all Official Maps within the unincorporated areas of the County.
- C. Preliminary and Final Subdivision plats shall be consistent with the County's Official Maps.
- D. If a building or structure is proposed on property adjacent to an Official Map, the yard setback shall be measured from the right of way line as designated on the Official Map.

## **ARTICLE 4    CONDITIONAL USES AND INTERIM USES**

### **SECTION 1.    CONDITIONAL USES AND INTERIM USES**

Within the unincorporated area of the County, all uses except permitted or accessory uses shall be required to obtain a conditional use permit or an interim use permit by the Board of County Commissioners. An interim use permit may be used to in lieu of a conditional use permit to regulate various land use activities that the Board of County Commissioners at its sole discretion determines should be permitted for limited duration. Application submittal requirements and review procedures for interim use permits shall be the same as those of conditional use permits unless expressly stated otherwise in this Ordinance.

### **SECTION 2.    APPLICATION**

Applications for conditional use permits shall be made to the Zoning Administrator together with required fees. 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 and sidewalks.
- 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 obtain all necessary state and federal permits and provide such other information as necessary and reasonable to adequately review the requests.

### **SECTION 3.    NOTIFICATION AND PUBLIC HEARING**

- Subd. 1.        Upon receipt in proper form of the application and other required material, 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.        At least ten (10) days in advance of each hearing, notice of the time and place of such hearing shall be published in the official newspaper of the County.
- Subd. 3.        All property owners of record within five hundred (500) feet of the incorporated areas and/or 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 of unincorporated areas where the conditional use is proposed shall be notified by depositing a written notice in the U.S. Mail, postage prepaid, as to the time and place of the public hearing. All municipalities within two (2) miles of the proposed conditional use shall be given proper notice.

### **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**

No conditional use shall be recommended by the County Planning Commission unless said Commission shall find:

- Subd. 1. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, not substantially diminish and impair property values within the immediate vicinity.
- Subd. 2. That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant to the area.
- Subd. 3. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.
- Subd. 4. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.
- Subd. 5. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

## **SECTION 6. CONDITIONAL USE PERMITS WITHIN FLOODPLAINS AND SHORELAND AREAS**

- Subd. 1. A copy of a request for a conditional use permit within any designated floodplain or shoreland area shall be forwarded to the Minnesota Department of Natural Resources by the Zoning Administrator sufficiently in advance so that the Commissioner will receive at least ten (10) days notice.
- Subd. 2. A copy of all decisions granting any conditional use permit within any designated floodplain or shoreland 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 Advisory Commission in passing on conditional use permit applications within all Floodplain Districts:
  - A. Require the applicant to furnish such of the following information and additional information as deemed necessary by the Planning Advisory 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. Transmit one copy of the information described in sub-section 1 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 Advisory 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. Factors upon which the decision of the Planning Advisory Commission shall be based. In passing on a conditional use permit applications for projects in a floodplain or shoreland area, the Planning Advisory Commission shall consider all relevant factors specified in other sections of this Ordinance, and:

- 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 they 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 a water front location.
- G. The availability of alternative locations not subject to flooding for the proposed use.
- H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- I. The relationship of the proposed use to the Comprehensive 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 Advisory Commission in passing on conditional use permit applications for the replacement of wetlands:

- A. Require the applicant 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 Land Use Management Department. 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.
- B. A report from the Goodhue County Wetland Technical Evaluation Panel on the suitability of the replacement plan, including the Technical Panel's recommendation.

Subd. 6. In passing on a conditional use permit application for the replacement of a wetland, the

Planning Advisory Commission shall consider all relevant factors specified in this and other sections of this Ordinance and:

- 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 replacement plan is consistent with the County Local Water Management 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.
  - 2) 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. The Planning Advisory Commission shall act on an application in the manner described above within forty-five (45) days from receiving the application, except that where additional information is required pursuant to Subd. 4 of this Article. The Planning Advisory Commission shall render a written decision whether forty-five (45) days from the receipt of such additional information.

Subd. 8. Upon consideration of the factors listed above and the purpose of this Ordinance, the Planning Advisory Commission shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:

- A. Modification of waste treatment and water supply facilities.
- B. Limitations on period of use, occupancy, and operation.
- C. Imposition of operations 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 to 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 automatically terminate the permit.

## **SECTION 10. DISCONTINUANCE**

A conditional use permit shall become void one year after being granted by the Board unless used or if 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.

## **ARTICLE 5 VARIANCES**

### **SECTION 1. VARIANCES**

The Board of Adjustment shall have the exclusive power to order the issuance of variances from the terms of any official control including restrictions placed on non-conformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official control in cases when there are practical difficulties or particular hardship in the way of carrying out the strict letter of any official control and when the terms of the variance are consistent with the Comprehensive Plan. "Hardship" as used in connection with the granting of a variance means the property in question cannot be put to a reasonable use if used under the conditions allowed by the official controls; the plight of the landowner is due to circumstances unique to his property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute hardship if a reasonable use for the property exists under the terms of this Ordinance. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. The Board of Adjustment may impose conditions in the granting of variances to insure compliance and to protect adjacent properties and the public interest.

### **SECTION 2. PROCEDURE**

- Subd. 1. An application for a variance shall be filed with the Zoning Administrator; the application shall be accompanied by development plans showing such information as the Zoning Administrator may reasonably require for purpose of this Ordinance. The plans need not meet engineering or construction details so long as they contain sufficient information for the Board of Adjustment to determine whether the proposed variance will meet all applicable development standards if the variance is granted. In all cases, the application shall include:
- A. Name and address of the applicant.
  - B. The legal description of the property involved in the request for the variance.
  - C. The names and addresses of owners of the property or any persons having a legal interest therein.
  - D. A site plan showing all pertinent dimensions, buildings and significant natural features having an influence on the variance.
  - E. All necessary state and federal permits.
  - F. The variance request and a statement outlining the unique or particular situation or peculiar hardship involved in creating the need for a variance.
- Subd. 2. The Board of Adjustment shall hold at least one public hearing on any application for a variance or appeal. Notice of the purpose, time and place of such public hearing shall be published in a newspaper of general circulation in the town, municipality or other areas concerned and in the official newspaper of the County at least ten (10) days prior to the date of the hearing. Written notice of such public hearing shall be mailed to all property owners of record within five hundred (500) feet 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, the affected Board of Town Supervisors, and the Municipal Council of any municipality within two (2) miles of the affected property.
- Subd. 3. All decisions by the Board of Adjustment in granting variances or in hearing appeals from any administrative order, requirement, decision or determination shall be final except that any aggrieved person or persons, or any department, board or commission of the jurisdiction or of the state shall have the right to appeal within thirty (30) days, after receipt of notice of the decision to the district court in the county in which the land is located on questions of law and fact.
- Subd. 4. No application for a variance which has been denied wholly or in part shall be resubmitted for a period of six (6) months from the date of said order of denial, except on the ground of new

- evidence or proof of change on conditions found to be valid.
- Subd. 5. A violation of any condition set forth in granting a variance shall be in violation of this Ordinance and automatically terminates the variance.

### **SECTION 3. FINDINGS**

- Subd. 1. In exercising its authority to review any order, requirements, decision or determination made by any administrative official, the Board shall not grant any appeal or variance unless they find the following facts at the hearing where the applicant shall present a statement and evidence in such form as the Board of Adjustment may require:
- A. That there are special circumstances or conditions affecting the land, building or use referred to in the appeal that do not apply generally to other property in the same vicinity.
  - B. That the granting of the application will not materially adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property of the applicant, and that the granting of the variance will not alter the essential character of the locality.
- Subd. 2. In the case of variances, they shall only be permitted when they are in harmony with the general purposes and intent of the official control in cases when there are practical in complying with the official control.

### **SECTION 4. VARIANCES WITHIN SHORELAND AND FLOODPLAIN**

Upon receipt of an application for a variance from the FP, Floodplain District or Shoreland Regulations, the Zoning Administrator shall forward a copy of such application to the Minnesota Commissioner of Natural Resources sufficiently in advance so that the Commissioner will receive at least ten (10) days notice of any hearing to consider such application. A copy of all decisions granting a variance to the provisions of the Floodplain or Shoreland Regulations shall be forwarded to the State Commissioner within ten (10) days of such action.

The Board may authorize upon appeal in specific cases such relief or variance from the terms of this Ordinance as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in the respective enabling legislation which justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the RFPE for the particular area, or permit standards lower than those required by state law.

The Zoning Administrator shall notify the applicant for a variance that: 1) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and 2) such construction below the 100 year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. A County shall maintain a record of all variance actions including justification for their issuance, and report such variances issues in its annual or biannual report submitted to the Administrator of the National Flood Insurance Program.

### **SECTION 5. RECORDING**

- Subd. 1. A certified copy of any order issued by the Board of Adjustment acting upon an appeal from an order, requirements, decision or determination by an administrative official, or a request for a variance shall be filed with the County Recorder for record. The order issued by the Board of Adjustment shall include the legal description of the property involved. The Zoning Administrator shall be required to meet the requirements of this Subdivision.
- Subd. 2. The Zoning Administrator shall provide to the applicant a copy of the order issued by the Board of Adjustment stating that it has been filed with the County Recorder's Office.

## **ARTICLE 6 NON-CONFORMING USES**

### **SECTION 1. NON-CONFORMING BUILDINGS AND USES**

- Subd. 1. No building which has been damaged by fire, explosion, flood, act of God, or the public enemy to the extent of more than fifty (50) percent of its value shall be restored, except in conformity with the regulations of this Ordinance.
- Subd. 2. Buildings found to be non-conforming only by reason of height, yard or area requirements shall be exempt from the provisions of Subdivision 1 of this Article.
- Subd. 3. In the event that a non-conforming use of any building or premises is discontinued or its normal operation stopped for a period of one (1) year, the use of the same shall thereafter conform to the regulations of the district in which it is located. The Assessor shall notify the Zoning Administrator in writing of instances of non-conforming uses which have been discontinued for a period of twelve (12) months.
- Subd. 4. The lawful use of a building existing at the time of the adoption of this Ordinance may be continued, although such use does not conform with the provisions hereof. If no structural alterations are made, a non-conforming use of a building may be changed to another non-conforming use of the same or more restricted classification. The foregoing provisions shall also apply to non-conforming uses in districts hereafter changed. Whenever a non-conforming use of a building has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.
- Subd. 5. Alterations may be made to a residential building containing non-conforming residential units when they will improve the livability of such units, provided, however, that they do not increase the number of dwelling units in the building, or increase the non-conformity.
- Subd. 6. Maintenance of a building or other structure containing or used by a non-conforming use will be permitted when it includes necessary, non-structural repairs and incidental alterations which do not extend or intensify the non-conforming building or use. Nothing in this Ordinance shall prevent the placing of a structure in safe condition when said structure is declared unsafe by the County Zoning Administrator.
- Subd. 7. If in the event of a change of zoning district classification, any use is rendered non-conforming as a result of such change, Section 1 through 8, inclusive, of this Article shall apply.

### **SECTION 2. NON-CONFORMING SIGNS**

- Subd. 1. Signs existing on the effective date of this Ordinance which do not conform to the regulations set forth in this Ordinance shall become a non-conforming use and shall be immediately discontinued. Uses of signs which become non-conforming by reason of a subsequent change in this Ordinance shall also be discontinued within a reasonable period of amortization of the sign. The period of amortization for signs shall be not more than:
- A. Advertising Signs. Five (5) years from the effective date of this Ordinance.
- B. Business Signs. Five (5) years from the effective date of this Ordinance.
- Subd. 2. Business signs on the premises of a non-conforming building or use may be continued, but such signs shall not be increased in number, area, height, or illumination. New signs not to exceed thirty-five (35) square feet in aggregate sign area may be erected only upon the complete removal of all other signs existing at the time of the adoption of this Ordinance. Such signs may be illuminated, but no flashing, rotating or moving signs shall be permitted.
- Subd. 3. No sign erected before the passage of this Ordinance shall be rebuilt, altered or moved to a new location without being brought into compliance with the requirements of this Ordinance.
- Subd. 4. In the event that the use of a non-conforming advertising sign structure is discontinued or its normal operation stopped for a period of six (6) months, said structure shall be removed by the

owner or lessor at the request of the Board of County Commissioners.

### **SECTION 3. NON-CONFORMING JUNKYARDS**

No junkyard or auto reduction yard may continue as a non-conforming use for more than sixty (60) months after the effective date of this Ordinance, except that it may continue as a conditional use in an industrial or agricultural district if within that period it is completely enclosed within a building or contained within a continuous solid fence and/or landscaping not less than eight (8) feet high so as to screen completely the operation of the junkyard. Plans of such building or fence shall be reviewed by the Planning Commission and approved by the County Board before it is erected.

### **SECTION 4. FLOODPLAIN STRUCTURAL ALTERATIONS**

- Subd. 1. Any alteration or addition to a non-conforming structure or non-conforming use which would result in increasing the flood damage potential of that structure or use shall be protected by the RFPE in accordance with any of the elevation on fill or flood-proofing techniques (i.e, FP-1 through FP-4 flood-proofing classifications) allowable in the State Building Code, except as further restricted in Subd. 2.
- Subd. 2. The cost of any structural alterations or additions to any non-conforming structure over the life of the structure shall not exceed fifty (50) percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions constructed since the adoption of the County's initial floodplain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds fifty (50) percent of the current market value of the structure, then the structure must meet the standards of Section 4 or 5 of Article 31 for new structures depending on whether the structure is in the Floodway or Flood Fringe, respectively.

### **SECTION 5. NONCONFORMING SEWAGE TREATMENT SYSTEMS**

- Subd. 1. Goodhue County will implement a notification or education program that is oriented toward convincing substantial numbers of property owners in shoreland areas to evaluate their sewage systems and voluntarily upgrade the sewage treatment system if non-conforming.

## **ARTICLE 7 VIOLATIONS AND PENALTIES**

### **SECTION 1. CRIMINAL VIOLATIONS AND PENALTIES**

- Subd. 1. Any person, firm, or corporation who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof, punished by a fine not to exceed seven hundred (700) dollars or by imprisonment in the County jail for a period not to exceed ninety (90) days or both.
- Subd. 2. It shall be the duty of all architects, contractors, subcontractors, builders and other persons having charge of the erecting, altering, changing, or remodeling of any building or structure, including mobile homes, before beginning or undertaking any such work to see that a proper permit has been granted and that such work does not conflict with and is not a violation of the terms of this Ordinance; and any such architect, builder, contractor or other person doing or performing any such work of erecting, repairing, altering, changing, or remodeling without such permit having been issued or in violation of, or in conflict with, the terms of this Ordinance shall be deemed guilty of a misdemeanor in the same manner and to the extent as the owner of the premises or the person or persons for whom such buildings are erected, repaired, altered, changed or remodeled in violation hereof and shall be held accountable for such violation.
- Subd. 3. Any building or structure, including mobile homes, erected or being erected, constructed or reconstructed, altered, repaired, converted or maintained, or any building or structure, including mobile homes, or land used in violation of this Ordinance or other regulations made under the authority of Goodhue County is hereby declared to be a nuisance per se and the County of Goodhue through its qualified officers as provided by statute for maintaining suits, may institute proceedings in the court for the purposes of restraining any violation of any of the provisions of this Ordinance.
- Subd. 4. Each day that a violation is permitted to exist shall constitute a separate offense. The imposition of any fine or sentence shall not exempt the offender from compliance with the requirements of this Ordinance.

### **SECTION 2. RELIEF FROM PERSONAL RESPONSIBILITY**

The Zoning Administrator shall not be personally liable while acting for the County and he is hereby relieved from all personal liability from any damaged that may accrue to persons or property as a result of any act required or permitted in the discharge of his official duties.

### **SECTION 3. VIOLATIONS IN A FLOODPLAIN DISTRICT**

- Subd. 1. In responding to a suspected Floodplain area violation, the Zoning Administrator and local government may utilize the full array of enforcement actions available to it including, but not limited to, prosecution and fines, injunctions, after the fact permits, orders for corrective measures of a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party.
- Subd. 2. When a violation in a Floodplain area is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as reasonably possible, this information will be submitted to the appropriate DNR and FEMA regional office along with the County's plan of action to correct the violation to the degree possible.

- Subd. 3. The Zoning Administrator shall notify the suspected party of the requirements of this Ordinance and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the County. If the construction or development is already completed, then the Zoning Administrator may either: 1) issue an order identifying the corrective action that must be made within a specified time period to bring the use or structure into compliance with the official controls, or 2) notify the responsible party to apply for an after the fact permit/ development approval within a specified period of time not to exceed thirty (30) days.
- Subd. 4. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this Ordinance and shall be prosecuted accordingly. The Zoning Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this Ordinance.

## **ARTICLE 8 FEES**

### **SECTION 1. REQUIRED FEES**

The fees for a land use permit, rezoning, variance, amendment or conditional use permit shall be established by the Board. The Board may review and revise the fee schedule periodically. Applicable fees must be paid in full before any zoning permit is issued. Any person filing a petition for an amendment to this Ordinance requesting a variance or a change in regulations within any use district shall pay the prescribed fees according to the schedule established by the Board before any work proposed may commence. The fee is payable at the time of filing a petition and is not refundable.

### **SECTION 2. EXEMPTIONS**

Municipal corporation and governmental agencies shall be exempt from the fee requirements as prescribed by this Ordinance.

## **ARTICLE 9    VALIDITY**

### **SECTION 1.    VALIDITY**

This Ordinance and the various parts, sentences, paragraphs, sections, and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged to be unconstitutional or invalid for any reason by a court of competent jurisdiction, such holding shall not affect the remaining portions of this Ordinance.

**SECTION 1. DATE OF EFFECT**

This Ordinance shall be in full force and effect from and after

Passed and approved this **second (2<sup>nd</sup>)** day of **October, 2007**.

\_\_\_\_\_  
Chairman, Board of County Commissioners

ATTEST:

\_\_\_\_\_  
County Administrator

Recommended by: The County Planning Advisory Commission

Date: **September 17, 2007**

Chairman:

## ARTICLE 10 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 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 ( $\frac{1}{2}$ ) foot or less, the integral foot next below shall be taken.

### **SECTION 2. DEFINITIONS**

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

- Subd 1. **ACCESSORY BUILDING.** A subordinate building or structure on the same lot, or part of the main building, occupied by or devoted exclusively to an accessory use.
- Subd 2. **ACCESSORY USE.** A use naturally and normally incidental to, subordinate to, and auxiliary to the permitted use of the premises.
- Subd 3. **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 prior to January 1, 1991.
- Subd 4. **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 5. **AGRICULTURAL TOURISM.** "Ag-tourism" and/or "Agri-tourism" means the practice of visiting an agribusiness, horticultural, or agricultural operation, including, but not limited to, a farm, orchard, vineyard, winery, greenhouse, hunting preserve, a companion animal or livestock show, for the purpose of recreation, education, or active involvement in the operation, other than as a contractor or employee of the operation.

Subd 6. **AGRICULTURAL USE.** The use of land for agricultural purposes, including 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. **AGRICULTURAL RELATED USE.** Means activities that are accessory to principal use of the property for permissible agriculture use that predominantly use agricultural products, buildings or equipment including activities, events or uses that represent “agricultural tourism” in Goodhue County as defined in this section, including but not limited to:

- a. Bakeries selling baked goods containing produce grown primarily on site
- b. Barn dances
- c. Corn mazes or straw bale mazes
- d. Educational events including but not limited to: activities associated with the promotion of wine usage, viticulture or viniculture classes, historical agricultural exhibits, and farming and food preserving classes.
- e. Gift shops for the sale of agricultural products and agriculturally related products.
- f. Petting farms, animal display, and pony rides
- g. Playgrounds or equipment typical of a school playground
- h. Pumpkin rolling
- i. Sleigh/hay rides
- j. Vineyard harvest festivals

Subd 8. **NON-AGRICULTURAL USES/ACTIVITIES ASSOCIATED WITH AN AGRI-TOURISM USE.** This means activities that are part of an agri tourism operation’s total offerings but not tied to farming or the farm’s buildings, equipment, fields, etc. Such non-agriculturally related uses include but are not limited to:

- a. Amusement rides
- b. Art or cultural related festivals
- c. Gift shops for the sale of non-agricultural products
- d. Non-profit benefits
- e. Kitchen facilities, processing/cooking items for sale (subject to State of Minnesota, Department of Public Health standards) including eating establishments such as restaurants or café’s.
- f. Temporary camping (subject to State of Minnesota Department of Public Health Standards for Recreation Camping)
- g. Wedding ceremonies or receptions
- h. Wine and catered food events

Subd 9. **ANIMAL UNIT.** means a unit of measure used to compare differences in the production of animal manure that employs as a standard the amount of manure produced on a regular basis by a slaughter steer or heifer for an animal feedlot or a manure storage are calculated by multiplying the number of animals of each type in items A to I by the respective multiplication factor and summing the resulting values for the total number of animal units. For purposes of this chapter, the following multiplication factors shall apply:

- a. dairy cattle:
  - A. one mature cow (whether milked or dry);
    - (1) over 1,000 pounds, 1.4 animal unit; or
    - (2) under 1,000 pounds, 1.0 animal unit;
  - B. one heifer, 0.7 animal unit; and
  - C. one calf, 0.2 animal unit;
- b. beef cattle:
  - A. one slaughter steer or stock cow, 1.0 animal unit;
  - B. one feeder cattle (stocker or backgrounding) or heifer, 0.7 animal unit;
  - C. one cow and calf pair, 1.2 animal unit; and
  - D. one calf, 0.2 animal unit;
- c. one head of swine:
  - A. over 300 pounds, 0.4 animal unit;
  - B. between 55 pounds and 300 pounds, 0.3 animal unit; and
  - C. under 55 pounds, 0.05 animal unit;
- d. one horse, 1.0 animal unit;
- e. one sheep or lamb, 0.1 animal unit;
- f. chickens:
  - A. one laying hen or broiler, if the facility has a liquid manure system, 0.033 animal unit; or
  - B. one chicken if the facility has a dry manure system:
    - (1) over five pounds, 0.005 animal unit; or
    - (2) under five pounds, 0.003 animal unit;
- g. one turkey:
  - A. over five pounds, 0.018 animal unit; or
  - B. under five pounds, 0.005 animal unit;
- h. one duck, 0.01 animal unit; and
- i. for animals not listed in items A to H, the number of animal units is the average weight of the animal in pounds divided by 1,000 pounds.

Subd 10. **BASEMENT.** Any area of a structure, including crawl spaces, having its floor or base sub-grade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

Subd 11. **BED AND BREAKFAST INN.** A bed and breakfast inn shall be construed to mean any dwelling occupied in such a manner that certain rooms in excess of those used by members of the family, as herein provided, and occupied as a home or family unit, are rented without cooking facilities, to the public for compensation and catering primarily to the traveling public.

- Subd 12. **BEDROCK.** A general term for the rock, usually solid, that underlies soil or other unconsolidated superficial material.
- Subd 13. **BLUFF.** A high bank or bold headland with a broad precipitous sometimes rounded cliff-face overlooking a plain or body of water, especially on the outside of a stream or meander-river bluff, that rises or drops twenty-five (25) feet from the horizontal and the slope averages thirty (30) percent or greater.
- Subd 14. **BLUFF IMPACT ZONE.** All of the land lying between the top of the bluff and the toe of the bluff.
- Subd 15. **BLUFFLINE.** A line along the top of a slope connecting the points at which the slope becomes greater than twelve (12) percent. This applies to those slopes within the Wild and Scenic River District which are beyond the setback provisions from the ordinary high water level.
- Subd 16. **BOARDING OR ROOMING HOUSE.** A boarding or rooming house shall mean any dwelling occupied in any such manner that certain rooms in excess of those used by members of the immediate family and occupied as a home or family unit, are leased or rented to persons outside of the family, without cooking or kitchen accommodations.
- Subd 17. **BOARD OF ADJUSTMENT.** A quasi-judicial body, created by this Ordinance, whose responsibility it is to hear appeals from decisions of the Planning and Zoning Administrator and to consider requests for variances permissible under the terms of this Ordinance.
- Subd 18. **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 19. **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 20. **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 mean height level between eaves and ridge of gable, hip and gambrel roofs.
- Subd 21. **BUILDING LINE.** The front line of the building or the legally established line which determines the location of the building with respect to the street line or the ordinary high water level.
- Subd 22. **CAMPGROUND.** An area accessible by vehicle and containing campsites or camping spurs for tents, trailers and RV camping.
- Subd 23. **CARPORT.** A structure permanently attached to a dwelling having a roof supported by columns, but not otherwise enclosed.
- Subd 24. **COMMERCIAL USE.** The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.
- Subd 25. **COMMISSIONER.** The Commissioner of the Department of Natural Resources.
- Subd 26. **COMMUNITY BUILDING.** Any structure intended for use as educational, recreational, social, service or governmental purposes by the general public.

- Subd 27. **CONDITIONAL USE PERMIT.** 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 28. **COUNTY BOARD.** Includes the County Commissioners, the Board of County Commissioners, or any other word or words meaning the Goodhue County Board of Commissioners.
- Subd 29. **CROPLAND.** Land which could be used primarily for the production of adapted, cultivated, close growing crops and trees for harvest, as determined by Appendix "A" of this Ordinance.
- Subd 30. **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 31. **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 32. **DUPLEX, TRIPLEX, AND QUAD.** A dwelling structure on a single lot, having two, three, and four units, respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.
- Subd 33. **DWELLING.** Two or more rooms within a structure which are arranged, designed or used as living quarters for one (1) family only. Individual bathrooms and complete kitchen facilities, permanently installed 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 house trailer, camper trailer, camper bus, or tent are not 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 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 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.** A dwelling so designed and arranged to provide cooking and kitchen accommodations and sanitary facilities for occupancy by two (2) families.
  - e. **Dwelling, Multiple.** A building used or intended to be used as a dwelling by three (3) or more families.
  - f. **Dwelling, Second Farm.** A temporary dwelling located in the farmyard and with the same tax parcel, to house farm labor. The dwelling shall be removed when the need is terminated. No such dwelling shall be allowed to become permanent, nor shall it give rise to a right to create a separate building site.

- Subd 34. **DWELLING, REPLACEMENT SITE.** Dwelling, Replacement Site, Replacement Dwelling sites must meet two of the following three criteria:
- a. A Defined Farmyard.
  - b. Standing Accessory Buildings.
  - c. Existing Dwelling or Foundation.
- Subd 35. **EDUCATIONAL FARM RETREAT.** An educational farm retreat shall be construed to mean any dwelling occupied in such a manner that certain rooms in excess of those used by members of the family, as herein provided, and occupied as a home or family unit, are rented with cooking facilities, to the public for compensation and catering primarily to the traveling public. The purpose of the Educational Farm Retreat is to provide a lodging experience that provides an opportunity for guests to learn about the operations of a working farm.
- Subd 36. **EDUCATIONAL FARM RETREAT UNIT.** Educational farm retreat room in a grouping to include not more than two bedrooms, kitchen or kitchenette and bathroom.
- Subd 37. **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 38. **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 39. **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 40. **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 41. **FARM.** Real estate consisting of at least forty (40) acres with a minimum of at least twenty (20) acres cropland. Smaller acreage shall qualify as a farm if at least fifty (50) percent of the total net family income of the owner is derived from agricultural production in the preceding two tax years.
- a. A tree farm would qualify if registered with the State of Minnesota and has forty (40) acres of tree coverage.
- Subd 42. **FARM MARKET/ON-FARM MARKET/ROADSIDE STAND.** Means the sale of agricultural products or value-added agricultural products directly to the consumer from a site on a working farm or any agricultural, horticultural or agribusiness operation or agricultural land.
- Subd 43. **FARMYARD.** The area of a farm immediately around the farm residence where accessory buildings are located and are being used exclusively for agricultural operations.

- Subd 44. **FEEDLOT.** 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 these rules. Other definitions relating to feedlots are found in Minnesota Pollution Control Agency's Rules 7020 For The Control of Pollution From Animal Feedlots. These rules are adopted by reference in this Ordinance.
- Subd 45. **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 46. **FORESTRY.** The use and management, including logging, of a forest, woodland or plantation and related research and educational activities.
- Subd 47. **GARAGE, PRIVATE.** An accessory building designed or used for the storage of not more than three (3) motor driven vehicles owned and used by the occupants of the building to which it is accessory.
- Subd 48. **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 49. **HOME OCCUPATION.** Any gainful occupation or professional engaged in by an occupant which is clearly secondary to the principal use of the premises and which does not change the character thereof or have any exterior evidence of such secondary use.
- Subd 50. **HYDRIC SOILS.** Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.
- Subd 51. **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 52. **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 53. **INTENSIVE VEGETATION CLEARING.** The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.
- Subd 54. **JUNK/SALVAGE YARD.** A place maintained for keeping, 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 unlicensed motor vehicles or the remains thereof for the purpose of dismantling, sale of parts, sale as scrap, storage or abandonment.

Subd 55. **KENNEL.** Animal - Any place where four (4) or more of any type of domestic or exotic pets over four (4) months of age are owned, boarded, bred, or offered for sale.

Subd 56. **LIVESTOCK.** Any beef or dairy cattle, swine, sheep, horses and ponies.

- a. **LOT.** A parcel of land occupied or to be occupied by a principal structure or group of structures and accessory structures together with such yards, open spaces, lot width and lot area as are required by this Ordinance, and having the required frontage upon the street, either shown and identified by lot number on a plat of record or considered as a unit of property and described by metes and bounds.
- b. **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 57. **LOT AREA.** The area of a lot on a horizontal plane bounded by the lot lines.

Subd 58. **LOT COVERAGE.** The part or percentage of the lot occupied by buildings or structures, including accessory buildings or structures.

Subd 59. **LOT FRONTAGE.** The lot line separating the lot from the road right-of-way.

Subd 60. **LOT DEPTH.** The perpendicular distance between the front and rear lot lines, measured along the median between the side lot lines.

Subd 61. **LOT WIDTH.** The horizontal distance between the side lot lines, measured at the two points where the building line, or setback, intersects the side lot lines.

Subd 62. **LOT LINES.** The lines bounding a lot as defined in this Ordinance.

Subd 63. **MIGRATORY 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 64. **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 65. **MANUFACTURED HOUSING.** A manufactured building or portion of a building designed for long-term residential use.

Subd 66. **MOBILE HOME.** Manufactured housing built on a chassis.

Subd 67. **MOBILE/MANUFACTURED HOME PARK.** This term applies to any lot or tract of land upon which two (2) or more occupied trailer coaches or mobile homes are harbored either with or without charge and including any building or enclosure intended for use as a part of the equipment of such park.

Subd 68. **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 69. **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 70. **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 71. **OBSTRUCTION.** Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel, modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, 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 72. **ODOR.** The odor of growing vegetation, domestic fertilizers, animal manures, insecticides, and other agricultural odors shall not be considered objectionable.
- Subd 73. **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 74. **OWNER.** Any individual, firm, association, syndicate, partnership, corporation, trust or any other legal entity having proprietary interest in the land.
- Subd 75. **PARKING SPACE.** An area of not less than two hundred (200) square feet, exclusive of drives or aisles giving access thereto, accessible from streets or alleys or private drives or aisles leading to streets or alleys, and to be usable for the storage or parking of motor vehicles.
- Subd 76. **PLAIN.** Land having an average slope of less than eighteen (18) percent over a distance of fifty (50) feet or more.
- Subd 77. **PLANNING COMMISSION.** The Goodhue County Planning Advisory Commission.
- Subd 78. **PRACTICE DIFFICULTY.** The same as the term is defined in Minnesota Statutes, Chapter 394.
- Subd 79. **PRIMITIVE CAMPSITES.** An area that consists of individual remote campsites accessible only by foot or water.
- Subd 80. **PUBLIC WATERS.** All water basins, wetlands, and watercourses determined to be protected waters by the Commissioner of Natural Resources pursuant to Minnesota Statutes, Section 103G.005, Subd. 15 and 18, and 103G.201. An official list and map of protected waters shall be filed in the Office of the County Auditor and the Zoning Administrator.
- Subd 81. **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 82. **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 83. **REGULATORY FLOOD PROTECTION ELEVATION.** A point not less than one (1) foot above the water surface profile associated with the regional flood plus any increase in flood heights contributable to encroachment on the floodplain. It is the elevation to which uses regulated by this Ordinance are required to be elevated or flood-proofed.
- Subd 84. **RIGHT-OF-WAY.** A strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation and intended to be occupied or occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, and other similar uses.
- Subd 85. **RIGHT-OF-WAY LINES.** The lines that form the boundaries of a right-of-way.
- Subd 86. **SCREENED.** When a structure is built or placed on a lot or vegetation is planted such that when the structure is built, it is visually inconspicuous as viewed from the river during the Summer months. Visually inconspicuous means difficult to see or not readily noticeable in Summer months as viewed from the river.
- Subd 87. **SELECTIVE CUTTING.** The removal of single scattered trees, provided a continuous tree cover is maintained within the structure setback areas.
- Subd 88. **SETBACK.** The minimum horizontal distance between a structure or sewage treatment system and the ordinary high water level or between a structure or sewage treatment system, toe or top of a bluff, bluffline, road, highway or property line.
- Subd 89. **SEWAGE TREATMENT SYSTEM.** A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Section 5.8 of this Ordinance.
- Subd 90. **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 91. **SHORELAND.** Land located within the following distances from public waters: 1) One thousand (1,000) feet from the ordinary high water level of a lake, pond, or flowage; and 2) three hundred (300) feet from a river or stream or the landward extension of a floodplain designated by this Ordinance on such 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, and the County Commissioners.
- Subd 92. **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 93. **SIGN.** The use of any words, numeral, pictures, figures, devices, or trademarks by which anything is made known such as are used to show an individual, firm, profession, or business and are visible to the general public.

- a. **Advertising (Off-Premise Sign).** A billboard, poster panel, painted bulletin board, or other communicative device which is used to advertise products, goods, or services which are not exclusively related to the premises on which the sign is located.
- b. **Business Sign.** Any sign which identifies a business or group of businesses, either retail or wholesale, or any sign which identifies a profession or is used as the identification or promotion of any principal commodity of service, including entertainment, offered or sold upon the premises where such sign is located.
- c. **Construction Sign.** A sign placed at a construction site identifying the project or the name of the architect, engineer, contractor, financier, or other involved parties.
- d. **Directional Sign.** A sign erected on public or private property which bears the address and name of a business, institution, church, or other use or activity plus directional arrows or information on location.
- e. **Directory Sign.** A wall sign which identifies the business, owner, manager, or resident occupant and sets forth the occupation of other address information but contains no advertising.
- f. **Freestanding Sign.** Any stationary or portable, self-supported sign not affixed to any other structure.
- g. **Government Sign.** A sign which is erected by a governmental unit.
- h. **Illuminated Sign.** Any sign which is lighted by an artificial light source either directed upon it or illuminated from an interior source.
- i. **Institutional Sign.** A sign or bulletin board which identifies a name or other characteristics or a public or private institution on the site where the sign is located.
- j. **Integral Sign.** A sign carrying the name of a building, its date of erection, monumental citations, commemorative tablets and the like carved into stone, concrete or similar material made of bronze, aluminum or other permanent type of construction and made an integral part of the structure.
- k. **Nameplate Sign.** A sign indicating the name and address of a building or the name of an occupant thereof and the practice of a permitted occupation therein.
- l. **Real Estate Sign.** A business sign placed upon a property advertising that particular property for sale, or for rent or lease.
- m. **Sign Area.** The entire area within a single, continuous perimeter enclosing the extreme limits of the actual sign surface. It does not include any structural elements outside the limits of such sign and not forming an integral part of the display. Only one side of a double face sign structure shall be used in computing the total surface area.

- Subd 94. **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 presented 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 95. **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 twelve (12) percent, as measured over horizontal distances of fifty (50) feet or more, that are not bluffs.
- Subd 96. **STREET.** Any thoroughfare or way other than a public alley, dedicated to the use of the public and open to public travel, whether designated as a road, avenue, highway, boulevard, drive, lane, circle, place, court or any other similar designation, or a private street open to restricted travel, at least thirty (30) feet in width.
- Subd 97. **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 the exemption criteria specified in Article 31, Section 9, Subd. 3.A. of the Ordinance and other similar items.
- Subd 98. **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 99. **TIMBER.** Standing trees which because of their size, quality and number are marketable.
- Subd 100. **TIMBER HARVESTING.** The removal of timber from a woodland for commercial purposes including, but not limited to, paper or wood products.
- Subd 101. **TOE OF THE BLUFF.** The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from gentler to steeper slope above. If no break in the slope is apparent, the toe of the bluff shall be determined to be the lowest end of the lowest fifty (50) foot segment that exceeds twenty (20) percent slope.
- Subd 102. **TOP OF THE BLUFF.** The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler slope above. If no break in the slope is apparent, the top of the bluff shall be determined to be the highest end of the highest fifty (50) foot segment that exceeds twenty (20) percent slope.

- Subd 103. **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.
- a. **Conditional Use.** A land use or development as is defined by this Ordinance that would be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon the finding that: 1) certain conditions as detailed in this Ordinance exist, and 2) use or development conform to the Comprehensive Plan of the County, and 3) is compatible with the existing neighborhood.
  - b. **Non-Conforming Use.** A use lawfully in existence on the effective date of this Ordinance and not conforming to the regulations for the district in which it is situated.
  - c. **Permitted Use.** A public or private use which of itself conforms with the purposes, objectives, requirements, regulations and performance standards of a particular district.
  - d. **Principal Use or Structure.** All uses or structures that are not accessory uses or structures.
- Subd 104. **Value-added agricultural product.** This means the enhancement or improvement of the overall value of an agricultural commodity or of an animal or plant product to a higher value. The enhancement or improvement includes, but is not limited to marketing, agricultural processing, transforming, or packaging, education presentation, activities and tours.
- Subd 105. **Agricultural product.** Includes, but is not limited to, crops (corn, wheat, hay, potatoes, soy beans); fruit (apples, peaches, grapes, cherries, berries, etc.); cider; vegetables (sweet corn, pumpkins, tomatoes, etc.); floriculture; herbs; forestry; husbandry; livestock and livestock products (cattle, sheep, hogs, horses, poultry, ostriches, emus, farmed deer, farmed buffalo, milk, eggs, and fur, etc.); aquaculture products (fish, fish products, water plants and shellfish); horticultural specialties (nursery stock, ornamental shrubs, flowers and Christmas trees); maple sap, etc.
- Subd 106. **Agricultural related products.** Means items sold at a farm market to attract customers and promote the sale of agricultural products. Such items include, but are not limited to all agricultural and horticultural products, animal feed, baked goods, ice cream and ice cream based desserts and beverages, jams, honey, gift items, food stuffs, clothing and other items promoting the farms and agriculture in Goodhue County and value-added agricultural products and production on site.
- Subd 107. **Non-agricultural related products.** Means those items not connected to farming or the farm operation, such as novelty t-shirts or other clothing, crafts and knick-knacks imported from other states or countries, etc.
- Subd 108. **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, practical difficulty or unique circumstances as defined and elaborated upon in a community's respective planning and zoning enabling legislation.
- Subd 109. **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 110. **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 111. **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 must have hydric soils, predominantly hydric vegetation, and display wetland hydrology.
- Subd 112. **WETLAND ON AGRICULTURAL LAND.** Wetland where greater than fifty (50) percent of its basin is located on agricultural land.
- Subd 113. **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 114. **WOODY VEGETATION.** Includes trees that are not timber.
- Subd 115. **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 116. **ZONING ADMINISTRATOR.** The person(s) employed by the Board of County Commissioners to carry out the provisions of this Ordinance.
- Subd 117. **ZONING DISTRICT.** The sections of the County for which the regulations governing the height, area, use of buildings, and premises are the same as delineated by this Ordinance.
- Subd 118. **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 Goodhue Official Zoning Map, with all proper notations, references, and other information shown thereon.

## **ARTICLE 11 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 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 Land Use Management Office 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. 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.

### **SECTION 3. LOT AREA REQUIREMENTS**

No lot area shall be so reduced or diminished that the required yard or structure setbacks shall be smaller than prescribed herein, nor shall the area of any lot be reduced below the minimum requirement herein established.

### **SECTION 4. TEMPORARY DWELLINGS**

It shall be unlawful for any person to erect or occupy a temporary dwelling on any lot; provided, however, that a garage may be occupied as a temporary dwelling for a period of not more than six (6) months if construction of a permanent dwelling is actually underway and in active progress during occupancy of the garage. Said garage shall be provided and equipped with garage doors. In the event that any person shall reside in any such temporary garage home for a period exceeding six (6) months, the County may proceed to have such extended use abated as a nuisance.

### **SECTION 5. ACCESSORY BUILDINGS**

In case an accessory building is attached to the principal building, it shall be made structurally a part of the main building and shall comply in all respects with the requirements of this Ordinance applicable to the principal building. An accessory building shall not be closer than eight (8) feet to any portion of the principal building except as otherwise provided in this Ordinance.

In any residential district, no accessory building shall be constructed or developed on a lot prior to the construction of the principal building.

A detached accessory building shall not be located in any required front or side yard.

In Suburban Residential Districts (R-1), a detached accessory building, which is accessory to a residential use, shall be limited in size to one thousand five hundred (1,500) square feet in area on lots twelve thousand (12,000) square feet to one (1) acre and two thousand one hundred (2,100) square feet on lots in excess of one (1) acre.

In A-1, A-2, A-3 Districts, a detached accessory building, which is accessory to a residential use, shall be limited in size to two thousand two hundred (2,200) square feet. On lots over two (2) acres, the size limitation shall be increased to three thousand four hundred (3,400) square feet.

Freestanding accessory structures, including but not limited to, communication towers or antennas shall be limited to a height of ten (10) feet less than distance to the nearest property line or shall be designed and engineered to collapse progressively within the distance between the tower and the property line.

## **SECTION 6. ACCESS DRIVES AND ACCESS**

Access drives onto County roads shall require a review and a permit from the County Engineer. The County Engineer shall determine the appropriate location, size and design of such access in the interest of public safety and efficient traffic flow. Access onto township roads shall be approved by the appropriate township board.

Access driveways to principal structures shall be constructed and maintained to a minimum ten (10) foot width and base material depth sufficient to support access by emergency vehicles.

Access driveways two hundred (200) feet in length or more shall be constructed with a driving surface of at least fourteen (14) feet in width.

Access drives cannot exceed fourteen (14) percent grade over any portion of the drive.

Access drives cannot be located on any slope exceeding thirty (30) percent.

Access driveways shall have a twenty (20) foot long flat grade directly adjacent to the road that driveway accesses.

All driveways shall be limited to a minimum fifty (50) foot radius curve if one is necessary.

**Sections 7-8 Omitted**

## **SECTION 9. DUMPING AND DISPOSAL OF RUBBISH**

- Subd. 1. The use of land for the dumping, disposal, or storage of scrap iron, metal, glass, unused appliances or machinery, junk, garbage, rubbish, or any other refuse, or of ashes, slag, or other industrial wastes or by-products is not permitted in any zoning district. All exterior storage not included as a part of a conditional use permit, or otherwise permitted by provisions of this Ordinance, shall be considered as rubbish.
- Subd. 2. The use of land for the dumping, disposal, or storage of demolition debris or construction materials is not permitted in any district unless the appropriate permits have been granted in accordance with the provisions of this Ordinance.
- Subd. 3. The dumping of dirt, sand, rock or other material excavated from the earth is permitted in any district provided the surface of such material is graded within a reasonable period of time, in a manner preventing the collection of stagnant water and which leaves the ground surface condition suitable for growing of turf or for other land uses permitted in the district.

## **SECTION 10. EXTERIOR STORAGE OF AUTOMOBILES**

In agricultural, commercial, 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 thereto a valid current motor vehicle license, or any portions thereof or parts therefrom, when such motor vehicle, portions thereof or parts therefrom are in a rusted, wrecked, partially dismantled or junked condition or in an inoperative or abandoned condition; and the owner of such motor vehicle, portions thereof or parts therefrom, and the owner and occupant of the premises upon which located shall be obligated to remove same to a duly licensed junk yard or other authorized place of deposit or storage.

## **Section 11 Omitted**

## **SECTION 12. SOIL EROSION AND SEDIMENT CONTROL**

The following standards shall apply to all development and activity that necessitates the grading, stripping, cutting, filling, or exposure of soils.

- Subd. 1.     Agriculture. Any land occupier of agricultural land shall be considered in compliance with this Ordinance if the occupier is using soil conservation practices approved by the Goodhue County Soil and Water Conservation District Board to prevent erosion and, under normal conditions, the occupier does not have rills, gullies, or sediment deposits, in the fields and the occupiers farming methods do not create erosion or sediment problems on adjoining properties.
- Subd. 2.     Woodland Activities. Land occupiers who use wooded land for pasture must ensure that proper management is used to prevent accelerated erosion or sedimentation due to over-grazing or cattle paths. Clearing woodland to convert the land to another use is prohibited without a permit and approval by the Zoning Administrator.
- Subd. 3.     Construction/Subdivision Activities. Any construction/ subdivision plan that will disturb over ten thousand (10,000) square feet shall submit to the Zoning Administrator a proposed erosion control plan as part of the overall plan. Any plan submitted to and approved by the MPCA, in conjunction with the construction, shall be considered as meeting this requirement.
- Subd. 4.     Complaints. Affected Goodhue County land occupiers and/or township, county, state, or federal officials may submit a complaint, verbal or written, against any land occupier alleging that accelerated erosion or sediment damage has occurred or is occurring.
- Subd. 5.     Action Initiated by Complaint. The Zoning Administrator, upon receipt of a complaint, shall request the Goodhue Soil and Water Conservation District Board to have an investigation made. A representative of the Township Board will arrange a meeting with the land occupier to determine whether an actual violation exists. The complainant will be notified of the time of the investigation and will be given the opportunity to be present when the investigation is conducted.

Within five (5) days of the investigation, the above committee will notify the Zoning Administrator whether an actual violation exists. The Zoning Administrator will then notify the violator by letter.

If a violation exists, the land occupied will be given thirty (30) days from the date of the letter to work up a suitable plan to correct the violation with the Soil and Water Conservation District Board representative on a voluntary basis. The plan will include the following:

- A.   Specific conservation management and/or structural practices to be implemented to bring the parcel of land in question to "T" or to control/correct the accelerated erosion or sedimentation.
  - B.   The deadline date when the practices will be completed.
  - C.   If the land occupier is unwilling or unable to develop a plan within thirty (30) days, the Soil and Water Conservation District representative will notify the Zoning Administrator of the situation and an evaluation of what practices will be required to bring the land into compliance with the Ordinance.
- Subd. 6.     Violation and Penalty. Refusal to comply with request for compliance with this Section shall be

subject to penalty under Article 5 of this Ordinance.

### **Sections 13-15 Omitted**

#### **SECTION 16. OFF-STREET LOADING AND UNLOADING REQUIREMENTS**

On the premises with every building, structure or part thereof, erected and occupied for manufacturing, storage, shopping center, laundry or other uses similarly involving receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the site adequate space for the required number of ten (10) foot by twenty-five (25) foot berths.

- Subd. 1. For Educational and Religious Uses. One (1) berth for each building containing ten thousand (10,000) square feet of gross floor area to two hundred thousand (200,000) square feet of gross floor area, plus one/each additional two hundred thousand (200,000) square feet of gross floor area.
- Subd. 2. For Health and Medical Institutions. One (1) berth for each building containing ten thousand (10,000) square feet to one hundred thousand (100,000) square feet plus one/each additional one hundred thousand (100,000) square feet.
- Subd. 3. Commercial. One (1) berth for each building containing forty thousand (40,000) square feet.
- Subd. 4. Industrial. One (1) berth for each building containing forty thousand (40,000) square feet. Two (2) berths each building containing forty thousand (40,000) square feet to one hundred thousand (100,000) square feet.

#### **SECTION 17. OFF-STREET PARKING REQUIREMENTS**

In all zoning districts, off-street parking facilities for the storage of self-propelled motor vehicles for the use of occupants, employees, and patrons of the buildings or structures hereafter erected, altered or extended after the effective date of this Ordinance shall be provided and maintained as herein prescribed.

- Subd. 1. In the case of a use not specifically mentioned, the requirements for off-street parking facilities for a use which is so mentioned and which said use is similar, shall apply.
- Subd. 2. Nothing in this Section shall prevent the extension of, or an addition to, a building or structure into an existing parking area which is required for the original building or structure when the same amount of space taken by the extension or addition is provided by an enlargement of the existing parking area.
- Subd. 3. The amount of required off-street parking space for new uses or buildings, additions thereto and additions to existing buildings as specified above, shall be determined in accordance with the following table, and the space so required, shall be stated in the application for a building and zoning permit and shall be irrevocably reserved for such use.

<u>Use</u>	<u>Required Parking Space</u>
One and two family dwellings or mixed Occupancy buildings.	Two (2) parking spaces for each dwelling unit; the area of which may include driveways.
Multiple dwellings or apartment houses,	One and one-half (1-1/2) parking spaces for each

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efficiency apartment or single family terrace dwelling.

dwelling unit.

Tourist homes, motels.

One (1) parking space for each guest or sleeping room or suite in a tourist home or motel, plus two (2) additional parking spaces for management and/or service personnel.

Hospitals, sanitarium, convalescent homes, homes for the aged or the aged or dormitory.

One (1) parking space for three (3) beds plus one (1) parking space for each two (2) employees.

Orphanage and institutions of a philanthropic and charitable nature and similar uses.

One (1) parking space for each ten (10) beds.

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Use

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Required Parking Space

Hotels

One (1) parking space for each two (2) guest rooms, plus one (1) additional space for each three (3) employees.

Fraternities, boarding and two rooming houses.

One (1) parking space for each guest bedroom, plus two (2) additional spaces for owner or management.

Libraries, museums, post offices, and other similar uses.

Provide about each building an improved area other than the front yard which shall be not less in size than two (2) times the floor space of the building.

Theaters and auditoriums other than incidental to a school.

One (1) parking space for each four (4) seats plus additional spaces equal in number to fifty (50) percent of the number of all employees of the theater.

Churches, auditoriums incidental to schools.

One (1) parking space for each four (4) seats in the main assembly unit.

Schools.

One (1) parking space for each two (2) employees (including teachers and administrators) plus sufficient off-street space for the convenient loading and unloading of students.

Dance halls, pool and billiard rooms, assembly halls and exhibition halls without fixed seats. Community centers, civic clubs, fraternal orders, union halls and similar uses.

One (1) parking space for each four (4) people allowed within the maximum occupancy load as established by the Fire Marshall.

Stadiums and sports arenas.

One (1) parking space for each four (4) seats.

Bowling alleys.

Six (6) parking spaces for each alley.

Mortuaries or funeral homes.

One (1) parking space for each fifty (50) square feet or floor space in the slumber rooms, parlors, or individual funeral service rooms.

Establishments for sale and consumption on the premises of alcoholic beverages, food or refreshments.

One (1) parking space for each one hundred (100) square feet of floor area, plus one (1) parking space for each two (2) employees.

Drive in restaurants and roadside stands.

One (1) parking space for each fifteen (15) square feet of ground floor area of the building.

Medical or dental clinics, banks,

One (1) parking space for each two hundred (200)

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business or professional offices.

square feet of floor area.

Drive in banks.

Four (4) parking spaces for each teller window and one (1) parking space for each two hundred (200) square feet of floor area.

Furniture and appliance stores, personal service shops, (not including beauty or barber shops), household equipment or furniture repair shops, clothing, shoe repair or service shops, whole-sale stores and machinery sales.

One (1) parking space for each five hundred (500) square feet of floor area.

Beauty parlors and barber shops.

Two (2) parking spaces for each barber and/or beauty shop chair.

Use

Required Parking Space

All retail stores, except as otherwise specified herein.

One (1) parking space for each two (2) of the maximum number of employees on duty at any one time, plus one (1) parking space for each of the maximum number of salesman on duty at any one time, plus one (1) parking space each for the owner and/or management on duty at any one time, plus two (2) parking spaces for each stall in a repair shop, plus one (1) parking space for each stall or service area or wash rack in a servicing repair shop.

Gasoline service stations.

One (1) parking space for each employee, plus (1) one parking space for the owner and/or management plus (2) two spaces for each grease rack, stall for servicing automobiles, or wash rack.

Industrial establishments, manufacturing, Research and testing research and testing laboratories, creameries, bottling works, printing and engraving shops, warehousing and storage buildings.

Provide about each establishment, an improved area in addition to the front yard, which shall be sufficient in size to provide adequate facilities for the parking of automobiles and other motor vehicles or employees or person doing business therein, such space shall not be less than one (1) parking space for each three (3) employees computed on the basis of the greatest number of persons to be employed at any one period during the day or night.

## **Sections Omitted**

### **SECTION 22. ADDITIONAL REQUIREMENTS, EXCEPTIONS, & MODIFICATIONS**

- Subd. 1. Except in the Wild and Scenic River District, height limitations set forth elsewhere in this Ordinance may be increased by one hundred (100) percent when applied to the following:
- A. Monuments.
  - B. Flag poles.
  - C. Cooling towers.
  - D. Grain elevators.
- Subd. 2. Except in the Wild and Scenic River District, height limitations set forth elsewhere in this Ordinance may be increased with no limitation when applied to the following:
- A. Church spires, belfries or domes which do not contain usable space.
  - B. Water towers.
  - C. Chimneys or smokestacks.
  - D. Essential service structures.
  - E. Wind generators when located in any agricultural district.
- Subd. 3. Yard requirements set forth elsewhere in this Ordinance may be reduced with no limitation when applied to the following:
- A. Essential service lines.
  - B. Essential service structures when required to be on line to ensure the proper functioning of the line.
- Subd. 4. Yard requirements set forth elsewhere in this Ordinance may be reduced as follows: Outside

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stairways, fire escapes, fire towers, porches, platforms, balconies, boiler flues, and other similar projections shall be considered as part of the building and not allowed as part of the required space for yards, courts or unoccupied space, provided, however, that this provision shall not apply to one (1) fireplace or one (1) chimney, not more than eight (8) feet in length and projecting not more than twelve (12) inches into the allowable yard space nor cornices not exceeding sixteen (16) inches in width nor to platforms, terraces steps below the first floor level, not to unenclosed projections not over one (1) story in height which may extend into a front or rear yard not more than ten (10) feet or into a side yard not more than eight (8) feet.

- Subd. 5. Sight Triangle. The required front yard of any lot shall not contain any wall, fence, or structure, tree or shrub, or other growth which may cause danger to traffic on the road or public road by obscuring the view; except, that this Subdivision shall not apply to agricultural crops.

### **SECTION 23. SITE DEVELOPMENT, LANDSCAPING, SCREENING, & GREENBELT REQUIREMENTS FOR BUSINESS AND INDUSTRIAL ZONING DISTRICTS**

To minimize adverse effects to adjoining properties and to promote orderly development as well as provide open space in harmony with the environment, the following requirements shall apply to all new, expanded or changes in commercial or industrial development. This shall be interpreted to include new construction or expansion of any building.

- Subd. 1. Prior to any construction work, the owner, developer or contractor shall submit to the Zoning Administrator, a detailed site development plan which shall include: property lines, complete plans for grading, drainage, landscaping, building location, dimension of all buildings, drive and access to public roadways, display and storage areas, and screening and greenbelts.
- Subd. 2. A minimum of five (5) percent of the total lot area shall be landscaped with grass cover and trees or shrubs. Grass area shall be no less than ten (10) feet in width and the spacing of trees thereon shall not be greater than fifty (50) feet.
- Subd. 3. When a zoning district which allows commercial, manufacturing, warehousing, and storage activities is located adjacent to any residential zoning district, a satisfactory greenbelt, as approved by the Planning Commission, shall be required.
- Subd. 4. Outdoor open storage areas except those areas for display of operative and well-kept items shall require a conditional use permit in accordance with the provisions of Article 4 of this Ordinance to determine appropriate location and type of screening or greenbelts.
- Subd. 5. All open areas of the lot shall be graded to provide adequate drainage to avoid collection of stagnant water, unnecessary runoff onto adjoining properties, or public roadways and to prevent soil erosion.
- Subd. 6. It shall be the responsibility of the owner or lessee to see that the lot area is maintained in a well kept condition, including regular maintenance and necessary replacement of plantings and compliance of all other provisions of this Section.
- Subd. 7. The Planning Commission may approve alternates to the above, provided the alternate is as effective as the provisions specified.

### **SECTION 24. ENVIRONMENTAL REVIEW PROGRAM**

- Subd. 1. Adoption by Reference of Certain Terms and Regulations for the Administration of the County Environmental Review Program. Pursuant to M.S.A. 394.25, Subdivision 8, the Goodhue County Board of Commissioners adopts by reference 6 MCAR 3.021 to 3.047, Rules for the Environmental Review Program and the terms used in M.S.A. 116D State Environmental Policy. Provisions of these rules and terms shall be as much a part of this Ordinance as if they had been set out in full herein when adopted by this reference.
- Subd. 2. Cost of Preparation and Review.
- A. Information to be Provided. The applicant for a permit for any action for which environmental documents are required, either by state law or rules by the County Board, shall supply in the manner prescribed by Goodhue County Zoning Administrator all non-

privileged data or information reasonably requested by the County that the applicant has in his possession or to which he has reasonable access.

- B. Environmental Assessment Worksheets. The applicant for a permit for any action for which an Environmental Assessment Worksheet (EAW) is required either by state law or rules or by the County Board shall pay all costs of preparation and review of the EAW, and upon the request of and in the manner prescribed by the Administrator shall prepare a draft EAW and supply all information necessary to complete that document.
- C. Environmental Impact Statement. The County and the applicant for a permit for any action for which an Environmental Impact Statement (EIS) is required shall comply with the provisions of the Rules Governing Assessment of Costs for Environmental Impact Statements one copy of which is on file in the office of the County Auditor, unless the applicant and the County Board provide otherwise by a written agreement.
- D. Payment of Costs. No permit for an action for which an EAW or an EIS is required shall be issued until all costs or preparation and review which are to be paid by the applicant are paid, and all information required is supplied, and until the environmental review process has been completed, as provided in this Ordinance, and the rules adopted by reference by this Ordinance, and pursuant to any written agreement entered into by the applicant for the permit or permits and the County Board under the provisions of Subd. 2.E of this Subdivision.
- E. Agreements Concerning Cost of Preparation and Review. The applicants for a permit for any action for which an EAW or EIS is required and the County Board may, in writing, agree as to a different division of the costs of preparation and review of any EAW or EIS as provided in 6 MCAR 3.042.

Subd. 3. Administration.

- A. The Zoning Administrator shall be the person for determining whether an action for which an EAW is mandatory under 6 MCAR 3.024. The Administrator shall also determine those proposed actions for which an optional EAW may be required under the provisions of this Ordinance and shall notify the Planning Commission and the County Board of these proposed actions.
- B. The Administrator shall be responsible for determining whether an action for which a permit is required is an action for which an EAW is mandatory under 6 MCAR 3.024. The Administrator shall also determine those proposed actions for which an optional EAW may be required under the provisions of this Ordinance and shall notify the Planning Commission and the County Board of these proposed actions.
- C. All EAWs and EISs shall be prepared under the supervision of the Administrator reviewed by the Planning Commission and reviewed and approved by the County Board.
- D. When reviewing an EAW or EIS, the Administrator and the Planning Commission may suggest design alterations which would lessen the environmental impact of the action. The County Board may require these design alterations to be made as a condition for issuing the permit when it finds that the design alterations are necessary to lessen the environmental impact of the action.
- E. After an EAW is prepared, the Planning Commission shall review the EAW and recommend to the County Board whether or not it should require the preparation of an EIS. The County Board shall require an EIS when it finds under 6 MCAR 3.025 that an action is major and has potential for significant environmental effects.

Subd. 4. Optional Environmental Assessment Worksheet. The County Board may, upon recommendation by the Administrator, require that an optional EAW be prepared on any proposed action if the action may be a major action and appears to have the potential for significant environmental effects. The following guidelines shall also be considered in determining whether an optional EAW shall be required:

- A. Is the action to be in or near an area that is considered to be environmentally sensitive or

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aesthetically pleasing?

- B. Is the action likely to have disruptive effects such as generating traffic and noise?
- C. Are there public questions or controversy concerning the environmental effects of the proposed actions?

Subd. 5. Enforcement and Penalty.

- A. No permit shall be issued for a project for which environmental documents are required until the entire environmental review procedures established by this Ordinance are completed.
- B. Any person who violates any provision of this Ordinance is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding seven hundred (700) dollars or imprisonment for ninety (90) days or both. Each day that the violation is permitted to exist constitutes a separate offense.
- C. No work shall commence and any work in progress on any project for which environmental documents are required shall cease until the environmental review procedures established by this Ordinance are fully complied with.

**SECTION 25. PRESERVATION OF FARMING PRACTICES**

It is the declared policy of this County to enhance and encourage agricultural operations within the County.

Where non-agricultural land uses extend into agricultural areas or exist side by side, agricultural operations may be the subject of private nuisance complaints that would result in the cessation or curtailment of operations. Such actions discourage investments in farm improvements to the detriment of adjacent agricultural uses and the economic viability of the County's agricultural industry as a whole.

It is the purpose and intent of this section to reduce the loss to the County of its agricultural resources by limiting the circumstances under which agricultural operations may be considered a nuisance.

Agricultural production that complied with all Goodhue County Ordinances, shall not be considered by this County as constituting a nuisance.

This Ordinance is not to be construed as in any way modifying or abridging the State law, rather, it is only to be utilized in the interpretation and enforcement of the provisions of this code and County regulations.

Subd. 1. **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. 2. **ESTABLISHED DATE OF OPERATION.** For the purposes of this section, the established date of operation shall be the date on which the agricultural operation commenced.

Subd. 3. **AGRICULTURAL OPERATION NOT A NUISANCE.** An agricultural operation which continues without interruption or change shall not become a private nuisance if the operation was not a nuisance at its established date of operation. The provisions of this subdivision do not apply:

- A. To a condition or injury which results from the negligent or improper operation of an agricultural operation or from operations contrary to commonly accepted agricultural practices.
- B. To applicable State or local laws, ordinances, rules or permits.
- C. When an agricultural operation causes injury or direct threat or injury to the health or safety of any person.

- D. To the pollution of, or change in the condition of, waters of the State or the water flow of waters on the lands of any person;
- E. To an animal feedlot facility of one thousand (1,000) or more animal units.

**Sections 26-31 Omitted**

## ARTICLE 12 BLUFF LAND PROTECTION

### **SECTION 1. INTENT AND PURPOSE**

Goodhue County recognizes the historic and economic values of the bluffs that line the many rivers and valleys of the County. These standards set out to protect and preserve the sensitive physical features of the bluffs by regulating development, preventing erosion and controlling the cutting of timber 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.

- Subd. 1.     **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 twenty (20) percent over a horizontal distance of fifty (50) feet shall not be considered part of the bluff.
- Subd. 2.     **BLUFF IMPACT ZONE.** All of the land lying between the top of the bluff and the toe of the bluff.
- Subd. 3.     **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 presented 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. 4.     **TOE OF THE BLUFF.** The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from gentler to steeper slope above. If no break in the slope is apparent, the toe of the bluff shall be determined to be the lowest end of the lowest fifty (50) foot segment that exceeds twenty (20) percent slope.
- Subd. 5.     **TOP OF THE BLUFF.** The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler slope above. If no break in the slope is apparent, the top of the bluff shall be determined to be the highest end of the highest fifty (50) foot segment that exceeds twenty (20) percent slope.
- Subd. 6.     **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.

### **SECTION 3. BOUNDARIES**

- Subd. 1. The bluff land protection area shall include all areas with the following soil types as determined by the Goodhue County Soil Survey:
- A. N634E - Massbach-Schapville complex, 18-35% slopes
  - B. N598E - Winneshiek-Waucoma complex, 18-35% slopes
  - C. N594E - Chelsea loamy sand, 12-35% slopes
  - D. N553E - Frankville-Nasset-Mt. Carroll complex, 18-35% slopes
  - E. N635E - Frankville-Nasset-Downs complex, 18-35% slopes
  - F. N642E - Frankville-Nasset complex, Oneota formation, 18-35% slopes
  - G. N609E - Hawick sandy loam, 18-45% slopes
  - H. M516E - Wangs-Wagen Prairie complex, 18-35% slopes
  - I. M537E - Meridian-Bassett complex, 18-35% slopes
  - J. N526F - Gale-Oak Center complex, 18-45% slopes
  - K. M540F - Frontenac-Bellechester complex, 18-45% slopes
  - L. N639F - Frontenac-Lacrescent complex, 20-45% slopes
  - M. N631E - Schapville silt loam, 18-35% slopes
  - N. N580G - Brodale, very flaggy-Bellechester-Rock outcrop complex, 45-90% slopes
  - O. N632G - Brodale, flaggy-Schapville complex, 18-80% slopes
  - P. N638G - Brodale, flaggy-Bellechester complex, 30-70% slopes
  - Q. N640G - Lacrescent, flaggy-Frontenac-Rock outcrop complex, 45-90% slopes
  - R. N641F - Brodale channery loam, 20-45% slopes, flaggy
  - S. N639G - Frontenac-Lacrescent complex, 30-70% slopes
  - T. M539F - Bellechester loamy sand, 18-45% slopes

### **SECTION 4. GENERAL REGULATIONS**

- Subd. 1. Developments and other land disturbing activities including: structures, accessory facilities (except stairways and landings), driveways, and parking areas shall not be placed within bluff impact zones.
- Subd. 2. Setback from top or toe of the bluff to any structure in any district shall be no less than thirty (30) feet.
- Subd. 3. The maximum height of any structure shall be twenty-five (25) feet from the highest natural grade touching foundation.
- Subd. 4. No person may begin a mining or quarrying activity or expand a 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 shall be located within one-fourth (1/4) mile of the bluff impact zone.
- Subd. 6. All stairways and lifts on bluffs and in shoreland areas shall be visually inconspicuous. Stairways and lifts shall meet the following design requirements:
- A. Stairways and lifts must not exceed four (4) feet in width on residential lots.
  - B. Landings for stairways and lifts on residential lots must not exceed thirty-two (32) square feet in area. Landings larger than thirty-two (32) square feet may be used for public open space recreational properties.
  - 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 must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming Summer, leaf on conditions, whenever practical.
  - F. Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of sub-items A-E are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.
- Subd. 7. No grading, excavating or filling (including Mineral Extraction) 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 Goodhue 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 qualified professional for continued slope stability, and approved by Land Use Management. 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 11, Section 7 of the Goodhue County Zoning Ordinance.

#### **Article 13- Omitted**

## ARTICLE 14 MINERAL EXTRACTION

### SECTION 1. PURPOSE

The purpose of this section is to protect the public health, safety and welfare through the following:

- Subd. 1. Identify areas in County where mineral extraction is most appropriate and minimizes conflicts with other land uses.
- Subd. 2. Establish permitting requirements, environmental review procedures and performance standards to regulate mineral extraction.
- Subd. 3. Establish standards that prevent or minimize environmental and aesthetic impacts on extracted properties, adjacent properties and the County as a whole.
- Subd. 4. Establish standards and financial guarantees that restore extracted land to a condition compatible with adjacent properties and suitable for future uses that are compatible with the Goodhue County Comprehensive Plan.

### SECTION 2. DEFINITIONS

- Subd. 1. **ACCESSORY USES:** Accessory uses of a mineral extraction facility include the manufacture, storage and sale of products made from minerals on the premises and storage and sale of minerals, recycled asphalt, recycled concrete and topsoil not extracted on the premises. In addition, the storage and manufacture of explosives may be permitted as an accessory use of a mineral extraction facility-subject to approval of a conditional use permit.
- Subd. 2. **COMPREHENSIVE PLAN:** The Goodhue County Comprehensive Plan.
- Subd. 3. **COUNTY:** The County of Goodhue, Minnesota.
- Subd. 4. **DEWATERING:** The pumping, extraction or removal of surface and subsurface water
- Subd. 5. **DUST:** Airborne mineral particulate matter.
- Subd. 6. **EXCAVATION:** The removal of soil and minerals from the ground.
- Subd. 7. **MINERAL RESOURCE:** Sand, gravel, rock, clay, topsoil, and similar higher density non-metallic natural minerals.
- Subd. 8. **MINERAL EXTRACTION:** The removal of sand, gravel, rock, clay, topsoil, and other minerals from the ground and off the site.
- Subd. 9. **MINERAL EXTRACTION FACILITY:** Any area that is being used for removal, stockpiling, processing, transferring, or storage of minerals.
- Subd. 10. **MINERAL EXTRACTION PERMIT:** The permit required for mineral extraction facilities.
- Subd. 11. **MINING TECHNICAL EVALUATION PANEL.** A panel of two or more professional experts in the fields of mining, engineering, geology, hydrology, ecology, and landscape architecture that are retained for the purpose of reviewing and evaluating mining proposals, requesting pertinent information necessary for the application review, and reporting findings to staff, the Planning Advisory Commission, and the County Board. The panel's fees and expenses shall be paid for by the applicant.
- Subd. 12. **OPERATOR:** Any person or persons, partnerships, or corporations or assignees, including public or governmental agencies, engaging in mineral extraction.
- Subd. 13. **PRINCIPAL USE:** The principal use of mineral extraction facility is the extraction, processing, storage and sale of minerals from the facility.

- Subd. 14. **PROCESSING:** Any activity which may include the crushing, screening, washing, stockpiling, compounding, mixing, concentrating, or treatment of sand, gravels, rocks, or similar mineral products into consumable products such as construction grade sand, gravel, concrete, asphalt, proppant, glass, or other similar products.
- Subd. 15. **RECLAMATION:** To renew land to self-sustaining long-term use which is compatible with contiguous land uses, present and future, in accordance with the standards set forth in this ordinance.
- Subd. 16. **SILICA SAND:** Round formed sand having a high percentage of silicon dioxide (quartz) found primarily in high concentration in the Jordan and St. Peter Geologic Formations.
- Subd. 17. **SOIL:** A natural three-dimensional body of the earth's surface.
- Subd. 18. **SUBJECT PROPERTY:** The land on which mineral extraction is permitted.
- Subd. 19. **TOPSOIL:** The upper portion of soils present that is the most favorable material for plant growth.
- Subd. 20. **ZONING ORDINANCE:** The Goodhue County Zoning Ordinance.

### **SECTION 3. EXCEPTIONS FROM PERMIT REQUIREMENTS**

A mineral extraction permit shall not be required for the following:

- Subd. 1. Excavation for structure if a building permit has been issued.
- Subd. 2. Excavation in a right-of-way, temporary easement, or utility corridor by state, county, city or township authorities in connection with construction or maintenance of public improvements.
- Subd. 3. Excavations not exceeding four hundred (400) cubic yards annually.
- Subd. 4. Excavation for agricultural purposes if the excavated material is not moved off-site.
- Subd. 5. Excavation for public utility purposes.
- Subd. 6. Temporary excavations involving mining operations associated with road construction, including borrow pits, used exclusively for public infrastructure construction projects.
- A. If the project is under the administration of a public entity and the contract requires erosion control, sediment containment and site restoration provisions must be in compliance with MPCA's NPDES General Storm Water Permit.
- B. Temporary borrow pits must be closed and restored within 24 months of the first date of work on the project.
- C. A reclamation plan as outlined in this ordinance as Map C must be submitted for approval by the Zoning Administrator prior to excavation. The Zoning Administrator may request appropriately licensed professionals to review the plan. Any costs for the plan review shall be paid for by the applicant. In addition, a financial security may be required.

### **SECTION 4. MINERAL EXTRACTION PERMIT REQUIRED**

- Subd. 1. Conditional/Interim Use Permits  
Owners and operators of any mineral extraction facility commencing on or after the adoption of this Ordinance shall obtain a conditional/interim use permit and shall be processed in accordance with Article 4 of this Ordinance and the additional procedures and requirements of this Article.

Subd. 2. Land Use Permits/Registration of Existing Mineral Extraction Facilities  
Existing mining extraction facilities shall not be required to obtain a conditional/interim use permit provided that the facility has been continuously registered with the County since July 2004 and provide the following information:

The following items shall be submitted to the Zoning Administrator:

- A. Name, address, phone number of contact person for the operator and landowner.
- B. Property boundaries by a Minnesota Licensed Land Surveyor.
- C. Existing structures.
- D. Existing drainage and permanent water areas.
- E. Existing vegetation.
- F. Existing wells and private sewer systems.
- G. Acreage and complete legal description of the subject property on which the facility is located, including all contiguous property owned by the landowners.
- H. A narrative outlining the type of material to be excavated mode of operation, estimated quantity of material to be extracted, plans for blasting, and other pertinent information to describe the existing Mineral Extraction Facility request in detail.
- I. Estimated time frame facility has been operated, to include hours per day, days per week, months per year, number of years in operation.
- J. A general description of surface waters, existing drainage patterns and groundwater conditions within one-quarter (1/4) mile of the subject property.
- K. Copies of all applicable state and federal application documents and operating permits, including but not limited to, MPCA permits, wetland permits, historical and archeological permits, storm water permits issue for the existing Mineral Extraction Facility.
- L. A description of site screening, landscaping, and security fencing.
- M. A description of the site hydrology and drainage characteristics during extraction for each phase of mineral extraction including plans to control erosion, sedimentation and water quality of storm water runoff.

Subd. 3. Setbacks and performance standards for Registered Mines existing prior to the adoption of the August 2012 mining ordinance shall be governed by the terms of their existing conditional use permits or other permits, prior zoning regulations and performance standards in existence at the time of their initial operation, but shall be obligated to conform to all health and safety standards.

Subd. 4. As a condition of registration (Section 6, Subd.2 of this Article), Goodhue County staff has the right to access the subject property after providing notice to the operator.

Subd. 5. Mineral extraction facility operation sites (including extraction, processing, stockpiling, roads), shall be limited to no more than forty (40) acres of exposed or uncovered ground at any one time.

Subd. 6. Any significant change (such as a change in the primary product excavated or processed, increase in noise, dust, hours of operation, blasting, etc.) to the operations or use of the land approved under a current existing registered mineral extraction facility permit shall require an amended conditional/interim use permit and all procedures shall apply as if a new permit were being issued.

Subd. 7. Mineral Extraction Facilities shall be prohibited within 1000 feet from Public Waters as defined in MS 103G.005 or to the limit of the floodplain of the Public Water whichever is greater, within the Bluffland Subsection area as defined in the Ecological Classification System defined by the Minnesota DNR.

**SECTION 5. CONDITIONAL/INTERIM USE PERMIT APPLICATION REQUIREMENTS FOR NEW MINERAL EXTRACTION FACILITIES**

Subd. 1. Application Form: An application for a mineral extraction permit shall be submitted to the County on a form supplied by the County. The required maps and application information shall include but not be limited to the following:

A. Site maps of the proposed operations will show the entire site (s) and include areas within 600 feet of the site. All maps shall be drawn at a scale of one-inch (1") to two hundred feet (200') unless otherwise stated below:

1. Map A- Existing site conditions to include:

- a. Property boundaries surveyed by a Minnesota Licensed Land Surveyor.
- b. A survey which provides contour lines at five (5) foot intervals.
- c. Existing vegetation including plant community, evaluation of condition of plant community, and dominate species.
- d. Existing structures.
- e. Existing pipelines, power lines and other utilities.
- f. Easements affecting the permitted property.
- g. Adjacent public road right-of-way.
- h. Existing access points to public roads.
- i. Existing Bluff Impact zones according to Article 12 of this ordinance.
- j. Test borings and monitoring wells used to characterize the site.
- k. Threatened and Endangered Species on the site and within ¼ mile of the site.
- l. Distribution, thickness and type of existing topsoil and subsoil.
- m. Location of existing historical, cultural, and archeological features identified in the SHPO and County's databases and those not identified but discovered onsite.
- n. Location of areas previously affected by mining on site, including location of stockpiles, wash ponds, and sediment basins.

**GEOLOGY**

- o. Geologic units and contacts.
- p. Depth to bedrock (if applicable).
- q. Confining units (clays, shale, siltstone).
- r. Fracture patterns and traces (for rock quarries).
- s. Location of any known caves, joints, fractures, sinkholes, stream sinks, and springs.

**HYDROLOGY**

- t. Drainage patterns and permanent water areas within 600 feet of the property lines.
- u. Water-table elevations with ground water flow direction.

- v. Wells within one mile radius of the property lines showing location, depth, static water level, age, and construction.
  - w. Location and elevation of any known springs within 600 feet of the property lines.
  - x. General location of septic systems within 600 feet of the property lines.
  - y. Location of designated trout streams within 600 feet of the property lines.
2. Map B – Proposed operations to include:
- a. Proposed boundaries of the mining extraction facility extents surveyed by a Minnesota Licensed Land Surveyor.
  - b. Vegetation protection plan for vegetation remaining on site.
  - c. Soil salvage plan, including storage areas, methods of protection from erosion, compaction and weeds.
  - d. Structures to be erected.
  - e. Location of sites to be mined showing depth of proposed excavation.
  - f. Location of tailing (strippings or overburden) deposits showing maximum height of deposits.
  - g. Location of processing areas and machinery to be used in the mining operation.
  - h. Location of storage of mined materials, showing height of storage deposits.
  - i. Location of vehicle parking.
  - j. Location of storage of explosives.
  - k. Location of fuel storage.
  - l. Erosion and sediment control structures.
  - m. Water retention ponds.
  - n. Drainage Plan including revisions to existing drainage patterns.
  - o. Proposed internal road system including typical cross sections.
  - p. Proposed new access points to adjacent public roads.
  - q. Proposed haul routes of vehicles removing material from the pit including current spring weight restrictions on the proposed routes.
3. Map C – Reclamation plan. The Reclamation Plan must take into account the Performance Standards listed in this Article in addition to:
- a. Property boundaries surveyed by a Minnesota Licensed Land Surveyor.
  - b. Final grade of proposed site showing elevations and contour lines at five (5) foot intervals.
  - c. Proposed land use after mining.
  - d. Location, species, rate, and density of vegetation to be seeded and planted.

- e. Location and nature of any structure to be erected in relation to the end use plan.
- f. Proposed improvements such as roads, paths, ponds, etc.
- g. Topsoil restoration plan.
- h. Rates, kinds, and location of soil amendments.
- i. Mulching, erosion control fabric, and other soil stabilization methods.
- j. Include the grading plans, topsoil protection and replacement, seeding, revegetation, mulching, erosion control, and sedimentation control specifications for each phase and final restoration.
- k. Including quantified performance standards for the reclamation and maintenance of each plant community to be restored. These shall be based on a minimum percent cover of acceptable vegetation, maximum percent cover of unacceptable vegetation, and minimum species diversity at reclamation milestones: 0-24 months, 2-5 years, 6 years or more after substantial completion. Acceptable and unacceptable vegetation shall be defined in the plan.

- B. Name, address, phone number, of contact person for the operator.
- C. Name, address, phone number of landowner.
- D. Acreage and complete legal description of the subject property, on which the facility will be located, including all contiguous property owned by the landowners.
- E. A narrative outlining the type of material to be excavated, mode of operation (including any screening, drying, and storage of material), estimated quantity of material to be extracted, plans for blasting, and other pertinent information to explain the request in detail.
- F. Estimated time frame to operate facility, to include hours per day, days per week, months per year, number of years in operation.
- G. A description of all vehicles and equipment estimated to be used by the operator in the operation of the facility.
- H. A description of the estimated average daily and peak daily number of vehicles accessing the facility. If more than one access to the pit is proposed to the Mineral Extraction facility, provide a breakdown of anticipated average daily and peak number of vehicles using each access.
- I. Any other information or documentation required for issuance of a conditional/interim use permit under Article 4 of this Ordinance.

Subd. 2. Supporting Documentation. Every application for a mineral extraction facility permit shall include submission of supporting documentation. The documentation must take into account the Performance Standards listed in this Article and may be presented in descriptive or map form. Supporting documentation shall include, but is not limited to the following:

- A. A description of existing land uses on the subject property.
- B. A description of land use designations in the Comprehensive Plan and zoning classifications of the subject property.
- C. A description of the soil, vegetation, mineral content and topography of the subject property. A minimum of three (3) soil boring logs representative of the site and a description of the subsurface materials on the subject property must be submitted.
- D. A general description of surface waters, existing drainage patterns and groundwater conditions within one-quarter (1/4) mile of the subject property.

- E. A general description of the depth, quantity, quality and intended uses of the mineral deposits on the subject property.
- F. Copies of all applicable state and federal application documents and operating permits, including but not limited to, MPCA permits, wetland permits (Minnesota Wetland Conservation Act and/or Corps. of Engineers), Historical and Archeological permits, Storm Water Permits, Mine Safety and Health Administration permits, and the required EAW for subject property over forty (40) acres.
- G. A description of the site hydrology and drainage characteristics during extraction for each phase of mineral extraction including plans to control erosion, sedimentation and water quality of storm water runoff.
- H. If there are any proposed changes to the existing drainage patterns, include proposed mitigation plans to control downstream off site damage caused by any increase to the natural flow of water or any diversion of the existing natural flow of water.
- I. A description of actions to be taken to mitigate potential impacts resulting from mineral extraction and processing, including potential impact related to; wetlands, erosion, noise, air pollution, surface water contamination, traffic, dust or vibrations.
- J. A description of site screening, landscaping and security fencing.
- K. A description of the method in which complaints about any aspect of the mineral extraction facility operation or off-site transportation are to be received and the method which complaints are to be resolved, such as neighbor notifications, meetings, or property value guarantees.
- L. A plan for groundwater quality protection. The plan shall include a minimum of three (3) borings showing depth to groundwater. If washing or processing are not proposed, and If groundwater is not encountered at a depth of fifteen (15) feet below the bottom of the proposed pit floor, the applicant need not extend borings any further. If washing/processing operation is proposed a minimum of three (3) monitoring wells shall be installed to evaluate the hydro-geologic environment. The County reserves the right to require additional borings or monitoring wells if necessary.
- M. A minimum of three (3) cross-sections showing the extent of overburden, extent of mineral deposits, the water table, and any evidence of the water table in the past.
- N. Description of methods to control the weight of the vehicles leaving the pit and the methods to insure vehicles do not travel on roads with weight limits lower than the weight of the vehicles.
- O. Description of methods to prevent mud and debris from being tracked onto public roads.
- P. If a mineral extraction facility proposes to dewater the site, a plan must be submitted that includes:
  - 1. dewatering points and their elevations
  - 2. hydro-geologic parameters of the unit dewatered including hydraulic conductivity, transmissivity, and storativity
  - 3. proposed volume and rate of dewatering
  - 4. discharge point
  - 5. duration of dewatering
- Q. Contingency Plans. A plan for responding to spills and berm/earthen dam failure, or accidental release of chemicals, process water, or tailings.

- R. Seismic Monitoring. If a mineral extraction facility proposes using explosives, a pre-blast survey performed by a Minnesota Licensed Engineer of surrounding dwellings and buildings within one half mile shall be conducted prior to initial blasting. Yearly seismic surveys will be offered and conducted by the applicant's engineer if blasting has occurred within the previous year.
- S. Description of site security and property boundary signage to be utilized at the facility.
- T. Map of the location of public schools, churches, campgrounds, nursing homes, and platted residential properties within one mile of the proposed Mineral Extraction Facility's property lines.
- U. Description of local public monies or subsidies anticipated to be used in the establishment, operation, monitoring, or reclamation aspects of the proposal.

Subd. 3. Additional Requirements for Underground Mining Extraction Facilities.

- A. A description of the stability of lands overlaying the underground workings.
- B. Locations of adits, ventilation shafts, and other surface openings.
- C. Detailed description of water handling procedures, including dewatering and processing water.
- D. A detailed description of the fate and transport of groundwater into and out of the mine workings.
- E. Residential and farm wells will be centered inside a 500 foot radius of undisturbed ground.
- F. Designs for mining under public roads require approval of the road authority.
- G. Mining or tunneling must maintain a 200 foot vertical extension setback from permanent surface structures.

Subd. 4. Permitting Procedure for Conditional/Interim Use Permits:

- A. Application. A request for a mineral extraction conditional/interim use permit, as provided within this Ordinance, shall be filed with the Zoning Administrator on an official application form, the required application fee shall be paid, and a deposit made to reimburse the County for its out-of-pocket costs in processing the application.
  - 1. The application shall also be accompanied by twenty (20) hard copies and one electronic copy of the detailed written and graphic materials fully explaining the proposed change, development, or use as specified in this Article.
  - 2. If a Mining Technical Evaluation Panel report is required, it must accompany the application in order for the application to be considered complete.
  - 3. The Zoning Administrator shall refer the application along with all related information, to the County Planning Advisory Commission for consideration.
- B. Notice. The Zoning Administrator shall notice a public hearing as specified in Section 3 of Article 4 of this Ordinance.
- C. Additional Information. The Planning Commission and County staff shall have the authority to request additional information from the applicant or to retain expert testimony with the consent and at the expense of the applicant if said information is declared to be necessary by the County to review the request or to establish performance conditions in relation to this Ordinance.

- D. Referrals. The Planning Commission, County staff, and County Board may refer the application for review and comment to other agencies, including but not limited to the Soil and Water Conservation District, the Minnesota Pollution Control Agency, or the Mining Technical Evaluation Panel.
- E. Recommendation. The Planning Commission shall make a finding of fact and recommend such actions or conditions relating to the request to the County Board. The County may impose such additional restrictions or conditions as deemed necessary to protect the public interest. These conditions may include, but are not limited to the following:
1. Matters relating to the appearance of the Mineral Extraction Facility.
  2. Hours of operation.
  3. Increasing setbacks.
  4. Blasting notifications and frequency.
  5. Limiting the height, size or location of buildings and stockpiles.
  6. Controlling the location and number of vehicle access points.
  7. Increasing street width and improving access conditions, including turn lanes, bypass lanes, etc.
  8. Increasing the number of required off street parking spaces.
  9. Limiting the number, size, location, or lighting of signs.
  10. Requiring diking, berming, fencing, screening, landscaping, or other facilities to protect adjacent or nearby property.
  11. Designating sites for open space.
  12. Delineating the area to be mined, total size and open area at any one time.
  13. Requiring phased reclamation.
  14. Requiring financial security to guarantee compliance with the conditions of approval.
  15. Water quality monitoring.
  16. On and off site improvements to mitigate impacts caused by revisions to the natural flow of surface waters.
  17. Requiring conditions that would mitigate silica sand ambient air particles from leaving the facility property.
- F. County Board's Action and Findings. The County Board shall approve, modify, or deny the request and state the findings of its actions. Approval of a Conditional Use/Interim Use Permit shall require passage by majority vote of the full County Board. The Zoning Administrator shall notify the applicant of the County Board's action.
- G. Reapplication/Lapse of Conditional Use Permit. The Board shall not accept reapplication for the same or substantially same Conditional/Interim Use Permit within six (6) months of denial.
- H. Amended Conditional/Interim Use Permit. Any change to the operations or use of the land approved under a current conditional use permit shall require an amended conditional/interim use permit and all procedures shall apply as if a new permit were being issued.

**SECTION 6. APPLICATION REQUIREMENTS FOR REGISTRATION/LAND USE PERMITS AND CONDITIONAL/INTERIM USE PERMITS**

- Subd. 1. Security. The County shall require the applicant or owner of the property on which the mineral extraction is occurring, to post a letter of credit, bond, or cash escrow in such form and sum as determined by the Board as part of the permit. The security shall be sufficient to reimburse the following costs:
- A. Costs of bringing the operation into compliance with the mineral extraction permit requirements including site monitoring and enforcement costs.
  - B. Extraordinary costs of repairing roads due to the special burden resulting from the hauling of materials and traffic associated with the operation.
  - C. Site restoration.
  - D. Costs the county may incur in enforcing the terms of the conditional use permit, and land use permit, including attorney's fees.
  - E. Bonds shall be for a minimum of one (1) year and shall include a provision for notification to the County at least thirty (30) days prior to cancellation or non-renewal.
- Subd. 2. Annual Registration. Annual registration of all mineral extraction facility permits is required. The purpose of the annual registration is to maintain an updated listing of active mineral extraction facilities in the County, to decertify any permits where the activity has ceased, to monitor compliance with the conditions of approval and to review the applicability of the conditions and to review bonding requirements
- A. Permit holders must complete and return registration forms provided by the County. Failure to maintain registration shall be cause for revocation of the permit. Other Goodhue County conditional/interim use permits may expire if there is no activity authorized under the permit within one (1) year of permit approval.
  - B. Conditional/Interim use permits and land use permits for mineral extraction facilities will not automatically expire because there is no activity as authorized with in a year's time as long as the permittee complies with the annual registration specified herein.
  - C. Annual registration is done administratively by the Zoning Administrator and will not require a review by the Planning Commission or the Board of Commissioners provided all conditions are being met and the activity meets all standards as outlined in this Ordinance, other permits, Road Impact Agreements, and Development Agreements.
  - D. For underground mineral extraction facilities, a map prepared by a Minnesota Licensed Land Surveyor showing the property boundaries, the location, depth, size, and elevation of the tunnels and extent of the area mined must be submitted with the annual registration fee.
  - E. Permit holders must show current proof of insurance coverage for the facility operations and property with each annual registration.
- Subd. 3. Use Restrictions. The following uses are prohibited unless specifically authorized in the mineral extraction permit:
- A. The following uses are prohibited unless specifically authorized in the mineral extraction permit:
    - 1. The production or manufacturing of veneer stone, sills, lintels, out flagstone, hearthstones, paving stone and similar architectural or structural stone, and the storing or stockpiling of such products on the site.
    - 2. The manufacture of concrete building blocks or other similar blocks permanent ready-mixed concrete, or permanent asphalt production plants and any similar production or manufacturing processes.

- B. The use of flocculants, such as acrylamides, or any known chemical that is considered to be a Contaminant of Concern (COC) as defined by the Environmental Protection Agency, is prohibited from use in the washing or processing of the mineral resource.

Subd. 4. Mineral Extraction Facilities Performance Standards. The following performance standards apply to all mineral extraction facilities in the County:

- A. Recommended Hours of Operation. Mineral extraction facilities shall operate only between the hours of 6:00 a.m. and 10:00 p.m., Monday through Saturday unless specified otherwise in the conditional use permit for the facility.
  - 1. Operators are allowed a maximum of five (5) one-day extensions to the hours of operation for evening work in a calendar year. Operators must notify the County three working days in advance of the proposed extension.
  - 2. Other exceptions to the hours of operation must be approved by the County Zoning Administrator. Approval may only be granted in conjunction with the furnishing of material for a public improvement, public safety or a public good project, that is underway during hours that the mineral extraction facility is not otherwise allowed to operate. Approval will be limited to those functions that cannot occur during normal hours of operation.
- B. Fencing. Fencing, signs, and barriers are required around ponding areas and steep sloped excavation areas unless, because of their location they are not deemed to create a safety hazard.
- C. Access. The permittee must obtain a permit from the road authority for all proposed new access points to public roads. The road authority may restrict the weight of vehicles allowed to use any permitted access.
- D. Roadway Dust Control. Operators shall be responsible for providing continuous dust control during facility operation on gravel roads that are the primary routes to or from a mineral excavation facility. Watering roadways or other dust control measures along paved roads accessing the facility such as pavement sweeping and wheel washing may be required.
- E. Mineral Extraction Facility Dust Control and Air Quality. To mitigate public nuisances and public health concerns the County shall require dust control in a mineral extraction facility.
  - 1. Remedies to control dust may include methods such as berming, landscaping, enclosures for processing equipment, and watering stockpiled materials and all roads within the site.
  - 2. All equipment used for mining operations shall be constructed, maintained, and operated in such a manner as to minimize, as far as practicable, dust conditions which are injurious or substantially annoying to persons living within six hundred feet (600') of the mineral extraction facility lot line.
  - 3. The County may require air quality/air particulate monitoring of a mineral extraction facility. Mineral Extraction Facilities that excavate, transfer, process or stockpile silica sand shall monitor air quality/air particulates as described herein. Monitoring equipment shall be in accordance with MPCA or the Goodhue County best practices standards, whichever are more stringent.
    - a. If required, the operator shall begin air quality/air particulate and weather monitoring at least six months prior to operation to create a baseline of the area.
    - b. Stationary monitors shall be located at strategic locations along the mineral extraction facility property lines, within the site, and may also be required to be located at neighboring residences within 600 feet of the facility's property lines.

- c. Continuous remote readings shall be taken and reported to the County when requested; a summary report shall accompany the operations annual renewal documentation and fees.
- F. Noise. Maximum noise levels at the facility will be consistent with the standards established by the Minnesota Pollution Control Agency. To mitigate public nuisances, the facility shall use County approved practices including building berms, enclosing generators, and leaving existing trees at the property boundaries to minimize noise impacts.
- G. Vibration. Operators shall use all practical means to eliminate adverse impacts on adjacent properties from vibration of equipment according to all Federal and State laws, rules and statutes.
- H. Blasting. Seismic blasting records shall be submitted to the Zoning Administrator within 10 days of receiving the blast analysis.
- I. Water Resources. The mineral extraction operation shall not allow surface water to leave the site in a manner that causes flooding, erosion, or alteration of natural drainage patterns. The mineral extraction operation shall not adversely affect the quantity and quality of surface or subsurface water. Surface water leaving the site shall be of equal quality as water originating off site before it passes through the site. The operator shall perform any water treatment necessary to comply with this provision.
- J. Screening. Screening barriers shall be subject to the approval of the permitting authority.
  - 1. To minimize problems of dust and noise and to shield mining operations from public view, a screening barrier may be required between the mining site and adjacent properties.
  - 2. A screening barrier may be required between the mineral extraction facility and any public road.
  - 3. A screening barrier may be required to mitigate visual impacts of the mineral extraction facility from existing historical, cultural, recreational features and dwellings, including but not limited to trails, navigable waters, and sites identified in the State Historic Preservation Office (SHPO) and County's cultural databases.
- K. Unauthorized Storage. Vehicles, equipment, or materials not associated with the mineral extraction facility or not in operable condition may not be kept or stored at the facility.
- L. Setbacks. The following minimum setbacks shall be maintained from property boundaries at the surface and their vertical extensions below the surface:
  - 1. No mining activities, (including stockpiling) shall take place within fifty (50) feet of adjoining property lines, except for visual screening, reclamation, and berming of overburden material unless by written consent of the owner of the adjoining property is first secured and recorded with the county recorder and a copy submitted to the Zoning Administrator.
  - 2. One thousand (1000) feet from any existing dwelling or platted residential subdivision, not owned by the operator or owner. The setback may be reduced down to three hundred (300) feet if written consent of the owner of the adjoining property is first secured, recorded with the county recorder and a copy submitted to the Zoning Administrator. This paragraph is not applicable for Mineral Extraction Facilities in operation before and has been used annually since a subdivision within 300 feet of the Mineral Extraction Facilities was platted.

3. Setbacks for new dwellings and new platted residential subdivisions shall be reciprocal unless the mineral extraction facility agrees to waive the setback by written consent and recorded with the county recorder and a copy of the recorded consent submitted to the Zoning Administrator.
  4. All Silica Sand Mineral Extraction Facilities shall be setback a minimum of one mile from R1, Suburban Residential Zoning Districts, incorporated cities and campgrounds.
  5. Fifty (50) feet to the boundary of any zone where such operations are not permitted.
  6. Fifty (50') feet of any road right-of-way line of any existing or platted street, road, or highway, unless written consent by the adjacent road authority with jurisdiction over right-of-way and a copy submitted to the Zoning Administrator.
  7. No mining activity shall take place within fifty (50) feet of any road right-of-way of any existing or platted street, road or highway, except for berm construction, vegetative screening, or maintenance activities unless by written consent of the adjacent road authority having jurisdiction over the right-of-way.
  8. Mineral extraction facilities must conform to shoreland and DNR regulated trout stream regulations. Setbacks from shoreland areas, trout streams, and other water resources such as sinks, springs, and seeps may be imposed based upon the proposal and potential risks to these areas.
  9. All Silica Sand Mineral Extraction Facilities shall be setback a minimum of one mile from the high water mark of the Mississippi.
  10. The Planning Commission or County Board may increase the setbacks based upon residential locations, social or economic concerns, type of mining, or to mitigate public nuisance concerns.
- M. Phasing. Phasing plans must be prepared for all mineral extraction facilities. The proposed size of the extraction, processing, staging, and stockpiling operations are to be identified. Size of each operation may be limited by the permit approving authority.
- N. Weed Control. The operators shall be required to control noxious weeds and mow or harvest other vegetation to maintain reasonable appearance of the site.
- O. Waste Disposal. Any waste generated from the mining operation, including waste from vehicle or equipment maintenance, shall be disposed of in accordance with Federal, State, and County requirements.
1. Portable asphalt and concrete plants to be approved on a per project basis by the permitting authority.
  2. An estimate of the amount of recycled concrete and asphalt material to be processed must be submitted. An estimate of the time required and the amount required to be stockpiled before being processed must be submitted.
- P. Water Quality Monitoring. Water Quality monitoring shall be performed when a mineral extraction facility meets any of the following:
1. Mining below the water table.
  2. If the property lines are within 600 feet of known Karst features, springs, streams, or lakes.
  3. If the operation is proposing to dewater the site.
  4. If the site is using chemicals as part of the washing or ponding process.

5. If otherwise required by the County Board or the MPCA.
  6. If mining silica sand.
  7. If a washing/processing operation is proposed a minimum of three (3) monitoring wells shall be installed to evaluate the hydro-geologic environment. The County reserves the right to require additional borings or monitoring wells if necessary.
  8. A Water Monitoring Plan shall include placing a sufficient number of monitoring wells in strategic locations along the property lines and within the site to adequately characterize and monitor surface and groundwater.
  9. Monitoring of residential wells within 600 feet of the property lines may also be required.
  10. Continuous remote readings shall be taken and reported to the County when requested; a summary report shall accompany the operations annual renewal documentation and fees.
- Q. General Compliance. The operators must comply with all other federal, state, regional, county, and local laws and regulations applicable to the operation of the mineral extraction facility, including but not limited to floodplain management regulations, shoreland management regulations, and Zoning Ordinance regulations.
- R. Additional Regulations. The County may impose additional regulations and requirements to the mineral extraction facility to protect the public health, safety, and welfare.
- S. Land Reclamation. The reclamation plan is a crucial component of this ordinance and shall follow Best Practices and approved plans. It is expected that reclamation will be occurring in phases and completed in step with the opening of new excavation areas of the facility.
1. Land shaping. For sand and aggregate facilities, final grades may not exceed one (1) foot vertical to three (3) feet horizontal slope except for rehabilitated areas in existence at the time of adoption of this Ordinance. In completing final grading in each phase, the top of the slope may begin twenty (20) feet from property lines. Proposed topography shall fit in with regional topography and mirror landforms typical of Goodhue County
  2. Soil restoration, vegetation, and stabilization.
    - a. If the restoration plan includes areas intended for plant growth, topsoil depth shall be replaced within two (2) inches of the original undisturbed depth, with a minimum thickness of 4-6 inches. If the land use following reclamation is intended for row crop agricultural production, a minimum topsoil thickness may need to be increased.
    - b. Seeding and mulching shall be consistent with approved plans, permits and Best Practices.
    - c. Soil restoration, seeding, and mulching must occur within each phase as soon as final grades, or interim grades identified in the phasing plans, have been reached.
    - d. Soil erosion and sedimentation control plans shall be submitted to the County and be consistent with MPCA's General Storm Water Permit and NPDES/SDS permits.
  3. Reclamation plan review. A comprehensive review of the reclamation plan is necessary to stay current with the progress of the facility, address issues, adjust financial securities, and incorporate current Best Practices. Reclamation plans may be required to be amended in order to address these concerns.
    - a. Reclamation plans will be reviewed after the first year of permitting, and as needed thereafter, yet no more than three years between the reviews.

- b. Site visits may be required as part of the review and evaluation.
  - c. As-built surveys, soil borings, or other testing may be required as part of the review to ensure phased reclamation is completed according to the approved or amended reclamation plan.
  - d. Amended reclamation plans may need to be reviewed by the Mining Technical Evaluation Panel.
  - e. Amended reclamation plans must be approved by the Planning Commission, or may be approved administratively if the changes are consistent with the overall final concept.
  - f. All final grades and restoration must be consistent with the approved and amended reclamation plans.
- 4. Within twelve (12) months after completion of mineral extraction or after termination of the permit, all equipment, vehicles, machinery, materials, and debris shall be removed from the subject property.
- 5. Site reclamation must be completed within twelve (12) months after completion of mineral extraction, after termination of the permit, or according to an approved plan schedule. Failure to annually register the mineral extraction facility will be considered termination of the mineral extraction facility and the twelve (12) month period begins.
- T. Best Practices. In order to protect the environment and the public's health, safety and welfare, applications shall incorporate Best Practice standards into the design, operation, and reclamation of Mineral Extraction Facilities. A list of Best Practice documents is available through the Zoning Administrator. The County reserves the right to update the list as appropriate.
- U. Violations and Penalties.
  - 1. Any firm, person or corporation who violates any of the provisions of these regulations shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine and/or imprisonment as provided by law. Each day that a violation is permitted to exist shall constitute a separate offense.
  - 2. In the event of a violation or threatened violation of any of the terms of this Ordinance, the County may take appropriate action to enforce this Ordinance, including exercising the performance bonds application for injunctive relief, action to compel performance, or other appropriate action to court if necessary to prevent, restrain, correct or abate such violations or threatened violations. Upon motion, the court may award costs, disbursements and reasonable attorney's fees and witness fees, which costs and fees can be assessed against the property.
- Subd. 5. Mineral Extraction Facilities may be required to enter into Road Impact and Development Agreements as conditions of their permit and registration.
  - A. Road Impact Studies and Agreements: When a proposed or amended Conditional/Interim Use Permit is requested, the County may require a Road Impact Study and a Road Impact Agreement to alleviate the additional burden on the County's financial resources associated with the road infrastructure maintenance affected by granting the request.
  - B. Development Agreements. When a proposed or amended Conditional/Interim Use Permit is requested, the County may require a Development Agreement.

## **SECTION 7. MINING TECHNICAL EVALUATION PANEL PROCEDURES.**

- Subd. 1 The members of the Mining Technical Evaluation Panel shall consist of two or more professional experts in the fields of mining, engineering, geology, hydrology, ecology, and landscape architecture.
- Subd. 2 The Zoning Administrator will advertise every five years, or as needed, for Request for Qualifications for the Mining Technical Evaluation Panel professionals. The Zoning Administrator shall maintain a list of qualified professionals from which to choose for evaluation of individual proposals. The Zoning Administrator will present the proposed list to the Planning Advisory Commission and County Board for review.
- Subd. 3 Mining Technical Evaluation Panel members must not have a pecuniary interest in the project, including any present financial relationship from the applicant company, or worked on the mineral extraction facility proposal and must disclose potential conflict of interest for each proposal they review.
- Subd. 4 When the Zoning Administrator determines that a proposal warrants a review by the Mining Technical Evaluation Panel, the applicant must submit the information required in Sections 5 and 6 of this Article to the Zoning Administrator to distribute to the Panel. The Zoning Administrator will assemble the Panel and distribute the material. The material shall also be distributed to the County engineer and SWCD staff.
- Subd. 5 The applicant shall respond to any questions or requests for more information or clarification from the Mining Technical Evaluation Panel in a timely manner.
- Subd. 6 The Mining Technical Evaluation Panel shall have 30 days after the material is distributed to review the proposal in accordance with this Article and report the results of their review. The report will be submitted to the Zoning Administrator and made part of the application.
- Subd. 7 If the Mineral Extraction Facility is excavating, stockpiling, processing, or transporting silica sand a Mining Technical Report shall be required.

Articles 15-18 omitted

## **ARTICLE 19 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. Two 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  
A-3, Agriculture/Urban Expansion  
R-1, Suburban Residence  
B-1, General Business  
B-2, Highway Business  
I, Industry  
WS, Wild and Scenic River  
CR, Commercial Recreational

#### **OVERLAY DISTRICTS**

FP, Floodplain  
S, Shoreland  
W, Wetland

### **SECTION 2. ZONING MAP**

The location and boundaries of the districts established by this Ordinance is 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 Goodhue Official Zoning Map accompanying and made a part of this Ordinance, unless otherwise shown, are the center line 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 Goodhue 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 shown on the Official Zoning Map, 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 elevations of the regional (100 year) flood profile and other available technical data.

### **SECTION 5. PERMITTED USES**

No structures, building or tract of land shall be devoted to any use other than a permitted use in the zoning district in which such structure, or tract of land shall be located, with the following exceptions:

*Amended October 2, 2007*

- Subd. 1. Conditional uses allowed in accordance with the provisions of this Ordinance.
- Subd. 2. Any structure which will, under this Ordinance, become non-conforming but for which a building permit has been lawfully granted prior to the effective date of this Ordinance and continues to completion within one year after the effective date of this Ordinance, shall be a non-conforming structure.
- Subd. 3. Normal maintenance of a building or other structure containing or related to a lawful non-conforming 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 or 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 zoning 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 20 A-1, AGRICULTURAL PROTECTION DISTRICT**

### **SECTION 1. PURPOSE**

This district is to maintain, conserve and enhance agricultural lands which are historically valuable for crop production, pasture land, and natural habitat for plant and animal life. This district is intended to encourage long-term agricultural uses and preserve prime agricultural farmland by restricting the location and density of non-farm dwellings and other non-farm land uses.

### **SECTION 2. PERMITTED USES**

- Subd. 1. Single family dwellings.
- Subd. 2. A second farm dwelling.
- Subd. 3. Any agriculture operation including tree farms.
- Subd. 4. Feedlots as regulated in Article 13.
- Subd. 5. Direct marketing of produce in a Farm Market/On-Farm Market/Roadside Stand in a retail structure not to exceed 2400 square feet in area.
- Subd. 6. Any mining, quarrying, excavating, or filling of land subject to the standards in Article 14 of this Ordinance.
- Subd. 7. Plant nurseries and sales.
- Subd. 8. Home occupations as regulated in Article 11 of this Ordinance.
- Subd. 9. Wind Energy Conversion Systems in accordance with Article 18 of this ordinance.
- Subd. 10. Farm Wineries in buildings up to 10,000 square feet subject to approval of a zoning permit by the Zoning Administrator (see Article 11, Section 28).

### **SECTION 3. CONDITIONAL USES AND INTERIM 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 4 of this Ordinance.

- Subd. 1. A mobile home as a temporary second dwelling when there is a need to provide health care services to residents of one of the dwellings.
- Subd. 2. Any aircraft landing field and associated facilities.
- Subd. 3. Any commercial outdoor recreation facilities including, but not limited to, golf courses, driving ranges, tennis courts, skiing, swimming pools, and park facilities.
- Subd. 4. Any community building, church, cemetery or memorial garden.
- Subd. 5. Any commercial radio and television towers and transmitters.
- Subd. 6. Any public, private or nursery school.
- Subd. 7. Any public stable.
- Subd. 8. Any raising of fur bearing animals or commercial kennel.
- Subd. 9. 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. 10. Commercial and industrial uses primarily intended to serve the agricultural community.
- Subd. 11. Any boarding and rooming houses or bed & breakfast inn as an accessory use.
- Subd. 12. Any veterinary clinic.
- Subd. 13. Junk/salvage reclamation yards.
- Subd. 14. Any migratory labor camp.
- Subd. 15. Any park or recreational area operated by a governmental agency.
- Subd. 16. Hunting club or shooting preserve.
- Subd. 17. Temporary or seasonal off-site roadside produce stands. No more than two (2) signs totaling fifty (50) square feet of sign area advertising the stand, shall be permitted. In addition, the structure shall be limited in size to two thousand (2,000) square feet.
- Subd. 18. Educational Farm Retreat.
- Subd. 19. Campground & RV site.
- Subd. 20. Wind Energy Conversion systems in accordance with Article 18 of this ordinance.
- Subd. 21. Non-Agricultural uses/activities associated with an agri-tourism (as defined in Article 10)
- Subd. 22. Direct marketing of produce in a Farm Market/On-Farm Market/Roadside Stand in a structure that exceeds 2400 square feet in area.
- Subd. 23. Farm Wineries in buildings exceeding 10,000 square feet (see Article 11, Section 28).

#### **SECTION 4. ACCESSORY USES AND STRUCTURES**

Accessory structures and uses customarily incidental to any of the above permitted uses shall be permitted when located on the same property. Accessory uses in the A-1 District shall include Agricultural Related Uses as defined in Article 10 of this ordinance subject to performance standards set forth in Article 11 of this Ordinance.

#### **SECTION 5. 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. Lot Size.
  - A. Dwelling shall be located on parcels containing a buildable area of not less than two (2) 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).
- Subd. 2. Density.
  - A. Four (4) single family dwellings per section unless additional dwellings are permitted by Sections 2 and 3 of this Article.
- Subd. 3. Yard Requirements. Every permitted, conditionally permitted dwelling, or accessory structure shall meet the following yard requirements:
  - A. Each lot shall have a minimum one hundred (100) feet at the building setback line and said width shall extend to an existing public road right-of-way line.

B. Front Yard of all Structures.

1. There shall be a minimum setback of sixty (60) feet from any right-of-way lines.
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.

C. Side and Rear Yard.

1. Rear and side yards shall be a minimum of thirty (30) feet. However, livestock buildings shall be subject to a side and rear yard setback of one hundred (100) feet.

Subd. 4. Bluff Impact Zone. For any use or structure in the A-1 District, the setback from the bluff impact zone shall be no less than thirty (30) feet.

Subd. 5. 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. 6. Exceptions. Certain uses are exempted from meeting the lot size, yard and height requirements. These exceptions are listed in Article 11, Section 22.

Subd. 7. No parcel or portion of any parcel created after the adoption of this Ordinance shall be less than one hundred (100) feet in width.

## **SECTION 6 GENERAL REGULATIONS**

Subd. 1. Each permanent dwelling shall be sited on a separately surveyed or described parcel.

Subd. 2. Any building in which the keeping of livestock, fur bearing animals, or dogs (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.

Subd. 3. All building, grading and development activities shall be reviewed with the goal of minimizing loss or disruption of "Prime Agricultural Soils" as identified in the Goodhue County Soil Survey (United States Department of Agriculture Web Soil Survey).

## **ARTICLE 21 A-2, AGRICULTURE DISTRICT**

### **SECTION 1. PURPOSE**

The purpose of this district is to maintain and conserve agricultural investments and prime agricultural farmland, but provide for a slightly higher density of dwellings than the A-1 District. This A-2 District is intended to apply to those areas where large farms and feedlots are more scattered and greater numbers of non-farm uses or small parcels are present. This district also has more topographic features and less prime farmland than the A-1 District.

### **SECTION 2. PERMITTED USES**

- Subd. 1. Single family dwellings.
- Subd. 2. A second farm dwelling.
- Subd. 3. Any agriculture operation including tree farms.
- Subd. 4. Feedlots as regulated in Article 13.
- Subd. 5. Direct marketing of produce in a Farm Market/On-Farm Market/Roadside Stand in a retail structure not to exceed 2400 square feet in area.
- Subd. 6. Any mining, quarrying, excavating, or filling of land subject to the standards of Article 14 of this Ordinance.
- Subd. 7. Plant nurseries and sales.
- Subd. 8. Home occupations as regulated in Article 11 of this Ordinance.
- Subd. 9. Wind Energy Conversion Systems in accordance with Article 18 of this Ordinance.
- Subd. 10. Farm Wineries including Tastings Rooms in buildings up to 10,000 square feet subject to approval of a zoning permit by the Zoning Administrator (see Article 11, Section 28).

### **SECTION 3. CONDITIONAL USES AND INTERIM USES**

In the A-2, Agriculture District, the following uses may be allowed subject to obtaining a conditional use permit in accordance with the provisions of Article 4 of this Ordinance.

- Subd. 1. A mobile home as a temporary second dwelling when there is a need to provide health care services to residents of one of the dwellings.
- Subd. 2. Any aircraft landing field and associated facilities.
- Subd. 3. Any commercial outdoor recreation facilities including, but not limited to, golf courses, driving ranges, tennis courts, skiing, swimming pools, and park facilities.
- Subd. 4. Any community building, church, cemetery or memorial garden.
- Subd. 5. Any commercial radio and television towers and transmitters.
- Subd. 6. Any public, private or nursery school.
- Subd. 7. Any public stable.
- Subd. 8. Any raising of fur bearing animals or commercial kennel.

- Subd. 9. Commercial and industrial uses primarily intended to serve the agricultural community.
- Subd. 10. Any boarding and rooming houses or bed & breakfast inn.
- Subd. 11. Campground and RV site.
- Subd. 12. Park manager's residence limited to one single family unit per any licensed campground or RV site regulated, consisting of thirty (30) or more campsites.
- Subd. 13. Any veterinary clinics.
- Subd. 14. Junk/salvage reclamation yards.
- Subd. 15. Any migratory labor camp.
- Subd. 16. Any park or recreational area operated by a governmental agency.
- Subd. 17. Hunting club or shooting preserve.
- Subd. 18. Temporary or seasonal off-site roadside produce stands. No more than two (2) signs totaling fifty (50) square feet of sign area advertising the stand shall be permitted. In addition, the structure shall be limited in size to two thousand (2,000) square feet.
- Subd. 19. Educational Farm Retreat.
- Subd. 20. Retreat Centers.
- Subd. 21. Wind Energy Conversion Systems as per Article 18 of this Ordinance.
- Subd. 22. Non-Agricultural uses/activities associated with an agri-tourism (as defined in Article 10).
- Subd. 23. Direct marketing of produce in a Farm Market/On-Farm Market/Roadside Stand in a retail structure that exceeds 2400 square (see Article 11, Section 29).
- Subd. 24. Farm Wineries including Tasting Rooms in buildings exceeding 10,000 square feet subject to approval of a zoning permit by the Zoning Administrator (see Article 11, Section 28)

#### **SECTION 4. ACCESSORY USES AND STRUCTURES**

Accessory structures and uses customarily incidental to any of the above permitted uses shall be permitted when located on the same property. Refer to Article 11, Section 5 for further regulations on Accessory Structures. Accessory uses in the A-1 District shall include Agricultural Related Uses as defined in Article 10 of this ordinance subject to performance standards set forth in Article 11 of this Ordinance

#### **SECTION 5. GENERAL DISTRICT REGULATIONS**

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

- Subd. 1. Lot Size.
  - A. All buildable parcels in this district shall contain an area not less than two (2) acres.
- Subd. 2. Density Requirements.
  - A. Twelve (12) single family dwellings per section unless additional dwellings are permitted by Sections 2 and 3 of this Article.
  - B. Any dwellings allowed by Subd. A. above shall be limited to one per 1/4, 1/4 section, except as allowed by Sections 2 and 3 of this Article.
- Subd. 3. Yard Requirements.

- A. Every permitted, conditionally permitted or accessory building shall meet the following yard requirements:
  - 1. Front Yard.
    - a. There shall be a minimum setback of sixty (60) feet from the right-of-way line of any public road or highway.
    - b. 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.
  - 2. Side Yard.
    - a. Every building shall have two (2) side yards. Each side yard shall have a minimum width of thirty (30) feet. However, livestock buildings shall be subject to a side yard setback of one hundred (100) feet.
  - 3. Rear Yard.
    - a. Every building shall have a rear yard. The rear yard shall have a minimum depth of thirty (30) feet. However, livestock buildings shall be subject to a side yard setback of one hundred (100) feet.
  - 4. Lot Width.
    - a. Each lot shall have a minimum of one hundred (100) feet at the building setback line and said width shall extend to an existing public road right-of-way line.
- Subd. 4. Bluff Impact Zone. For any use or structure in the A-2 District, the setback from the bluff impact zone shall be no less than thirty (30) feet.
- Subd. 5. Height Requirements. Every permitted, conditionally permitted or accessory building shall meet the following height requirements:
  - A. All permitted or conditionally permitted principal buildings shall not exceed thirty-five (35) feet in height.
  - B. Accessory buildings shall comply with regulations set forth in Article 11 of this Ordinance.

#### **SECTION 6. GENERAL REGULATIONS**

- Subd. 1. All building, grading and development activities shall be reviewed with the goal of minimizing loss or disruption of "Prime Agricultural Soils" as identified in the Goodhue County Soil Survey (United States Department of Agriculture Web Soil Survey).
- Subd. 2. Certain uses are exempted from meeting the lot size, yard and height requirements. These exceptions are listed in Article 11, Section 21.
- Subd. 3. Distances from feedlots, dwellings, churches, parks, and schools are listed in Article 13 of this Ordinance.
- Subd. 4. Each permanent dwelling shall be sited on a separately surveyed or described parcel.

## **ARTICLE 22 A-3, URBAN FRINGE DISTRICT**

### **SECTION 1. PURPOSE**

The intent of the A-3 District is to provide for urban expansion in close proximity to existing incorporated urban centers within Goodhue County in accordance with the Comprehensive Plan by conserving land for farming and other open space land uses for a period of time until urban services become available.

It is the intent that urban development be deferred in such areas until an orderly transition from farm to urban uses shall 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.

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 dwellings.
- Subd. 2. A second farm dwelling.
- Subd. 3. Any agriculture operation including tree farms.
- Subd. 4. Direct marketing of produce in a Farm Market/On-farm market/roadside stand in a retail structure not to exceed 2400 square feet.
- Subd. 5. Plant nurseries and sales.
- Subd. 6. Home occupations as regulated in Article 11 of this Ordinance.
- Subd. 7. Accessory structures and uses customarily incidental to any of the above permitted uses when located on the same property.
- Subd. 8. Wind Energy conversion Systems in accordance with Article 18 of this ordinance.
- Subd. 9. Farm Wineries including Tasting Rooms in buildings up to 10,000 square feet subject to approval of a zoning permit by the Zoning Administrator (see Article 11, Section 28).

### **SECTION 3. CONDITIONAL USES AND INTERIM USES**

In the A-3, Urban Fringe District, the following uses may be allowed subject to obtaining a conditional use permit in accordance with the provisions of Article 4 of this Ordinance.

- Subd. 1. Any commercial outdoor recreation facilities, including but not limited to, golf courses, driving ranges, tennis courts, swimming pools, and park facilities provided that any accessory building for these facilities in excess of five hundred (500) square feet shall be located not less than one hundred (100) feet from any lot line and not less than two hundred (200) feet from the nearest dwelling.
- Subd. 2. Any commercial outdoor recreation storage structure, the location and size of which shall be determined by the Planning Advisory Commission.
- Subd. 3. Any church, community building, or public or private school.

- Subd. 4. Hospitals and sanitariums, philanthropic or eleemosynary institutions except correctional institutions and animal hospitals.
- Subd. 5. Cemeteries and funeral homes.
- Subd. 6. Any boarding and rooming houses or bed & breakfast inn.
- Subd. 7. Any home occupation as regulated in Article 11 of this Ordinance.
- Subd. 8. Commercial uses primarily intended to serve the agricultural purposes.
- Subd. 9. Any park or recreational area operated by a governmental agency.
- Subd. 10. Any mining, excavating or filling of land subject to any of the above conditional uses when located on the same property.
- Subd. 11. Accessory structures and uses customarily incidental to any of the above conditional uses when located on the same property.
- Subd. 12. A mobile home as a temporary second dwelling when there is a need to provide health care services to residents of one of the dwellings.
- Subd. 13. Any public, private or nursery school.
- Subd. 14. Any public stable.
- Subd. 15. Any commercial radio and television towers and transmitters.
- Subd. 16. Campground and RV site.
- Subd. 17. Educational Farm Retreat.
- Subd. 18. Park Manager's residence limited to one single family unit per any licensed campground or RV site regulated, consisting of thirty (30) or more campsites.
- Subd. 19. Retreat Centers.
- Subd. 20. Any raising of fur bearing animals or commercial kennel.
- Subd. 21. Wind Energy Conversion systems in accordance with Article 18 of this ordinance.
- Subd. 22. Non-Agricultural uses/activities associated with an agri-tourism ((as defined in Article 10).
- Subd. 23. Direct marketing of produce in a Farm Market/On-farm market/roadside stand in a retail structure that exceeds 2400 square feet in area (see Article 11, Section 29).
- Subd. 24. Farm Wineries including Tasting Rooms in buildings exceeding 10,000 square feet (see Article 11, Section 28).

#### **SECTION 4. ACCESSORY STRUCTURES AND USES**

Accessory structures and uses customarily incidental to any of the above permitted uses shall be permitted when located on the same property. Refer to Article 11, Section 5 for further regulations on Accessory Structures. Accessory uses in the A-1 District shall included Agricultural Related Uses as defined in Article 10 of this ordinance subject to performance standards set forth in Article 11 of this Ordinance.

## **SECTION 5. GENERAL DISTRICT REGULATIONS**

Any lot in the A-3, Urban Fringe District on which any permitted or conditionally permitted use is erected shall meet the following minimum standards:

### **Subd. 1. Lot Area.**

- A. There shall be a minimum lot size of thirty-five (35) acres per principal building or use when not served by a public or centralized sewage collection and treatment system.
- B. Lot area shall meet the requirements in Article 23, Section 5, Subd. 1.B if served by a municipal sewage treatment system.
- C. Parcels with an existing dwelling as of June 5, 2012 which have 35 acres or more may be split provided the minimum lot size for the dwelling parcel must be at least 2 acres. All other requirements listed in Subdivisions 2, 3 and 4 of this Section would apply. Further development of dwellings on a parcel from which a dwelling site has been split shall be prohibited until such time as the Zone District Classification is changed.

### **Subd. 2. Yard Requirements.**

- A. Every permitted, conditionally permitted or accessory building shall meet the following yard requirements:
  - 1. Front Yard.
    - a. There shall be a minimum setback of sixty (60) feet from the right-of-way line of any public road or highway.
    - b. 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.
  - 2. Side Yard.
    - a. Every building shall have two (2) side yards. Each side yard shall have a minimum width of thirty (30) feet. However, livestock buildings shall be subject to a side yard setback of one hundred (100) feet.
  - 3. Rear Yard.
    - a. Every building shall have a rear yard. The rear yard shall have a minimum depth of thirty (30) feet. However, livestock buildings shall be subject to a side yard setback of one hundred (100) feet.
  - 4. Lot Width.
    - a. Each lot shall have a minimum of one hundred (100) feet at the building setback line and said width shall extend to an existing public road right-of-way line.

Subd. 3. Bluff Impact Zone. For any use or structure in the A-3 District, the setback from the bluff impact zone 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. All permitted or conditionally permitted principal buildings shall not exceed thirty-five (35) feet in height.
- B. Accessory buildings shall comply with regulations set forth in Article 11 of this Ordinance.

## **SECTION 5. GENERAL REGULATIONS**

Subd. 1. No new animal feedlots shall be established and expanding feedlots shall not exceed one hundred (100) animal units.

- Subd. 2. Each permanent dwelling shall be sited on a separately surveyed or described parcel.
- Subd. 3. All building, grading and development activities shall be reviewed with the goal of minimizing loss or disruption of "Prime Agricultural Soils" as identified in the Goodhue County Soil Survey (United States Department of Agriculture Web Soil Survey).

#### **SECTION 6. JOINT POWERS REVIEW**

All proposed developments 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 twenty (20) days prior to the scheduled appearance before the Planning Commission.

All review and comments by the affected entity to the Goodhue County Planning Commission shall be in writing.

## **ARTICLE 23 R-1, SUBURBAN RESIDENCE DISTRICT**

### **SECTION 1. PURPOSE**

The R-1, Suburban Residence District is intended to provide a district which will define and protect areas suitable for low to medium density residential development as the principal use of the land and to allow related facilities desirable for a residential environment. It is also intended that this district allow varying densities of development in accordance with the ability to provide water and sewer facilities.

### **SECTION 2. PERMITTED USES**

No building, structure or part thereof shall be erected, altered, used or moved upon any premises nor shall any land be used in whole or part for other than one or more of the following uses:

- Subd. 1. Any single, two, three, or four family dwelling, or residential subdivision subject to the provisions of Section 5, Subd. 9 of this Article.
- Subd. 2. Wind Energy Conversion Systems in accordance with Article 18 of this ordinance.

### **SECTION 3. CONDITIONAL USES AND INTERIM USES**

In the R-1, Suburban Residence District, the following uses may be allowed subject to obtaining a conditional use permit in accordance with the provisions of Article 4 of this Ordinance.

- Subd. 1. Any boarding and rooming houses or bed & breakfast inn.
- Subd. 2. Any church.
- Subd. 3. Any community building.
- Subd. 4. Any park or recreational area.
- Subd. 5. Any public school.
- Subd. 6. Mobile home parks subject to Goodhue County Department of Health Regulations & Article 16.
- Subd. 7. Any 3 horses on a minimum of 5 acre lot size.

### **SECTION 4. ACCESSORY USES**

Any following accessory use, building or structure customarily incidental to any permitted or conditionally permitted use shall be permitted, provided that such accessory use, building or structure shall be located on the same property.

- Subd. 1. Any home occupation.
- Subd. 2. Any private garages, either separated or in connected groups, having common unpierced dividing walls between contiguous private garages.
- Subd. 3. Any temporary buildings for uses incidental to construction work, which buildings shall be removed upon completion or abandonment of such construction work.
- Subd. 4. Any other accessory building, structure or use customarily incidental to the permitted or conditionally permitted uses of this Article.

## **SECTION 5. LOT SIZE, SETBACK, YARD AND HEIGHT REQUIREMENTS**

Any lot in an R-1, Suburban Residence District on which any permitted or conditionally permitted use is erected shall meet the following minimum standards:

Subd. 1. Lot Size, Width and Depth.

- A. Any lot on which a permitted residential use is erected shall contain twenty thousand (20,000) square feet of area per dwelling unit and shall have a minimum width of one hundred (100) feet at the building setback line and a minimum depth of one hundred twenty-five (125) feet when such use is served by private sewer and water systems.
- B. Any lot on which a permitted residential use is erected shall contain six thousand (6,000) square feet of buildable area per dwelling unit and shall have a minimum width of one hundred (100) feet at the building setback line and a minimum depth of one hundred twenty-five (125) feet when such use is served by a municipal sewage treatment system.

Subd. 2. Yard Requirements. Every permitted, conditionally permitted, or accessory building shall meet the following yard requirements:

A. Front Yard.

- 1. There shall be a minimum setback of forty (40) feet from the right-of-way line of any public road or highway; except that, this setback may be reduced to twenty-five (25) feet when such public road is a minor street serving only a residential subdivision.
- 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.

B. Side Yard. Every building shall have two (2) side yards. Each side yard shall have a minimum width of eight (8) feet.

C. Rear Yard. Every building shall have a rear yard. The rear yard shall have a minimum depth of eight (8) feet.

Subd. 3. Bluff Impact Zone. For any use or structure in the R-1 District, the setback from the bluff impact zone 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. All permitted or conditionally permitted principal buildings shall not exceed thirty-five (35) feet in height.
- B. Accessory buildings shall comply with regulations set forth in Article 11, Section 5 of this Ordinance.

Subd. 5. No accessory building shall be constructed or developed on a lot prior to the construction of the principal building.

Subd. 6. Lot Coverage. No principal building together with its accessory buildings shall occupy more than twenty (20) percent of the total lot area.

Subd. 7. Substandard Lots of Record. When contiguous and under identical ownership, must be combined to meet minimum standards of this Ordinance in order that any permitted or conditionally permitted use is allowed on such lot or lots.

Subd. 8. Exceptions. Certain uses are exempted from meeting the lot's size, yard and height requirements. These exceptions are listed in Article 11.

- Subd. 9. Distance from Confined Feedlots. No residential use including residential subdivisions shall be sited within one-quarter (1/4) mile of an existing confined feeding operation of less than three hundred (300) animal units, or within one-half (1/2) mile of an existing confined feeding operation of more than three hundred (300) animal units.

#### **SECTION 6. GENERAL REGULATIONS**

- Subd. 1. Additional requirements for parking regulations in the R-1, Suburban Residence District are set forth in Article 11 of this Ordinance.

## **ARTICLE 24 B-1, GENERAL BUSINESS DISTRICT**

### **SECTION 1. PURPOSE**

The B-1, General Business District is intended to encourage the concentration of a broad range of individual commercial establishments into an area of general commercial activity serving the daily staple needs of the people in surrounding rural areas. It is further intended that the B-1 District be used to expand the commercial areas in already established unincorporated urban areas.

### **SECTION 2. PERMITTED USES**

In the B-1, General Business District, no building, structure or part thereof shall be erected, altered, used or moved upon any premises nor shall any land be used in whole or part for other than one or more of the following uses:

- Subd. 1. Smaller retail stores, under 40,000 square feet in floor area, primarily engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of such merchandise.
  - A. Any grocery store, meat market, supermarket, fruit market, or bakery.
  - B. Any drug store, apparel shop or store, hardware store, bookstore, stationary store or flower shop.
  - C. Any automotive service station.
- Subd. 2. Personal services generally involving the care of the person or his personal effects.
  - A. Any cleaning or laundry establishment, self-service laundry including any pressing, cleaning or garment repair.
  - B. Any dressmaking, millinery, tailor shop or shoe repair shop.
  - C. Any beauty shop or barber shop.
  - D. Any photographic studio.
  - E. Any eating or drinking establishment.
- Subd. 3. Administrative, Business or Professional Office.
  - A. Any bank or savings and loan institution.
  - B. Any insurance or real estate agent or broker.
  - C. Any professional office; including any physician, dentist, chiropractor, engineer, architect, lawyer, or recognized profession.
- Subd. 4. Any residence when included as an integral part of the principal building to be occupied by the owner or employee.
- Subd. 5. Wind Energy Conversion Systems in accordance with Article 18 of this ordinance.

### **SECTION 3. CONDITIONAL USES AND INTERIM USES**

In the B-1, General Business District, the following uses may be allowed subject to obtaining a conditional use permit in accordance with the provisions of Article 4 of this Ordinance.

- Subd. 1. Any commercial radio and television towers, transmitters, or receivers.
- Subd. 2. Entertainment and recreation establishments.
  - A. Any theater, dance hall, bowling alley, pool or billiard hall.
- Subd. 3. Convenience service stores that sell petroleum products, groceries, deli foods or movie rentals.
- Subd. 4. Larger retail stores, 40,000 square feet or over in floor area, engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of such merchandise.
- Subd. 5. Any Church.
- Subd. 6. Wind Energy Conversion Systems in accordance with Article 18 of this ordinance.

### **SECTION 4. COMMERCIAL DEVELOPMENT STANDARDS**

Uses established in the B-1, General Business District shall be operated subject to the following conditions:

- Subd. 1. Any store or business shall be conducted entirely within a building.

### **SECTION 5. ACCESSORY USES**

In the B-1, General Business District, any following accessory use, building or structure customarily incidental to any permitted or conditionally permitted use shall be permitted, provided that such accessory use, building or structure shall be located on the same property.

- Subd. 1. Any building or use customarily necessary to any permitted use, which may include the repair, alteration, finishing assembly, or storage of goods.
- Subd. 2. Any building or use customarily necessary to any permitted uses, but which will not be detrimental either by reason of odor, smoke, noise or vibration to the surrounding neighborhood.
- Subd. 3. Any temporary building for uses incidental to construction work provided that such building shall be removed upon the completion of the construction work.

### **SECTION 6. LOT SIZE, SETBACK, YARD AND HEIGHT REQUIREMENTS**

Any lot in a B-1, General Business District on which any permitted or conditionally permitted use is erected shall meet the following minimum standards:

- Subd. 1. Lot Size and Width. Any lot used as a business shall have an area sufficient in size to provide an adequate and safe water supply and sewage disposal system as established by standards required by State or County Health Regulations, but shall not be less than five thousand (5,000) square feet in area and have a frontage of not less than fifty (50) feet.
- Subd. 2. Yard Requirements. Every permitted, conditionally permitted or accessory building shall meet the following yard requirements:

A. Front Yard.

1. A front yard of not less than forty-five (45) feet shall be provided as measured from the street right-of-way line.
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.

B. Side Yard.

1. No side yard shall be required for any interior lot.
2. For corner lot abutting any agricultural or residential district, a minimum side yard of forty-five (45) feet shall be required.

C. Rear Yard. A rear yard of not less than twenty (20) feet shall be required; where alleys exist, the measurements of the rear yard may include one-half ( $\frac{1}{2}$ ) the width of the alley.

Subd. 3. Bluff Impact Zone. For any use or structure in the B-1 District, the setback from the bluff impact zone shall be no less than thirty (30) feet.

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

- A. Any building shall not exceed thirty-five (35) feet in height.

Subd. 5. Exceptions. Certain uses here exempted from meeting the lot size, yard and height requirements. These exceptions are listed in Article 11, Section 22.

## **SECTION 7. ESSENTIAL SERVICES REGULATIONS**

Essential service facilities may be allowed in any B-1, General Business District in accordance with the provisions of Article 15 of this Ordinance.

## **SECTION 8. GENERAL REGULATIONS**

Additional requirements for parking and other regulations in the B-1, General Business District are set forth in Article 11 of this Ordinance.

## **ARTICLE 25 MIXED USE HAMLET (MXH) ZONE DISTRICT**

### **SECTION 1. PURPOSE**

The Mixed Use Hamlet Zone District establishes a zoning district to allow a mix of residential, public and commercial land uses to co-exist within the same zone district. This district is intended to be applied to “historic” hamlets in the rural areas of Goodhue County where homes, apartments, condominiums, commercial buildings and public land uses are currently present. This District establishes regulations that better recognize the mix of land uses that have historically co-existed in hamlets throughout the County. It is not the intent of this District to create new areas to be developed as hamlets where a rural settlement does not currently exist.

The following areas that will be considered eligible for this zone are the existing historical communities of: Welch (in Section 28, T113N, R16W); Vasa (in Section 15, T112N R16W); White Rock (in Section 32, T112N R16W); Stanton (in Section 30, T112N R18W); and Frontenac Station (in Section 15, T112N R13W).

### **SECTION 2. Initiating Zoning Map Amendments to the MXH DISTRICT**

The ability to implement a more flexible approach in regulating land use as established in this Article will require cooperation between Townships where MXH Districts may be established and Goodhue County. It is essential that Township and County Officials work closely to identify hamlets or portions of hamlets that lend themselves to the establishment of an MXH District.

- Subd. 1. The initial application to consider an amendment to the Goodhue County Zoning Map for a change of zone of property to the MXH District may be initiated only by a Goodhue County Township or by the County.
- Subd. 2. Prior to establishment of an MXH District, existing land use for each parcel of property to be included in the MXH District must be documented. Documentation of existing land use shall include a listing of land use(s) for each tax parcel, which include a description of the use, a map, and photographs which identify existing buildings along with a description of how each building is currently being used. The purpose of documenting existing land use of property and buildings is to ensure there is understanding of how properties within a proposed MXH Zone District are being used at the time of change of zone.
- Subd. 3. Change in the use of land and/or building(s) to a different use as established by Section 3 of this Article shall require a Conditional Use Permit (CUP).

### **SECTION 3. PERMITTED USES**

- Subd. 1. None.

### **SECTION 4. CONDITIONAL USES AND INTERIM USES**

Residential, business and/or public land uses may be permitted on the same parcel of property in separate buildings or in the same building subject to compliance with the State Building Code. Any change in land use from those documented in the initial establishment of the MXH District shall be required to obtain a Conditional Use Permit (CUP). The intent of requiring issuance of a CUP for any change in land use on a given parcel(s) within the MXH District is to ensure that abutting and nearby property owners have an opportunity to hear about a proposed change in use and to offer comments that may impact conditions for approval or establish a basis for denial.

In the MXH, Mixed Use Hamlet District, the following uses may be allowed subject to obtaining a

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conditional use permit in accordance with all of the pertinent provisions of this Ordinance.

- Subd. 1. Any boarding and rooming houses or bed & breakfast inn.
- Subd. 2. Any church.
- Subd. 3. Any community building including but not limited to Township Halls, Post Offices, Community Centers and Libraries.
- Subd. 4. Any park or recreational area.
- Subd. 5. Any public school.
- Subd. 6. Entertainment and recreation establishments.
  - A. Any theater, dance hall, bowling alley, pool or billiard hall.
- Subd. 7. Any single, two, three, or four family dwelling, or residential subdivision subject to the provisions of Section 7, of this Article.
- Subd. 8. Retail uses, professional offices, and personal or professional services in buildings. See Section 7 and 8 of this Article for development standards.
- Subd. 9. Any home occupation.
- Subd. 10. Wind Energy Conversion Systems in accordance with Article 18 of this ordinance.

## **SECTION 5. COMMERCIAL DEVELOPMENT STANDARDS**

Uses established in the MXH (Mixed Use Hamlet) District shall be operated subject to the following conditions:

- Subd. 1. Any store or business shall be conducted entirely within a building.
- Subd. 2. Requirements as listed in Article 11, Section 23.
- Subd. 3. The size of commercial or mixed use buildings shall be determined during the conditional use review process based upon the following criteria:
  - a. Amount of available site area;
  - b. Size of structures located on nearby properties;
  - c. Compatibility of design of proposed structure(s) with other structures located within the hamlet.

## **SECTION 6. ACCESSORY USES**

In the MXH, Mixed Use Hamlet District, any following accessory use, building or structure customarily incidental to the conditionally permitted use shall be allowed, provided that such accessory use, building or structure shall be located on the same tax parcel.

- Subd. 1. Any home occupation.
- Subd. 2. Any private garages either separated or in connected groups, having common un-pierced dividing walls between contiguous private garages.
- Subd. 3. Any temporary buildings for uses incidental to construction work, which

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buildings shall be removed upon completion or abandonment of such construction work.

Subd. 4. Any other accessory building, structure or use customarily incidental to the conditionally permitted uses of this Article.

Subd. 5. Any such accessory building or use must not be detrimental either by reason of odor, smoke, noise or vibration to the surrounding neighborhood.

#### **SECTION 7. LOT SIZE, SETBACK, YARD AND HEIGHT REQUIREMENTS**

Any lot in an MXH, Mixed Use Hamlet District on which any conditionally permitted use is erected shall meet the following minimum standards:

Subd. 1. Lot Size, Width and Depth.

- A. Any lot used as a business, residential or for public use shall have an area sufficient in size to provide an adequate and safe water supply and sewage disposal system as established by standards required by State or County Health Regulations
- B. Lot size, depth and width requirements for business, residential or public uses shall be determined during the conditional use permit review process and shall be based on the following criteria:
  - a. Relationship to the size and width of nearby properties.
  - b. Ability to meet parking, access, open space and storm water management needs.

Subd. 2. Yard Requirements. Every conditionally permitted, or accessory building shall meet the following yard requirements:

A. Front Yard.

- 1. There shall be a minimum setback of forty (40) feet from the right-of-way line of any public road or highway; except that, this setback may be reduced to twenty-five (25) feet when such public road is a minor street serving only a residential subdivision. In situations where the setbacks of structures on abutting properties and/or on the same block are less than the above referenced standards, the front yard setback may be determined based upon an average setback distance as determined by the Zoning Administrator.
- 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.

B. Side Yard. Every building shall have two (2) side yards, except attached residential dwelling units or attached commercial buildings which may be permitted at zero lot line. Each side yard shall have a minimum width of eight (8) feet.

C. Rear Yard. Every building shall have a rear yard. The rear yard shall have a minimum depth of eight (8) feet.

Subd. 3. Bluff Impact Zone. For any use or structure in the MXH District, the setback from the bluff impact zone shall be no less than thirty (30) feet.

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- Subd. 4. Height Requirements. Every conditionally permitted or accessory building shall meet the following height requirements:
- A. All permitted or conditionally permitted principal buildings shall not exceed thirty-five (35) feet in height.
  - B. Accessory buildings shall comply with regulations set forth in Article 11, Section 5 of this Ordinance.
- Subd. 5. No accessory building shall be constructed or developed on a lot prior to the construction of the principal building.
- Subd. 6. Lot Coverage.
- A. No principal building for a residential land use together with its accessory buildings shall occupy more than twenty (20) percent of the total lot area.
  - B. No principal building together with its accessory buildings for a commercial or public land use shall occupy more than eight (80) percent of the total lot area.
- Subd. 7. Substandard Lots of Record. When contiguous and under identical ownership, must be combined to meet minimum standards of this Ordinance in order that any permitted or conditionally permitted use is allowed on such lot or lots.
- Subd. 8. Exceptions. Certain uses are exempted from meeting the lot's size, yard and height requirements. These exceptions are listed in Article 11 Section 22.
- Subd. 9. Distance from Confined Feedlots. No residential use including residential subdivisions shall be sited within one-quarter (1/4) mile of an existing confined feeding operation of less than three hundred (300) animal units, or within one-half (1/2) mile of an existing confined feeding operation of more than three hundred (300) animal units.

## **SECTION 8. GENERAL REGULATIONS**

- Subd. 1. Additional requirements for parking regulations in the MXH, Mixed Use Hamlet District are set forth in Article 11 of this Ordinance.

## **SECTION 9. ESSENTIAL SERVICES REGULATIONS**

Essential service facilities may be allowed in any MXH, Mixed Use Hamlet District in accordance with the provisions of Article 15 of this Ordinance.

## **ARTICLE 26B-2, HIGHWAY BUSINESS DISTRICT**

### **SECTION 1. PURPOSE**

The B-2, Highway Business District is intended for major retail, service and repair establishments serving a large trade area, usually the entire County or beyond and oriented to the traveling public. The trade area population served by these establishments requires easy access, although patronage is more dispersed and visits to these establishments less frequent than in the B-1 District. It is the intent of the B-2 District regulations that establishments desiring location along major traffic routes be grouped with appropriate and adequate access ways provided.

### **SECTION 2. PERMITTED USES**

In the B-2, Highway Business District, no building, structure or part thereof shall be erected, altered, used or moved upon any premises nor shall any land be used in whole or part for other than one or more of the following uses:

- Subd. 1. Motor vehicle and implement sales and service.
  - A. Any automobile sales or services, car wash, trailer sales or service, auto repair garage, or automobile rental.
  - B. Any motor fuel station.
  - C. Any agricultural equipment sales or service.
  - D. Any truck sales or service, truck wash or truck repair garage.
- Subd. 2. Entertainment and Recreation Establishments.
  - A. Any theater, dance hall, bowling alley, pool or billiard hall, public swimming pool, roller or ice rink.
- Subd. 3. Drive-In Establishments.
  - A. Any drive-in establishment including banks and restaurants.
- Subd. 4. Retail or Wholesale Establishments.
  - A. Any building supply sales.
  - B. Any boat sales or repair.
  - C. Any eating or drinking establishment.
  - D. Any landscape nursery or commercial greenhouse.
  - E. Any motel.
  - F. Any shopping center.
  - G. Any assembly of previously prepared materials which have been manufactured elsewhere.
- Subd. 5. Any residence when included as an integral part of the principal building to be occupied by the owner or his employee.
- Subd. 6. Wind Energy Conversion Systems in accordance with Article 18 of this ordinance.

### **SECTION 3. CONDITIONAL USES AND INTERIM USES**

In the B-2, Highway Business District the following uses may be allowed subject to obtaining a conditional use permit in accordance with the provisions of Article 4 of this Ordinance.

- Subd. 1. Any commercial radio and television towers, transmitters, or receivers.
- Subd. 2. Bed & Breakfast Inn.
- Subd. 3. Any Church.
- Subd. 4. Wind Energy Conversion Systems in accordance with Article 18 of this ordinance.

### **SECTION 4. COMMERCIAL DEVELOPMENT STANDARDS**

Uses established in the B-2, Highway Business District shall be operated subject to the following conditions:

- Subd. 1. Any business, except motor fuel stations and open automobile or trailer sales, display areas or rental areas shall be conducted entirely within a building.
- Subd. 2. Any public entrance to such store, shop or business shall be from the principal street upon which the property abuts, or within fifty (50) feet thereof, except that a rear entrance from the building to a public parking area may be provided.
- Subd. 3. Any open air display area, open automobile or truck sales lot, trailer sales lot, or farm implement display area shall provide a graveled or aggregate surfaced area, which shall be properly maintained.

### **SECTION 5. ACCESSORY USE**

In the B-2, Highway Business District, any following accessory use, building or structure customarily incidental to any permitted or conditionally permitted use shall be permitted, provided that such accessory use, building or structure shall be located on the same property.

- Subd. 1. Any building or use customarily necessary to any permitted use, which may include the repair, alteration, finishing assembly or storage of goods.
- Subd. 2. Any building or use customarily necessary to any permitted uses, but which will not be detrimental either by reason of odor, smoke, noise or vibration to the surrounding neighborhood.
- Subd. 3. Any temporary building for uses incidental to construction work provided that such building shall be removed upon the completion of the construction work.

### **SECTION 6. LOT SIZE, SETBACK, YARD AND HEIGHT REQUIREMENT**

Any lot in a B-2, Highway Business District on which any permitted or conditionally permitted use is erected shall meet the following minimum standards:

- Subd. 1. Lot Size and Width. Any lot used as a business shall have an area sufficient in size to provide an adequate and safe water supply and sewage disposal system as established by standards required by state or County health regulations, but shall not be less than five thousand (5,000) square feet in area and have a frontage of less than fifty (50) feet.

- Subd. 2. Yard Requirements. Every permitted, conditionally permitted or accessory building shall meet the following yard requirements:
- A. Front Yard.
    - 1. A front yard of not less than forty-five (45) feet shall be provided as measured from the street right-of-way line.
    - 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.
  - B. Side Yard.
    - 1. No side yard shall be required for any interior lot.
    - 2. For corner lot abutting any agricultural or residential district, a minimum side yard of forty-five (45) feet shall be required.
  - C. Rear Yard. A rear yard of not less than twenty (20) feet shall be required; where alleys exist the measurements of the rear yard may include one-half (½) the width of the alley.
- Subd. 3. Bluff Impact Zone. For any use or structure in the B-2 District, the setback from the bluff impact zone shall be no less than thirty (30) feet.
- Subd. 4. Height Requirements. Every permitted, conditionally permitted or accessory building shall meet the following requirements:
- A. Any building shall not exceed thirty-five (35) feet in height.
- Subd. 5. Exceptions. Certain uses here exempted from meeting the lot size, yard and height requirements. These exemptions are listed in Article 11, Section 21.

## **SECTION 7. ESSENTIAL SERVICES REGULATIONS**

Essential service facilities may be allowed in any B-2, Highway Business District in accordance with the provisions of Article 15 of this Ordinance.

## **SECTION 8. GENERAL REGULATIONS**

Additional requirements for parking and other regulations in the B-2, Highway Business District are set forth in Article 11 of this Ordinance.

## **ARTICLE 27 I, INDUSTRY DISTRICT**

### **SECTION 1. PURPOSE**

The I, Industry District is intended to provide a district that will allow compact, convenient, limited, highway-oriented industry closely related to existing urban areas in the County and at standards that will not impair the traffic carrying capabilities of abutting roads and highways. It is recognized that industrial uses are an important part of the County's land use patterns. The regulations for this district are intended to encourage industrial development that is compatible with surrounding or abutting districts.

### **SECTION 2. PERMITTED USES**

In the I, Industry District, no building, structure or part thereof shall be erected, altered, used or moved upon any premises nor shall any land be used in whole or part for other than one or more of the following uses:

- Subd. 1. Any building materials storage yards.
- Subd. 2. Any contractor's establishment, storage yard or equipment rental.
- Subd. 3. Any essential services building or storage yards.
- Subd. 4. Any grain elevator; including storage and processing.
- Subd. 5. Any wholesale establishment; including warehousing, storage buildings, commercial laundries or dry cleaning plants.
- Subd. 6. Any manufacture, compounding or treatment of such products as bakery goods, candy cosmetics, dairy products, food products, drugs, perfumes, pharmaceutical, soap (cold mix only), or toiletries.
- Subd. 7. Any manufacture, compounding or treatment of such articles or merchandise, previously prepared materials which have been manufactured elsewhere; including bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, leather, paper, plastics, precious or semi-precious metals or stones, shells, textiles, tobacco, wood (excluding planing mills) yarn or paint, not employing a boiling process.
- Subd. 8. Any manufacturing process or treatment of products using light machinery; such as tool and die shops or metal fabricating plants.
- Subd. 9. Wind Energy Conversion Systems in accordance with Article 18 of this ordinance.

### **SECTION 3. CONDITIONAL USES AND INTERIM USES**

In the I, Industry District the following uses may be allowed subject to obtaining a conditional use permit in accordance with the provisions of Article 4 of this Ordinance.

- Subd. 1. Any manufacturing of cement, lime, gypsum or plaster.
- Subd. 2. Any distillation of bone, coal, tar petroleum, refuse, grain or wood.
- Subd. 3. Any explosives manufacture or storage.
- Subd. 4. Fertilizer manufacture, compost or storage.

- Subd. 5. Any garbage, offal, dead animals, refuse, rancid fats, incineration, glue manufacturing, size or gelatine manufacturing where the processes include the refining or recovery of products from animal refuse or offal.
- Subd. 6. Any junkyard.
- Subd. 7. Livestock feeding yards, slaughtering of animals or stock yards.
- Subd. 8. Any petroleum or asphalt refining or manufacturing.
- Subd. 9. Any smelting or refining of metals from ores.
- Subd. 10. Any steam board hammers or forging presses.
- Subd. 11. Any storing, curing or tanning of raw, green or salted hides or skins.
- Subd. 12. Any lawful use of land or building not elsewhere provided for and which by its nature does not through noise, dirt, soot, offensive odors or unsanitary conditions constitute either a public or private nuisance.
- Subd. 13. Wind Energy Conversion Systems in accordance with Article 18 of this ordinance.

#### **SECTION 4. INDUSTRIAL DEVELOPMENT STANDARDS**

Uses established in the I, Industry District shall be operated subject to the following conditions:

- Subd. 1. Every use, except storage yards for Subdivision 1, 2, and 3 of Section 2 of this Article, shall be conducted wholly within a building with a landscaped front yard and with the side and rear yard used for loading and unloading and parking.
- Subd. 2. Any open storage area shall provide a graveled or aggregate surfaced area which shall be properly maintained.

#### **SECTION 5. ACCESSORY USES**

In the I, Industry District any following accessory use, building or structure customarily incidental to any permitted or conditionally permitted use shall be permitted, provided that such accessory use, building or structure shall be located on the same property.

- Subd. 1. Any building or use customarily necessary to any permitted use, which may include the repair, alteration, finishing assembly, fabrication or storage of goods.
- Subd. 2. Any building or use customarily necessary to any permitted uses, but which will not be detrimental either by reason of odor, smoke, noise or vibration to the surrounding neighborhood.
- Subd. 3. Any temporary building for uses incidental to construction work provided that such building shall be removed upon the completion of the construction work.
- Subd. 4. Any dwelling unit for employees having duties in connection with any premises requiring residence on the premises.

#### **SECTION 6. LOT SIZE, SETBACK, YARD AND HEIGHT REQUIREMENTS**

Any lot in the I, Industry District on which any permitted or conditionally permitted use is erected shall meet the following minimum standards:

- Subd. 1. Lot Size and Width. Any permitted or conditional use shall have an area sufficient in size to provide an adequate and safe water supply and sewage disposal system as established by

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standards required by state or County health regulations, but shall not be less than ten thousand (10,000) square feet in area and have a frontage of less than fifty (50) feet.

Subd. 2. Yard Requirements. Every permitted, conditionally permitted or accessory building shall meet the following yard requirements:

A. Front Yard.

1. A front yard of not less than forty-five (45) feet shall be provided as measured from the street right-of-way line.
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.

B. Side Yard.

1. Every building shall have two (2) side yards. Each side yard shall have a minimum width of twenty (20) feet.
2. For a corner lot abutting any agricultural or residential district, a minimum side yard of forty-five (45) feet shall be required.

C. Rear Yard. A rear yard of not less than fifty (50) feet shall be required.

Subd. 3. Bluff Impact Zone. For any use or structure in the I District, the setback from the bluff impact zone 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. All buildings shall not exceed forty-five (45) feet in height.

Subd. 5. Exceptions. Certain uses here exempted from meeting the lot size, yard, and height requirements. These exemptions are listed in Article 11, Section 22.

## **SECTION 7. ESSENTIAL SERVICES REGULATIONS**

Essential service facilities may be allowed in any I, Industry District in accordance with the provisions of Article 15 of this Ordinance.

## **SECTION 8. GENERAL REGULATIONS**

Additional requirements for parking and other regulations in the I, Industry District are set forth in Article 11 of this Ordinance.

## ARTICLE 28 WS, WILD AND SCENIC RIVER DISTRICT

### **SECTION 1. PURPOSE**

To establish standards and criteria for uses in the Cannon River land use district shall be to protect and preserve existing natural, scenic, historical, scientific, and recreational values, to maintain proper relationships between various land use types, and to prohibit new residential, commercial, or industrial uses that are inconsistent with the State-Wide Standards and Criteria for Scenic and Recreational Rivers, 6105.0010 - 6105.0250 and 6105.1550 - 6105.1680.

- Subd. 1. No land may be subdivided which is held unsuitable by the local authority, or the Commissioner, for the proposed use because of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities, or any other feature likely to be harmful to the health, safety, or welfare of the future residents of the proposed subdivision or of the community.

### **SECTION 2. AUTHORIZATION**

In order to preserve and protect the Cannon River and its adjacent land which possesses scenic, recreational, natural, and historical values, the Cannon River in Goodhue County has been given a Scenic Recreational River Classification pursuant to Minnesota Statutes, Sections 103F.301 to 103F.345 (1990). The boundaries outlying the land in Goodhue County subject to this designation are based upon the Cannon River Management Plan, 6105.1550 - 6105.1680, and are delineated on the Official Zoning Map of Goodhue County.

In case of conflict between the zoning map and the legal descriptions of the Cannon River Management Plan, 6105.1680, the legal description shall take precedence.

- Subd. 1. **BLUFFLINE.** A line along the top of a slope connecting the points at which the slope becomes greater than twelve (12) percent. This applies to those slopes within the Wild and Scenic River District which are beyond the setback provisions from the ordinary high water level.

### **SECTION 3. PERMITTED, CONDITIONAL AND NON-PERMITTED USES**

		LAND USE DISTRICTS	
		Scenic <u>River</u>	Recreational <u>River</u>
Subd. 1.	Governmental campgrounds, subject to management plan specifications P		P
Subd. 2.	Private campgrounds, subject to management plan specifications C		C
Subd. 3.	Public accesses, road access type with boat launching facilities subject to management plan specifications P		P
Subd. 4.	Public accesses, trail type subject to management plan specifications P		P
Subd. 5.	Temporary docks C		P
Subd. 6.	Other governmental open space recreational uses, subject to management plan specifications P	P	P

		LAND USE DISTRICTS	
		Scenic <u>River</u>	Recreational <u>River</u>
Subd. 7.	Other private open space recreational uses, subject to management plan specifications	C	C
Subd. 8.	Agricultural uses      P		P
Subd. 9.	Single family residential uses	P	P
Subd. 10.	Forestry uses      P		P
Subd. 11.	Essential services      P		P
Subd. 12.	Sewage disposal systems      P		P
Subd. 13.	Private roads and minor public streets	P	P
Subd. 14.	Signs approved by federal, state, or local government which are necessary for public health and safety and signs indicating areas that are available or not available for public use	P	P
Subd. 15.	Signs not visible from the river that are not specified in Subd. 14      P		P
Subd. 16.	Governmental resource management for improving fish and wildlife habitat; wildlife management areas; nature areas; accessory roads	P	P
Subd. 17.	Underground mining that does not involve surface excavation in the land use district	C	C
Subd. 18.	Sand and gravel extraction subject to the provisions of 6105.1610, Subp. 5	C	C
Subd. 19.	Utility transmission power lines and pipelines, subject to the provisions of Sec. 5	C	C
Subd. 20.	Public roads, subject to provisions in Sec. 5	C	C
Subd. 21.	Canoe rental establishments, subject to the provisions of 6105.1610, Subp. 6	C	C
Subd. 22.	Inner tube rental establishments	N	N

All uses not listed as permitted or conditional uses shall not be allowed within the applicable land use districts.

Existing development in the Village of Welch in E ½, W ½, NE 1/4, T113N, R16W, north of the river shall be allowed to continue.

P means Permitted Use

C means Conditional Use

N means Non-Permitted Use

#### **SECTION 4. AREA, SETBACK AND OTHER REQUIREMENTS**

Subd. 1. One single family dwelling per lot.

Subd. 2. The following chart sets forth the minimum area, setbacks, and other requirements of each district:

		LAND USE DISTRICTS	
		Scenic <u>River</u>	Recreational <u>River</u>
A.	Minimum lot size above ordinary high water level	4 acres	2 acres
B.	Density	Same as Adjacent District	
C.	Lot width at building line	250 feet	200 feet
D.	Each dwelling shall front and abut an existing public road which was built up, improved, graded and dedicated as of 4/3/74	250 feet	200 feet
E.	Lot width at ordinary high water level	250 feet	200 feet
F.	Structure setback from ordinary high water level	150 feet	100 feet
G.	Minimum structure setback from bluffline	30 feet	20 feet
H.	On-site sewage treatment system setback from ordinary high water level	100 feet	75 feet
I.	Maximum structure height*	35 feet	35 feet
J.	Controlled vegetative cutting area setback from ordinary high water level	150 feet	100 feet
	setback from bluffline	30 feet	20 feet
K.	Front yard setback from any road or Highway right-of-way	60 feet	60 feet
L.	Side yard setback (unless side yard abuts Cannon River Belle Creek, Chub Creek, or Pine Creek)	30 feet	30 feet
M.	Rear yard setback (unless rear yard abuts Cannon River, Belle Creek, Chub Creek, or Pine Creek)	50 feet	50 feet

\* Does not apply to non-residential agricultural buildings.

Subd. 3. On Belle Creek, Chub Creek, and Pine Creek, as designated in 6105.1680, the following setbacks also apply within the land use district(s):

- A. Structure setbacks from ordinary high water level - one hundred (100) feet.
- B. On-site sewage treatment system setback from ordinary high water level - seventy-five (75) feet.
- C. Controlled vegetative cutting area setback from ordinary high water level - one hundred (100) feet.

## **SECTION 5. PERFORMANCE STANDARDS**

Subd. 1. Slopes. No structure shall be placed on any slope greater than twelve (12) percent (twelve (12)

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feet vertical rise in one hundred (100) feet horizontal distance) unless each structure is screened, sewage disposal system facilities are installed so as to comply with the sanitary provisions; no potential or actual erosion problems exist, and adequate measures are taken to prevent erosion; boring samples must be taken where bearing capacity is in doubt; and consideration is given to color and architectural design including road slope and orientation.

Subd. 2. Structures. Structures proposed within a floodplain shall be consistent with the Goodhue County Zoning Ordinance.

Subd. 3. Sewage Disposal and Water Supply. Any premises intended for human occupancy must provide for an adequate method of sewage treatment. Public or municipal collection and treatment facilities must be used where available and feasible. Where public or municipal facilities are not available, all on-site individual sewer treatment systems shall conform to the minimum standards and administrative procedures set forth in other applicable local ordinances, the minimum standards of the Minnesota Pollution Agency, Rules Part 7080, the Minnesota Department of Health and Sections 4 (Subd. 1) and (Subd. 2) of this Ordinance.

No person, firm, corporation shall install, alter, repair, or extend any individual sewer disposal system or private well without first obtaining a permit for such action from the Zoning Authority for the specific installation, alteration, repair, or extension.

Any public or private supply of water for domestic purposes must conform to Minnesota Department of Health standards for water quality and the administrative procedures of other applicable local ordinances.

Subd. 4. Vegetation Alterations. Vegetation alterations shall be subject to the standards found in Article 11, Section 7 of the Goodhue County Zoning Ordinance.

Subd. 5. Grading, Filling, Alterations of Beds of Public Waters. Any grading and filling work done shall require a permit and shall comply with the following:

- A. Grading and filling of the natural topography which is not accessory to a permitted or conditional use shall not be permitted.
- B. Grading and filling of the natural topography which is accessory to a permitted or conditional use shall not be conducted without a grading and filling permit from the Zoning Authority.
- C. Grading and filling of the natural topography which is accessory to a permitted or conditional use shall be performed in a manner which minimizes earth moving, erosion, tree clearing and the destruction of natural amenities.
- D. Grading and filling of the natural topography shall also meet the following standards:
  - 1. The smallest amount of bare ground is exposed for as short a time as possible.
  - 2. Temporary ground cover such as mulch is used and permanent ground cover such as sod is planted.
  - 3. Methods to prevent erosion and to trap sediment are employed.
  - 4. Fill is established to accepted engineering standards.
- E. Excavation of material from, or filling in a Scenic or Recreational River, or construction of any permanent structures or navigational obstructions there in is prohibited unless authorized by a permit from the Commissioner of DNR pursuant to Minnesota Statutes, Section 103G.245 (1990).
- F. Drainage or filling in of wetlands is not allowed within the land use district(s) designated by this Ordinance.

Subd. 6. Utility Transmission Lines. All utility transmission crossing of land within the Cannon River land

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use district shall require a conditional use permit. The construction of such transmission services shall be subject to Minnesota Rules, Parts 6105.0180.

- Subd. 7. Public Roads. In addition to such permits as may be required by Minnesota Statutes, Section 103G.245 (1990), a conditional use permit shall be required for any construction or reconstruction of new public roads within the Cannon River land use district. A conditional use permit is not required for minor public streets which are streets intended to serve primarily as an access to abutting properties. Such construction shall be subject to the standards and criteria of Minnesota Rules, Parts 6105.0190 - 6105.0200.
- Subd. 8. General Regulations. Requirements for signs, parking, sewage disposal, etc. are set forth in Article 11 of this Ordinance.

#### **SECTION 6. NON-CONFORMING SUBSTANDARD USES, STRUCTURES AND LOTS**

- Subd. 1. Non-Conforming Uses. Uses which are prohibited by this Ordinance but which are in existence prior to the effective date of this Ordinance shall be non-conforming uses. Such uses shall not be intensified, enlarged, or expanded beyond the permitted or delineated boundaries of the use or activity as stipulated in most current permitted uses issued prior to the adoption of this Ordinance.
- Subd. 2. Non-Conforming Sanitary Systems. All sanitary facilities inconsistent with the performance standards of other applicable local ordinances and the minimum standards of the Minnesota Pollution Control Agency and the Minnesota Department of Health shall be brought into conformity or discontinued within five (5) years of the date of the enactment of this or other applicable ordinances.
- Subd. 3. Substandard Uses. All uses in existence prior to the effective date of enactment or amendment of this Ordinance which are permitted uses within the newly established land use district, but do not meet the minimum lot area, setbacks or other dimensional requirements of this Ordinance are substandard uses. All substandard uses, except for substandard signs, shall be allowed to continue subject to the following conditions and exceptions:
- A. Any structural alteration or addition to a substandard use which will increase the substandard dimensions shall not be allowed.
  - B. Substandard signs shall be gradually eliminated over a period of time not to exceed five (5) years from the date of enactment of this Ordinance.
  - C. Where a setback pattern from the ordinary high water mark has already been established on both sides of a proposed building site, the setback of the proposed structure may be allowed to conform to that pattern. (This provision shall apply to lots which do not meet the minimum lot width requirements.)

#### **SECTION 7. NOTIFICATION OF PROPOSED ZONING AMENDMENTS, VARIANCES, INCONSISTENT PLATS, AND CONDITIONAL USE PERMITS**

- Subd. 1. The Zoning Administrator shall submit to the Commissioner of Natural Resources a copy of any application for a zoning amendment including proposed changes to district lines, variances, and plats which are inconsistent with the local land use ordinances for certification. A copy of the notice of any public hearing, or where a public hearing is not required, a copy of the application for the zoning amendment, variances and inconsistent plats shall be sent so as to be received by the Commissioner at least thirty (30) days prior to such hearing or meeting to consider such action. The notice of application shall include a copy of the proposed Ordinance or amendment or a copy of the proposed inconsistent plat or a description of the required variances.
- Subd. 2. The County shall notify the Commissioner of its final decision on the proposed action within ten (10) days of the decision.

- Subd. 3. The action becomes effective when and only when either:
- A. The final decision taken by the County has previously received certification of approval from the Commissioner; or
  - B. The County received certification of approval after its final decision; or
  - C. Thirty (30) days have elapsed from the day the Commissioner received notice of the final decision, and the County has not received from the Commissioner either certification of approval or notice of non-approval; or
  - D. The Commissioner certifies his approval within thirty (30) days after conducting a public hearing.
- Subd. 4. In case the Commissioner gives notice of non-approval of an ordinance, variance or inconsistent plat, either the applicant or Zoning Administrator may within thirty (30) days of said notice, file with the Commissioner a demand for hearing. If the demand for hearing is not made within thirty (30) days, the notice of non-approval becomes final.
- A. The hearing will be held within sixty (60) days of the demand and after at least two (2) weeks published notice.
  - B. The hearing will be conducted in accordance with Minnesota Statutes 103G.311, Subdivisions 2, 6 and 7 (1990) as amended.
  - C. The Commissioner shall either certify his approval or disapproval of the proposed action within thirty (30) days of the hearing.
- Subd. 5. The Zoning Administrator shall submit copies of all final plats and conditional use permits to the Commissioner within ten (10) days of final local approval. Also, all conditional use permit applications shall be forwarded to the Commissioner at least ten (10) days prior to the hearing to consider such an application.

## **ARTICLE 29 CR, COMMERCIAL RECREATIONAL DISTRICT**

### **SECTION 1. PURPOSE**

The intent of the CR Commercial Recreational District is to provide suitable locations for, and to encourage the development of, commercial recreation facilities in those areas of the county which benefit the recreational needs of both residents and tourists and restrict incompatible commercial and industrial uses. The Commercial Recreational District shall not be an overlay district, but shall be an exclusive district when used. It shall be the only district where new commercial uses are allowed in the shoreland areas. Such uses shall be limited to those listed below. Performance standards shall be those listed in Article 11 and as otherwise applicable in this Ordinance.

### **SECTION 2. PERMITTED USES**

Subd. 1. None.

### **SECTION 3. CONDITIONAL USES AND INTERIM USES**

- Subd. 1. Resort facilities to include lodges, guesthouses, cabins and retreat facilities.
- Subd. 2. On-site taverns where the main function is servicing a resort or recreational development.
- Subd. 3. On-site restaurants where the main function is servicing a resort or recreational development.
- Subd. 4. Golf courses and clubhouses.
- Subd. 5. Dinner theaters.
- Subd. 6. Ski areas and lodges.
- Subd. 7. Yacht slips, service and storage and storage marinas, harbor and docking facilities subject also to all approved regulations and ordinances of governmental agencies for the same.
- Subd. 8. Recreational trailer parks and commercial camping facilities for short duration uses.
- Subd. 9. Nature trails, snowmobile trails, ski trails, and similar facilities.
- Subd. 10. Museums and commercialized historical attractions.
- Subd. 11. Accessory structures, size and location to be determined by the Planning Advisory Commission and the Board of Commissioners.

### **SECTION 4. GENERAL DISTRICT REGULATIONS**

- Subd. 1. Height Regulations.
  - A. No building or structure shall exceed thirty-five (35) feet in height.
- Subd. 2. Each lot or parcel shall have an area of not less than two (2) acres.
- Subd. 3. Every permitted, conditionally permitted building, or accessory building shall meet the following setbacks:
  - A. Front yard
    - 1. A front yard of not less than forty five (45) feet shall be provided as measured from the street.

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

B. Side Yard

1. Every building shall have two (2) side yards. Each side yard shall have a minimum depth of thirty (30) feet.

C. Rear Yard

1. Every building shall have a rear yard. The rear yard for parcels that do not abut a "Minnesota Protected Water" shall be a minimum of fifty (50) feet.

Subd. 4. Lot Width. Each lot shall have a minimum width of one hundred (100) feet.

## ARTICLE 30 S, SHORELAND REGULATIONS

### **SECTION 1. PURPOSE**

These shoreland standards are adopted for the purpose of:

- Subd. 1. Regulating suitable uses of land surrounding protected waters.
- Subd. 2. Regulating the size of parcels, length of water frontage and alteration of shorelands of protected waters.
- Subd. 3. Regulating the location of sanitary facilities adjacent to protected waters.
- Subd. 4. Preservation of the natural vegetation, natural topography, and other natural resources to insure a high standard of environmental quality.
- Subd. 5. **PUBLIC WATERS.** All water basins, wetlands, and watercourses determined to be protected waters by the Commissioner of Natural Resources pursuant to Minnesota Statutes, Section 103G.005, Subd. 15 and 18, and 103G.201. An official list and map of protected waters shall be filed in the Office of the County Auditor and the Zoning Administrator.
- Subd. 6. **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. 7. **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 twelve (12) percent, as measured over horizontal distances of fifty (50) feet or more, that are not bluffs.
- Subd. 8. **TOE OF THE BLUFF.** The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from gentler to steeper slope above. If no break in the slope is apparent, the toe of the bluff shall be determined to be the lowest end of the lowest fifty (50) foot segment that exceeds twenty (20) percent slope.
- Subd. 9. **TOP OF THE BLUFF.** The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler slope above. If no break in the slope is apparent, the top of the bluff shall be determined to be the highest end of the highest fifty (50) foot segment that exceeds twenty (20) percent slope.

### **SECTION 2. STATUTORY AUTHORIZATION**

This Section is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103, Minnesota Regulations, Parts 6120.2500 - 6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 394.

### **SECTION 3. SHORELAND DISTRICTS**

The shorelands within Goodhue County are hereby designated as shoreland districts and the requirements set forth in this Section shall govern development and other activities within these districts. The classification of the shoreland areas shall govern the use, alteration, and development of these areas according to said classification as per Minnesota Regulations Part 6120.3000.

#### **SECTION 4. DISTRICT APPLICATION**

The Shoreland District shall be applied to and superimposed upon all zoning districts as contained herein as existing or amended by the Zoning Ordinance text and official Zoning Map. The regulations and requirements imposed by the S District shall be in addition to those established for districts which jointly apply. Under the joint application of districts, the more restrictive requirements shall apply.

#### **SECTION 5. BOUNDARIES**

The boundaries of the Shoreland District are established within the following distances from the ordinary high water mark of the surface water depending on the size of the surface water as indicated on the Goodhue County Shoreland District Map.

SURFACE WATER	DISTANCE	(FEET)*
Greater than ten (10) acres		1,000
Rivers and Streams (draining an area greater than two (2) square miles)		300**

\* The practical distance may be less whenever the waters involved are bounded by topographical divides which extend landward from the waters for lesser distances and prevent flowage toward the surface water.

\*\* The distance requirement shall be increased to the limit of the floodplain when the floodplain is greater than three hundred (300) feet.

#### **SECTION 6. SHORELAND CLASSIFICATION SYSTEM**

The surface waters affected by this Section and which require controlled development of their shoreland (Shoreland District) are shown on the map designated as the official "Zoning Map of Goodhue County" which is properly approved and made a part of this Section and filed with the Zoning Administrator. Surface waters generally greater than ten (10) acres and given an identification number by the State of Minnesota are defined in Article 10 of this Ordinance and listed below.

##### **Subd. 1. Lake Classification System**

###### ***GENERAL DEVELOPMENT LAKES:***

DNR Identification  
Number

Name

25-0001-00	Lake Pepin
25-0017-00	U.S. Lock and Dam No. 3 Pool
25-0017-02	Nelson Lake

Twin Lake  
North Lake

25-0017-06	Sharp Muskrat Lake
79-0005-00	U.S. Lock and Dam No. 4 Pool

###### ***RECREATIONAL DEVELOPMENT LAKES:***

DNR Identification  
Number

Name

19-0006-00	Lake Byllesby
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*NATURAL ENVIRONMENT LAKES:*

DNR Identification

<u>Number</u>	<u>Name</u>
25-0003-00	Frontenac Lake
25-0004-00	Grotes Pond (aka Wacouta Pond)
25-0005-00	Goose Lake
25-0006-00	Brunner Lake
25-0009-00	Birch Lake
25-0011-00	Spring Creek Lake
25-0012-00	Cannon Lake
25-0016-00	Larson Lake
25-0018-00	Upper Clear Lake
25-0019-00	Clear Lake
25-0021-00	Lower Rattling Springs Lake
19-0001-00	Mud Hen Lake

Subd. 2. River Classification System

*TRANSITION:*

<u>River</u>	<u>From</u>	<u>To</u>
Vermillion	Border of Goodhue & Dakota Counties	Confluence with Mississippi River in Sec 11, T113N, R15W

*AGRICULTURE:*

N. Fork Zumbro	Border of Goodhue & Rice Counties	Border of Goodhue & Wabasha Counties
Middle Fork Zumbro	Border of Goodhue & Olmsted Counties	Border of Goodhue & Olmsted Counties
North Branch Middle Fork Zumbro	Confluence with Unnamed tributary in Sec 31, T109N, R17W	Border of Dodge & Goodhue Counties
North Branch Middle Fork Zumbro	Border of Dodge & Goodhue Counties	Confluence with Middle Fork Zumbro River in Sec 32, T109N, R15W

*TRIBUTARY:*

All other non-classified water courses as shown on the Goodhue County Protected Waters Inventory Map.

**SECTION 7. ALLOWABLE LAND USES**

The land uses allowable for the Shoreland Overlay District shall follow the permitted, accessory, and conditional use designations as defined and outlined in the base zoning districts, found in Articles 20-27 of this Ordinance, as may be amended, referred to as the Goodhue County Zoning Ordinance and shall be properly delineated on the Official Zoning Map for the shorelands of Goodhue County. These land use districts are in conformance with the criteria specified in Minnesota Regulations, Part 6120.3200, Subd. 3.

## **SECTION 8. SHORELAND DEVELOPMENT STANDARDS**

The following development standards shall apply for each lake and river designation for lots platted or created by metes and bounds.

Subd. 1. Lot Standards. Subject to other more restrictive limitations which may be imposed by this Ordinance, the following minimum requirements shall be observed in the following zoning districts which are overlaid by the Shoreland District.

A. Agriculture (A-1, A-2, A-3). The minimum lot size and width requirements allowable for the Shoreland District shall follow the base zoning districts.

B. Residential (R-1).

1. Unsewered Lakes.

a. Natural Environment.

	Riparian		Non-Riparian	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Single	80,000	200	80,000	200
Duplex	120,000	300	160,000	400
Triplex	160,000	400	240,000	600
Quad	200,000	500	320,000	800

b. Recreational Development.

Single	40,000	150	40,000	150
Duplex	80,000	225	80,000	265
Triplex	120,000	300	120,000	375
Quad	160,000	375	160,000	490

c. General Development.

Single	20,000	100	40,000	150
Duplex	40,000	180	80,000	265
Triplex	60,000	260	120,000	375
Quad	80,000	340	160,000	490

2. Sewered Lakes.

a. Natural Environment.

Single	40,000	125	20,000	125
Duplex	70,000	225	35,000	220
Triplex	100,000	325	52,000	315
Quad	130,000	425	65,000	410

b. Recreational Development.

Single	20,000	100	20,000	100
Duplex	35,000	135	26,000	135
Triplex	50,000	195	38,000	190
Quad	65,000	255	49,000	245

c. General Development.

	Riparian		Non-Riparian	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Single	20,000	100	20,000	100
Duplex	26,000	135	20,000	135
Triplex	38,000	195	25,000	190
Quad	49,000	255	32,500	245

3. River/Stream Lot Width Standards. There is no minimum lot size requirements for rivers and streams. The lot width standards for single, duplex, triplex, and quad residential developments for the six river/stream classifications are:

	<u>Re- mote</u>	<u>For- ested</u>	<u>Trans- ition</u>	<u>Agri- cultural</u>	<u>Urban and Tributary</u>	
					<u>No Sewer</u>	<u>Sewer</u>
Single	300	200	250	150	100	75
Duplex	450	300	375	225	150	115
Triplex	600	400	500	300	200	150
Quad	750	500	625	375	250	190

4. Only land above the ordinary high water level of public waters can be used to meet lot area standards, and lot width standards must be met at both the ordinary high water level and at the building line. The sewer lot area dimensions in Section 8, Subd. 1.B.2 can only be used if publicly owned sewer system service is available to the property.

- C. Commercial and Industrial (B-1, B-2, I-1). The minimum lot size and width requirements allowable for the Shoreland District shall follow the base zoning district.

Subd. 2. Setback Standards.

- A. Structure and On-Site Sewage System Setbacks From the Ordinary High Water Mark.

	<u>Structures</u>		<u>Sewage Treatment System</u>
	<u>Unsewered</u>	<u>Sewered</u>	
<b>Lakes:</b>			
Natural Environment	200	200	200
Recreational Development	100	100	100
General Development	75	75	75
<b>Rivers:</b>			
Remote	200	200	150
Forested and Transition	150	150	100
Agriculture, Urban & Tributary	100	75	75

- B. Side Yard Setbacks. (Setbacks subject to individual district requirements.)

- C. Additional Structure Setbacks.

1. Unplatted cemetery - fifty (50) feet.
2. Federal, state, county local roads from centerline - one hundred (100) feet.

- Subd. 3. All structures in residential districts, except churches and non-residential agricultural structures shall not exceed twenty-five (25) feet in height.

- Subd. 4. The total area of all impervious surface on a lot shall not exceed twenty-five (25) percent of the total lot area.

## **SECTION 9. DESIGN CRITERIA FOR STRUCTURES**

### **Subd. 1. Placement and Design of Structures.**

- A. When more than one setback applies to a site, structures and facilities shall be located to meet all setbacks. Where principal structures exist on adjoining lots on both sides of proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone.
- B. High Water Elevations. Structures shall be placed in accordance with all floodplain regulations applicable to the site.
- C. Local officials must evaluate possible erosion impacts and development visibility from protected waters before issuing permits for construction of sewage treatment systems, roads, structures or other improvements on steep slopes in shoreland areas.

### **Subd. 2. Uses Without Water-Oriented Needs.**

- A. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

### **Subd. 3. Subdivisions of duplexes, triplexes, and quads on Natural Environment Lakes must also meet the following standards:**

- A. Each building must be set back at least two hundred (200) feet from the ordinary high water level;
- B. Each building must have common sewage treatment and water systems in one location and serve all dwelling units in the building;
- C. Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building; and
- D. No more than twenty-five (25) percent of a lake's shoreline can be in duplex, triplex, or quad developments.
- E. Water oriented accessory structures allowed - 400 sq. ft. limit.

## **SECTION 10. SUBSTANDARD LOTS**

### **Subd. 1. Construction on Non-Conforming Lots of Record.**

- A. If, in a group of two (2) or more contiguous lots under the same ownership, any individual lot does not meet the requirements of Section 8 of this Article, the lot shall not be considered as a separate parcel of land for the purposes of sale or development. The lot shall be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of Section 8 of this Article as much as possible.

- B. Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met:
1. The structure was in existence at the time of the adoption of this Ordinance.
  2. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level of the structure.
  3. The deck encroachment toward the ordinary high water level does not exceed fifteen (15) percent of the existing setback of the structure from the ordinary high water level or does not encroach closer than thirty (30) feet, whichever is more restrictive.
  4. The deck is constructed primarily of wood, and is not roofed or screened.

## **SECTION 11. SHORELAND ALTERATIONS**

Alterations of vegetation and topography shall be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat.

- Subd. 1. Vegetation Alterations. Vegetation alteration shall be subject to the standards found in Article 11, Section 7 of the Goodhue County Zoning Ordinance. For purposes of this provision the controlled vegetation cutting area shall be equal to one-half (1/2) of the structural setback.
- Subd. 2. Topographic Alterations/Grading and Filling.
- A. Grading and filling and excavations necessary for the construction of structures and driveways under validly issued construction permits for these facilities shall not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this Section shall be incorporated into the issuance of permits for construction of structures and driveways.
  - B. Public roads and parking areas are regulated by Subd. 3 of this Section.
  - C. Notwithstanding Items (a) and (b) above, a grading and filling permit shall be required for:
    1. The movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and
    2. The movement of more than fifty (50) cubic yards of material outside of steep slopes and shore and bluff impact zones.
  - D. The following considerations and conditions shall be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:
    1. Grading or filling in any type 2, 3, 4, 5, 6, 7 or 8 wetland shall be in accordance with the Minnesota Wetland Conservation Act of 1991, Minnesota Laws, Chapter 354 or Article 32 of the Zoning Ordinance, whichever is more restrictive, and shall be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland\*:
      - a. Sediment and pollutant trapping and retention;
      - b. Storage of surface runoff to prevent or reduce flood damage;
      - c. Fish and wildlife habitat;
      - d. Recreational use;
      - e. Shoreline or bank stabilization; and

- f. Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

\*This evaluation shall require the applicant to provide appropriate documentation of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state, or federal agencies such as the local watershed district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers.

- 2. Alterations shall be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;
  - 3. Mulches or similar materials shall be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover shall be established as soon as possible;
  - 4. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature shall be used;
  - 5. Altered areas shall be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service;
  - 6. Fill or excavated material shall not be placed in a manner that creates an unstable slope;
  - 7. Plans to place fill or excavated material on steep slopes shall be reviewed by qualified professionals for continued slope stability and shall not create finished slopes of thirty (30) percent or greater;
  - 8. Fill or excavated material shall not be placed in bluff impact zones, except for approved erosion control measures and provided for in Article 12, Section 4, Subd. 7.
  - 9. Any alterations below the ordinary high water level of public waters shall first be authorized by the commissioner under Minnesota Statutes, Section 105.42;
  - 10. Alterations of topography shall only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and
  - 11. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three (3) feet horizontal to one (1) foot vertical, the landward extent of the riprap is within ten (10) feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three (3) feet.
- E. Connections to Public Waters. Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, shall be controlled by local shoreland controls. Permission for excavations may be given only after the Commissioner has approved the proposed connection to public waters.

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

- A. Public and private roads and parking areas shall be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation shall be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.
- B. Roads, driveways, and parking areas shall meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and shall be designed to minimize adverse impacts.

- C. Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this sub-part are met. For private facilities, the grading and filling provisions of Subd. 2 of this Section shall be met.
- Subd. 4. Storm Water Management. All development within the Shoreland Overlay District shall be consistent with the following general and specific standards:
- A. General Standards.
    - 1. When possible, existing natural drainageways, wetlands, and vegetated soil surfaces shall be used to convey, store, filter, and retain storm water runoff before discharge to public waters.
    - 2. Development shall be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas shall be stabilized and protected as soon as possible with facilities or methods used to retain sediment on the site.
    - 3. When development density, topography features, and soil and vegetation conditions are not sufficient to adequately handle storm water runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference shall be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.
  - B. Specific Standards.
    - 1. When constructed facilities are used for storm water management, documentation shall be provided by a qualified registered engineer that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.
    - 2. New constructed storm water outfalls to public waters shall provide for filtering or settling of suspended solids and skimming of surface debris before discharge.
- Subd. 5. Agriculture Use Standards.
- A. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local soil and water conservation districts or the United States Soil Conservation Service. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and fifty (50) feet from the ordinary high water level.
  - B. Use of fertilizer, pesticides, or animal wastes within shorelands must be done in such a way as to minimize impact on the shore impact zone or public water by proper application or use of earth or vegetation.

## **SECTION 12. SANITARY REGULATIONS**

In order to insure safe and healthful conditions, to prevent pollution and contamination of public and ground waters, and to guide development compatible with the natural characteristics of shorelands and related water resources, County ordinances shall control individual water supply and waste disposal systems in respect to location, construction, repair, use and maintenance; commercial; agricultural; industrial and municipal waste disposal and solid waste disposal sites for:

- Subd. 1. Low swampy areas or areas subject to recurrent flooding.
- Subd. 2. Areas where the highest known ground water table is within four (4) feet of the bottom of the soil absorption system.
- Subd. 3. Areas of exposed bedrock or shallow bedrock within four (4) feet of the bottom of the soil absorption system or where subsurface conditions significantly restrict percolation or the effluent.

- Subd. 4. Areas of ground slope where there is danger of seepage of the effluent into the surface of the ground. Where there is evidence of septic tank effluent percolating from the ground, flowing directly into a lake or stream, or where the disposal system is in the water table, the system must be corrected and conform with these standards within ninety (90) days of written notice.
- Subd. 5. Soils where percolation rate is slower than one (1) inch in sixty (60) minutes.
- Subd. 6. Water Supply.
- A. Any public or private supply of water for domestic purposes must conform to Minnesota Department of Health Standards and the County Sanitation Standards for water quality.
  - B. Private wells must be placed in areas not subject to flooding and upslope from any source of contamination. Wells already existing in areas subject to flooding shall be flood-proofed in accordance with Article 31 of this Ordinance.
- Subd. 7. Sewage Treatment.
- A. Any premises used for human occupancy must be provided with an adequate method of sewage treatment.
  - B. Public or municipal collection and treatment facilities must be used where available and where feasible.
  - C. All private sewage and other sanitary waste disposal systems must conform to applicable standards, criteria, rules and regulations of the Minnesota Pollution Control Agency and any applicable local government standards.
  - D. Location and installation of a septic tank and soil absorption system shall be such that, with reasonable maintenance, it will function in a sanitary manner and will not create a nuisance, endanger the safety of any domestic water supply, nor pollute or contaminate any waters of the state. In determining a suitable location for the system, consideration shall be given to the size and shape of the lot, slope of natural and finished grade, soil permeability, high ground water elevation, geology, proximity to existing or future water supplies, accessibility for maintenance, and possible expansion of the system.
  - E. Septic tank and soil absorption or similar systems shall not be acceptable for disposal of domestic sewage for developments on lots adjacent to public waters when any of the conditions of Subdivisions 1, 2, 3, 4, and 5 of this Section are present.
  - F. Sub-Surface Sewage Treatment Systems (SSTS) within the Shoreland District shall be inspected for compliance with Section 12 of this Article as part of all variance, conditional use, and building permit applications. A site map showing the location of the SSTS may be required to verify its location relative to the District. Final determination as to whether an SSTS is located within the Shoreland Area will be made by the Zoning Administrator. As specified in Minnesota Rules 7082.0700 (Inspection Program for Subsurface Sewage Treatment Systems): Certificates of compliance for new construction or a replacement system remain valid for five years from the date of issuance unless the County finds evidence of noncompliance. In addition, the certificate of compliance is valid for three years from the date of issuance, even if one of the supporting reports expires before the three-year period, unless an inspector finds evidence of noncompliance.
  - G. Goodhue County will implement an education program that is oriented toward convincing shoreland property owners to evaluate their sewage systems and voluntarily upgrade the sewage treatment system, if non-conforming.

### **SECTION 13. PLANNED UNIT DEVELOPMENTS (PUD's)**

Planned unit developments shall be utilized for developments with densities greater than four (4) units per lot, provided the following requirements are satisfactorily met:

- Subd. 1. Processing of PUDs. Planned unit developments must be processed as a conditional use.

Subd. 2. Application for a PUD. The applicant for a PUD must submit the following documents prior to final action being taken on the application request:

- A. A site plan and/or plat for the project showing locations of property boundaries, surface water features, existing and proposed structures and other facilities, land alterations, sewage treatment and water supply systems (where public systems will not be provided), and topographic contours at ten foot intervals or less. When a PUD is a combined commercial and recreational development, the site plan and/or plat must indicate and distinguish which buildings and portions of the project are residential, commercial, or a combination of the two.
- B. A property owners association agreement (for residential PUDs) with mandatory membership, and all in accordance with the requirements of Subd. 5 of this Section.
- C. Deed restrictions, covenants, permanent easements or other instruments that: 1) properly address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUDs and 2) ensure the long term preservation and maintenance of open space in accordance with the criteria and analysis specified in Subd. 5 of this Section.
- D. When necessary, a master plan/drawing describing the project and the floor plan for all commercial structures to be occupied.
- E. Those additional documents as requested by the Zoning Administrator that are necessary to explain how the PUD will be designed and will function.

Subd. 3. Site "Suitable Area" Evaluations. Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/ dwelling site density evaluation in Subd. 4.

- A. The project parcel must be divided into tiers by locating one or more lines approximately parallel to a line that identifies the ordinary high water level at the following intervals, proceeding landward.

Shoreland Tier Dimensions	Unsewered (feet)	Sewered (feet)
General Development Lakes- First Tier	200	200
General Development Lakes- Second and Additional Tiers	267	267
Recreational Development Lakes	267	267
Natural Environment Lakes	400	320
All River Classes	300	300

- B. The suitable area within each tier is next calculated by excluding from the tier area all wetlands, bluffs, or land below the ordinary high water level of public waters. This suitable area and the proposed project are the subject to either the residential or commercial planned unit development density evaluation steps to arrive at an allowable number of dwelling units or sites.

Subd. 4. Residential and Commercial PUD Density Evaluation. The procedures for determining the "base" density of a PUD and a density increase multipliers as follows. Allowable densities may be transferred from any tier to any other tier further from the water body, but must not be transferred to any other tier closer.

- A. Residential PUD "Base" Density Evaluation.
  - 1. The suitable area within each tier is divided by the single residential lot size standard for lakes or, for rivers, the single residential lot width standard times the tier depth, unless the local unit of government has specified an alternative minimum lot size for rivers which shall then be used to yield a base density of dwelling units or sites for each tier. Proposed locations and numbers of dwelling units or sites for the residential planned unit developments are then compared with the tier, density, and suitability analysis herein and the design criteria in Subd. 5.

B. Commercial PUD "Base" Density Evaluation.

1. Determine the average inside living area size of dwelling units or sites within each tier, including both existing and proposed units and sites. Computation of inside living area sizes need not include decks, patios, stoops, steps, garages, or porches and basements, unless they are habitable space.
2. Select the appropriate floor area ratio from the following table:

Commercial Planned Unit Development Floor Area Ratios* Public waters classes			
*Average unit floor area (sq.ft.)	Sewered general development lakes; first tier on unsewered general development lakes; urban, agricultural, tributary river segments	Second and additional tiers on unsewered general development lakes, transition and forested river segments	National environment lakes and remote river segments
200	.040	.020	.010
300	.048	.024	.012
400	.056	.028	.014
500	.065	.032	.016
600	.072	.038	.019
700	.082	.042	.021
800	.091	.046	.023
900	.099	.050	.025
1,000	.108	.054	.027
1,100	.116	.058	.029
1,200	.125	.064	.032
1,300	.133	.068	.034
1,400	.142	.072	.036
1,500	.150	.075	.038

\* For average unit floor areas less than shown, use the floor area ratios listed for 200 square feet. For areas greater than shown, use the ratios listed for 1,500 square feet. For recreational camping areas, use the ratios listed at 400 square feet. Manufactured home sites in recreational camping areas shall use a ratio equal to the size of the manufactured home, or if unknown, the ratio listed for 1,000 square feet.

3. Multiply the suitable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.
4. Divide the total floor area by tier computed in Item 3. above by the average inside living area size determined in Item 1. above. This yields a base number of units and sites for each tier.
5. Proposed locations and numbers of dwelling units or sites for the commercial planned unit development are then compared with the tier, density and suitability analyses herein and the design criteria in Subd. 5.

C. Density Increase Multipliers.

1. Increases to the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standards in Section 8 are met or exceeded and the design criteria in Subd. 5 are satisfied. The allowable density increases in Item 2 below will only be allowed if structure setbacks from the ordinary high water level are increased to at least fifty (50) percent greater than the minimum setback, or the impact on the water body is reduced an equivalent amount through vegetative management, topography, or additional means acceptable to the local unit of government and the setback is at least twenty-five (25) percent greater than the minimum setback.

2. Allowable dwelling unit or dwelling site density increases for residential or commercial planned unit developments:

<i><u>Density Evaluation Tiers</u></i>	<i><u>Maximum Density Increase Within Each Tier ( % )</u></i>
First	50
Second	100
Third	200
Fourth	200
Fifth	200

Subd. 5. Maintenance and Design Criteria.

A. Maintenance and Administration Requirements.

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

B. Open Space Requirements. Planned unit developments must contain open space meeting all of the following criteria:

1. At least fifty (50) percent of the total project area must be preserved as open space;
2. Dwelling units or sites, road rights-of-way, or land covered by road surfaces, parking areas, or structures, except water-oriented accessory structures or facilities, are developed areas and shall not be included in the computation of minimum open space;
3. Open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries;

4. Open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public;
  5. Open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems;
  6. Open space must not include commercial facilities or uses, but may contain water-oriented accessory structures or facilities;
  7. The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means; and
  8. The shore impact zone, based on normal structure setbacks, must be included as open space. For residential PUDs, at least fifty (50) percent of the shore impact zone area of existing developments or at least seventy (70) percent of the shore impact zone area of new developments must be preserved in its natural existing state. For commercial PUDs, at least fifty (50) percent of the shore impact zone must be preserved in its natural state.
- C. Erosion Control and Storm Water Management. Erosion control and storm water management plans must be developed and the PUD must:
1. Be designed, and the construction managed, to minimize the likelihood of serious occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant; and
  2. Be designed and constructed to effectively manage reasonably expected quantities and qualities of storm water runoff. Impervious surface coverage within any tier must not exceed twenty-five (25) percent of the tier area.
- D. Centralization and Design of Facilities. Centralization and design of facilities and structures must be done according to the following standards:
1. Planned unit developments must be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and Section 12 of this Article. On-site sewage treatment systems must be located on the most suitable areas of the development, and sufficient law area free of limiting factors must be provided for a replacement soil treatment system for each sewage system;
  2. Dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high water level, elevation above the surface water features, and maximum height. Setbacks from the ordinary high water level must be increased in accordance with Section 8 of this Article for developments with density increases;

3. Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to ground water and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor). Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers;
4. Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided;
5. Accessory structures and facilities must meet the required principal structure setback and must be centralized.

#### **SECTION 14. CONDITIONAL USES**

Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses as found in Article 4 of this Ordinance. The following additional evaluation criteria and conditions shall apply within shoreland areas:

- Subd. 1. Evaluation Criteria. A thorough evaluation of the water body and the topographic, vegetation and soils conditions on the site shall be made to ensure:
  - A. The prevention of soil erosion or other possible pollution of public waters, both during and after construction;
  - B. The visibility of structures and other facilities as viewed from public waters is limited;
  - C. The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.
- Subd. 2. Stipulations Attached to Conditional Use Permits. The County Board, upon consideration of the criteria listed above and the purposes of this Ordinance, shall attach such stipulations to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this Ordinance and Section. Such stipulations may include, but are not limited to, the following:
  - A. Increased setbacks from the ordinary high water level;
  - B. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and
  - C. Special provisions for the location, design, and use of structures, watercraft launching and docking areas, and vehicle parking areas.

#### **SECTION 15. VARIANCES**

- Subd. 1. Provisions. Variances shall only be granted in accordance with Minnesota Statutes, Chapter 394, as applicable in compliance and with Article 5 of this Ordinance.
  - A. A variance may not circumvent the general purposes and intent of this Ordinance.
  - B. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located.

- C. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest.

In considering a variance request, the Board of Adjustment and Appeals shall also consider whether the property is used seasonally or year-round, whether the variance is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.

- Subd. 2. Board of Adjustment and Appeals. The Board of Adjustment and Appeals shall hear and decide requests for variances in accordance with the rules that it has adopted for the conduct of business. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required in Section 17 of this Article shall also include the Board of Adjustment and Appeals' summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

## **SECTION 16. SUBDIVISION/PLATTING PROVISIONS**

- Subd. 1. Land Suitability. Each lot created through subdivision, including planned unit developments authorized under Section 13, must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by Goodhue County shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply, near shore aquatic conditions unsuitable for water based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.
- Subd. 2. Consistency with Other Controls. Subdivisions must conform to all provisions for subdivision, as found in the Goodhue County Subdivision Ordinance. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose.
- Subd. 3. Information Requirements. Sufficient information must be submitted by the applicant for the County to make a determination of land suitability. The information shall include the provisions as found in the Goodhue County Subdivision Regulations, and the following:
  - A. Topographic contours from survey maps showing limiting site characteristics;
  - B. The surface water features required in Minnesota Statutes, Section 505.02, Subd. 1, to be shown on plats;
  - C. Information regarding adequacy of domestic water supply, extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling storm water runoff and erosion, both during and after construction activities;
  - D. Location of 100 year floodplain areas and floodway districts from existing adopted maps or data; and
  - E. A line or contour representing the ordinary high water level, the "toe" and the "top" of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.
- Subd. 4. Dedications. When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of storm water and significant wetlands.

**SECTION 17. NOTIFICATION TO THE DEPARTMENT OF NATURAL RESOURCES**

- Subd. 1. Copies of all notices of any public hearings to consider variances, amendments, or conditional uses resulting from controls of Articles 2, 3, 5, and 5 must be sent to the Commissioner or the Commissioner's designated representative and postmarked at least ten (10) days before the hearings. Notices of hearings to consider proposed subdivisions/plans must include copies of the subdivision/plat.
- Subd. 2. A copy of approved amendments and subdivisions/plats, and final decisions granting variances or conditional uses under this Shoreland Ordinance must be sent to the Commissioner or the Commissioner's designated representative and postmarked within -ten (10) days of final action.



## ARTICLE 31 FP, FLOODPLAIN DISTRICT

### SECTION 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE

- Subd. 1. Statutory Authorization. The Legislature of the State of Minnesota has, in Minnesota Statutes, Chapter 104 and 394.21, delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses.
- Subd. 2. Findings of Fact.
- A. The flood hazard areas of Goodhue County, Minnesota, are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
  - B. Methods Used to Analyze Flood Hazards. The regulations of this Article are based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.
  - C. National Flood Insurance Program Compliance. This Ordinance is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.
- Subd. 3. Statement of Purpose. It is the purpose of this Article to promote the public health, safety, and general welfare and to minimize those losses described in Section 1, Subd. 2.A by provisions contained herein.

### SECTION 2. GENERAL PROVISIONS

- Subd. 1. Lands to Which Article Applies. This Ordinance shall apply to all lands within the jurisdiction of Goodhue County shown on the Official Zoning Map as being located within the boundaries of the FP, Floodplain District.
- Subd. 2. Establishment of Official Zoning Map. The Official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this Ordinance. The attached material shall include the *Flood Insurance Study, Goodhue County, Minnesota and Incorporated Areas* and the Flood Insurance Rate Map therein, all dated September 25, 2009, as developed by the Federal Emergency Management Agency. The Official Zoning Map shall be on file in the office of Goodhue County Land Use Management and recorded with the Goodhue County Recorder's office.
- Subd. 3. Regulatory Flood Protection Elevation. The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.
- Subd. 4. Warning and Disclaimer of Liability. This Article does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This Article shall not create liability on the part of Goodhue County or any officer or employee thereof for any flood damages that result from reliance on this Article or any administrative decision lawfully made thereunder.
- Subd. 5. The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary

interpretation. All decisions will be based on elevations on the regional (100-year) flood profile, *the ground elevations that existed on the site at the time the Community adopted its initial floodplain ordinance or on the date of the first National Flood Insurance Program map showing the area in the floodplain if earlier*, and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board of Adjustment and to submit technical evidence.

Subd. 6. **ANNEXATIONS:** The Flood Insurance Rate Map panels adopted by reference into Section 2.2 above may include floodplain areas that lie outside of the corporate boundaries of the Goodhue County at the time of adoption of this ordinance. If any of these floodplain land areas are annexed into the County after the date of adoption of this ordinance, the newly annexed floodplain lands shall be subject to the provisions of this ordinance immediately upon the date of annexation into the County.

Subd 7 **DEFINITIONS:**

- A. **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.
- B. **FLOOD FREQUENCY.** The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.
- C. **FLOOD FRINGE.** That portion of the floodplain outside of the floodway.
- D. **FLOODPLAIN.** The areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.
- E. **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.
- F. **FLOODWAY.** The bed of a wetland or lake and the channel of the watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.
- G. **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.
- H. **LOWEST FLOOR** – the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor.
- I. **MANUFACTURED HOME** – a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include the term "recreational vehicle."
- J. **RECREATIONAL VEHICLE** – a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this Ordinance, the term recreational vehicle shall be synonymous with the term travel trailer/travel vehicle.
- K. **SUBSTANTIAL DAMAGE** – means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. (The

language in Article 6, Section 1, Subd. 1 will suffice as long as the word “market” is placed in front of the word “value” in the second line).

- L. **SUBSTANTIAL IMPROVEMENT** – within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:
  - i. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
  - ii. Any alteration of an “historic structure,” provided that the alteration will not preclude the structure’s continued designation as an “historic structure.” For the purpose of this Ordinance, “historic structure” shall be as defined in 44 Code of Federal Regulations, Part 59.1.

### **SECTION 3. ESTABLISHMENT OF ZONING DISTRICT**

#### **Subd. 1. Floodplain Areas.**

- A. Floodway District. The Floodway District shall include those areas designated as floodway on the Flood Insurance Rate Map adopted in Section 2 Subd. 2 of this article.
- B. Flood Fringe District. The Flood Fringe area shall include those areas designated as floodway fringe on the Flood Fringe District shall include those areas shown on the Flood Insurance Rate Map as adopted in Section 2 Subd 2 as being within Zones AE, A0, or AH but being located outside of the floodway.
- C. General Flood Plain District. The General Floodplain area shall include those areas designated as Zone A or Zones AE, A0, or AH without a floodway on the Flood Insurance Rate Map adopted in Section 2, Subd. 2 of this Article.

#### **Subd. 2. Compliance.** No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of the Ordinance. Within the Floodway, Flood Fringe and General Floodplain areas, all uses not listed as permitted uses or conditional uses in Sections 4, 5, and 6, that follow, respectively, shall be prohibited. In addition, a caution is provided here that:

- A. New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this Ordinance and specifically Section 9 of this Article.
- B. Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing non-conforming structures and non-conforming uses of structures or land are regulated by Article 6, and the General Provisions of this Ordinance.
- C. As-built elevations for elevated or flood-proofed structures must be certified by ground surveys and flood-proofing techniques must be designed and certified by a registered professional engineer or architect as specified in Section 6, Subd. 2.B of this Article and the General Provisions of this Ordinance.

### **SECTION 4. FLOODWAY AREA (FW)**

Subd. 1. Permitted Uses.

- A. General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
- B. Industrial-commercial loading areas, parking areas, and airport landing strips.
- C. Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.
- D. Residential lawns, gardens parking areas, and play areas.

Subd. 2. Standards for Floodway Permitted Uses.

- A. The use shall have a low flood damage potential.
- B. The use shall be permissible in the underlying zoning district if one exists.
- C. The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations, or storage of materials or equipment.

Subd. 3. Conditional Uses.

- A. Structures accessory to the uses listed in Section 4, Subd. 1 above and the uses listed in B through H.
- B. Extraction and storage of sand, gravel, and other materials.
- C. Marinas, boat rentals, docks, piers, wharves, and water control structures.
- D. Railroads, streets, bridges, utility transmission lines, and pipelines.
- E. Storage yards for equipment, machinery or materials.
- F. Placement of fill.
- G. Travel trailers and travel vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of Section 9, Subd. 3 of this Article.
- H. Structural works for flood control such as levees, dikes, and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the ten year frequency flood event.

Subd. 4. Standards for Floodway Conditional Uses.

- A. All Uses. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use that will cause any increase in the stage of the 100 year or regional flood or cause an increase in flood damages in the reach or reaches affected.
- B. All floodway conditional uses shall be subject to the procedures and standards contained in Article 4 of this Ordinance.
- C. The conditional use shall be permissible in the underlying zoning district is one exists.
- D. Fill.
  - 1. Fill, dredge spoil and all other similar materials deposited or stored in the floodplain shall be protected from erosion by vegetative cover, mulching, riprap or

other acceptable method.

2. Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term side development plan is submitted which includes an erosion/ sedimentation prevention element to the plan.
3. As an alternative, and consistent with Sub-section 2 above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which could have caused an increase to the stage of the 100 year or regional flood but only after the governing body has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The conditional use permit must be title registered with the property in the Office of the County Recorder.

E. Accessory Structures.

1. Accessory structures shall not be designed for human habitation.
2. Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.
  - a. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow.
  - b. So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
3. Accessory structures shall be elevated on fill or structurally dry flood-proofed in accordance with the FP-1 or FP-2 flood-proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood-proofed to the FP-3 or FP-4 flood-proofing classifications in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed five hundred (500) square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood-proofed accessory structures must meet the following additional standards, as appropriate:
  - a. The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls.
  - b. Any mechanical and utility equipment in a structure must be elevated to or above the RFPE or properly flood-proofed.
  - c. To allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

F. Storage of Materials and Equipment.

1. The storage or processing of materials that are, in time of flooding, flammable, explosive or potentially injurious to human, animal, or plant life is prohibited.
2. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the governing body.

G. Structural works for flood control that will change the course, current or cross section of

protected wetlands or public waters shall be subject to the provisions of Minnesota Statutes, Chapter 105. Community-wide structural works for flood control intended to remove areas from the regulatory floodplain shall not be allowed in the floodway.

- H. A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100 year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

## **SECTION 5. FLOOD FRINGE AREA (FF)**

Subd. 1. Permitted Uses. Permitted uses shall be those uses of land or structures listed as permitted uses in the underlying zoning use district(s). If no pre-existing underlying zoning use district exists, then any residential or non-residential structure or use of a structure or land shall be a permitted use in the Flood Fringe provided such use does not constitute a public nuisance. All permitted uses shall comply with the standards for Flood Fringe "permitted uses" listed in Section 5, Subd. 2 and the standards for all Flood Fringe uses listed in Section 5, Subd. 5.

Subd. 2. Standards for Flood Fringe Permitted Uses.

- A. All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the RFPE. The finished fill elevation for structures shall be no lower than one (1) foot below the RFPE and the fill shall extend at such elevation at least fifteen (15) beyond the outside limits of the structure erected thereon.
- B. As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed five hundred (500) square feet for the outside dimension at ground level may be internally flood-proofed in accordance with Subd. 4.A of this Section.
- C. The cumulative placement of fill where at any one time in excess of one thousand (1,000) cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless said fill is specifically intended to elevate a structure in accordance with Section 5 Subd 2 A of this Article.
- D. The storage of any materials or equipment shall be elevated on fill to the RFPE.
- E. The provisions of Section 5, Subd. 3 of this Article shall apply.

Subd. 3. Conditional Uses. Any structure that is not elevated on fill or flood-proofed in accordance with Section 5, Subd. 2.A; Section 5, Subd. 2.B; or any use of land that does not comply with the standards in Section 5, Subd. 2.C and Section 5, Subd. 2.D shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in Section 5, Subd. 4.A and B and Article 4 of this Ordinance.

Subd. 4. Standards for Flood Fringe Conditional Use.

- A. Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the RFPE. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above grade enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above grade and not a structure's basement or lowest floor if:
  - 1. If the enclosed area is above grade on at least one side of the structure.
  - 2. Is designed to internally flood and is constructed with flood-resistant materials.
  - 3. Is used solely for parking of vehicles, building access or storage.

The above noted alternative elevation methods are subject to the following additional standards:

- a. Design and Certification. The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the RFPE or be designed to prevent flood water from entering or accumulating within these components during times of flooding.
  - b. Specific Standards for Above Grade, Enclosed Areas. Above grade fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:
    - (1) A minimum area of "automatic" openings in the walls where internal flooding is to be used as a flood-proofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one (1) foot above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, vales or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention.
    - (2) That the enclosed area will be designed of flood-resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles, or storage.
- B. Basements, as defined by Article 10 of this Ordinance, shall be subject to the following:
1. Residential basement construction shall not be allowed below the RFPE.
  2. Non-residential basements may be allowed below the RFPE provided the basement is structurally dry flood-proofed in accordance with Section 5, Subd. 4.C of this Article.
- C. All areas of non-residential structures including basements to be placed below the RFPE shall be flood-proofed in accordance with the structurally dry flood-proofing classifications in the State Building Code. Structurally dry flood-proofing must meet the FP-1 or FP-2 flood-proofing classification in the State Building Code and this shall require making the structure water tight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood- proofed to the FP-3 or FP-4 classification shall not be permitted.
- D. When at any one time more than one thousand (1,000) cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/ sedimentation control plan must be submitted unless the community is enforcing a state approved shoreland management ordinance. In the absence of a state approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100 year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the governing body. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.
- E. Storage of Materials and Equipment.
1. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

2. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the governing body.

F. The provisions of Section 5, Subd. 5 of this Article shall also apply.

Subd. 5. Standards for All Flood Fringe Uses.

- A. All new principal structures must have vehicular access at or above the elevation not more than two (2) feet below the RFPE. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.
- B. Commercial Uses. Accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the RFPE. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four upon occurrence of the regional flood.
- C. Manufacturing and Industrial Uses. Measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in Section 5, Subd. 5.B above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in floodplain areas.
- D. Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100 year flood elevation - FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.
- E. Floodplain developments shall not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified in the Official Zoning Map.
- F. Standards for travel trailers and travel vehicles are contained in Section 9, Subd. 3.
- G. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

**SECTION 6. GENERAL FLOODPLAIN AREA**

Subd. 1. Permissible Uses.

- A. The uses listed in Section 4, Subd. 1 of this Article shall be permitted uses.
- B. All other uses shall be subject to the floodway/ flood fringe evaluation criteria pursuant to Section 6, Subd. 2. Section 4 shall apply if the proposed use is in the Floodway area and Section 5 shall apply if the proposed use is in the Flood Fringe area.

Subd. 2. Procedures for Floodway and Flood Fringe Determinations Within the General Floodplain Area.

- A. Upon receipt of an application for a conditional use permit for a use within the General Floodplain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Zoning Administrator for the determination of the RFPE and whether the proposed use is within the Floodway or Flood Fringe area.
  - 1. A typical valley cross section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross sectional areas to be occupied by the proposed development, and high water information.
  - 2. Plan (surface view) showing elevations or contours of the ground, pertinent structure, fill or storage elevations of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type.
  - 3. Profile showing the slope of the bottom of the channel or flow line of the stream for at least five hundred (500) feet in either direction from the proposed development.
- B. The applicant shall be responsible to submit one (1) copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the Floodway or Flood Fringe area and to determine the RFPE. Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 - 6120.6200 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective DNR area hydrologist prior to commencing the analysis. The designated engineer or expert shall:
  - 1. Estimate the peak discharge of the regional flood.
  - 2. Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
  - 3. Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lessor stage increase than 0.5 foot shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.
- C. The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the governing body. The governing body must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe area boundary or deny the permit application. The governing body, prior to official action, may submit the application and all supporting data and analysis to FEMA, the DNR, or the Planning Commission for review and comment. Once the Floodway and Flood Fringe boundaries have been determined, the governing body shall refer the matter back to the Zoning Administrator who shall process the permit application consistent with the applicable provisions of Section 4 and 5 of this Article.

## **SECTION 7. SUBDIVISIONS**

- Subd. 1. Review Criteria. No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the floodplain districts shall contain a building site at or above the RFPE. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this Ordinance and have road access both to the subdivision and the individual building sites no lower than two feet below the RFPE. For all subdivisions in the Floodplain, the Floodway and Flood Fringe boundaries, the RFPE and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.
- Subd. 2. Floodway/Flood Fringe Determinations in the General Floodplain Area. In the General Floodplain area, applicants shall provide the information required in Section 6, Subd. 2 of this Article to determine the 100 year flood elevation, the Floodway and Flood Fringe area

boundaries, and the RFPE for the subdivision site.

- Subd. 3. Removal of Special Flood Hazard Area Designation. FEMA has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100 year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

## **SECTION 8. PUBLIC UTILITIES, RAILROADS, ROADS AND BRIDGES**

- Subd. 1. Public Utilities. All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain shall be flood-proofed in accordance with the State Building Code or elevated to above the RFPE.
- Subd. 2. Public Transportation Facilities. Railroad tracks, roads, and bridges to be located within the floodplain shall comply with Sections 4 and 5 of this Article. Elevation to the RFPE shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.
- Subd. 3. On-Site Sewage Treatment and Water Supply Systems. Where public utilities are not provided:
- A. On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
  - B. New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current state-wide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section.

## **SECTION 9. MANUFACTURED HOMES AND MANUFACTURED HOME PARKS AND PLACEMENT OF TRAVEL TRAILERS AND TRAVEL VEHICLES**

- Subd. 1. New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by Section 7 of this Article.
- Subd. 2. The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in floodplain areas will be treated as a new structure and may be placed only if elevated in compliance with Section 5 of this Article. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with Section 5, Subd. 5.A, then replacement manufactured homes will not be allowed until the property owner develops flood warning emergency plan acceptable to the governing body.

All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse, and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

- Subd. 3. Recreational vehicles that do not meet the exemption criteria specified in Section 9, Subd. 3.A below shall be subject to the provisions of this Article and as specifically spelled out in Sections 9, Subd. 3.B and C below.
- A. Exemption. Recreational vehicles are exempt from the provisions of this Article if they placed in any of the areas listed in Section 9, Subd. 3.B, 1-3 below and further they meet the following criteria:

1. Have current licenses required for highway use.
  2. Are highway-ready, meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used on campgrounds and recreational vehicle parks and the recreational vehicle has no permanent structural type additions attached to it.
  3. The recreational vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.
- B. Areas Exempted for Placement of Recreational Vehicles.
1. Individual lots or parcels of record.
  2. Existing commercial recreational vehicle parks or campgrounds.
  3. Existing condominium type associations.
- C. Recreational vehicles exempted in Section 9, Subd. 3.A lose this exemption when development occurs on the parcel exceeding five hundred (500) dollars for a structural addition to the recreational vehicle or exceeding \$500 for an accessory structure such as a garage or storage building. The recreational vehicle and all additions and all accessory structures will then be treated as a new structure and shall be subject to the elevation/flood-proofing requirements and the use of land restrictions specified in Sections 4 and 5 of this Article. There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood free location should flooding occur.
- D. New commercial recreational vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:
1. Any new or replacement recreational vehicle will be allowed in the Floodway or Flood Fringe area provided said recreational vehicle and its contents are placed on fill above the RFPE and proper elevated road access to the site exists in accordance with Section 5, Subd. 5.A of this Article. No fill placed in the Floodway to meet the requirements of this Section shall increase flood stages of the 100 year flood.
  2. All new or replacement recreational vehicles not meeting the criteria of (1) above may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of Article 4 of this Ordinance. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100 year flood. Said plan shall be prepared by a registered engineer or other qualified individual, shall demonstrate that adequate time and personnel exist to carry out the evacuation, and shall demonstrate the provisions of Section 9 Subd 3-A 1 & 2 of this Article will be met. All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Section 8, Subd. 3 of this Article.
- E. Conditional Uses. The Planning Commission shall hear and decide applications for conditional uses permissible under this Ordinance. Applications shall be submitted to the Zoning Administrator who shall forward the application to the Planning Commission for consideration.

## **SECTION 10 ADMINISTRATION**

- Subd. 1 **ZONING ADMINISTRATOR:** A Zoning Administrator or other official designated by the Governing Body shall administer and enforce this Ordinance. If the Zoning Administrator finds

a violation of the provisions of this Ordinance the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in Section 12 of the Article.

- Subd. 2      **PERMIT REQUIREMENTS.** Permit Required. A Permit issued by the Zoning Administrator in conformity with the provisions of this Ordinance shall be secured prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the construction of a dam, fence, or on-site septic system; prior to the change or extension of a nonconforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado, or any other source; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain.
- Subd 3.      **NOTIFICATIONS FOR WATERCOURSE ALTERATIONS.** The Zoning Administrator shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the community authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minnesota Statute, Chapter 103G, this shall suffice as adequate notice to the Commissioner of Natural Resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).
- Subd 4      **NOTIFICATION TO FEMA.** When Physical Changes Increase or Decrease the 100-year Flood Elevation. As soon as is practicable, but not later than six (6) months after the date such supporting information becomes available, the Zoning Administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.
- Subd 5      **VARIANCES.** The Board of Adjustment may authorize upon appeal in specific cases such relief or variance from the terms of this Ordinance as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in this Ordinance, any other zoning regulations in the Community, and in the respective enabling legislation that justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district; permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area; or permit standards lower than those required by state law. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:
- (a) Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
  - (b) Variances shall only be issued by a community upon
    - (i) a showing of good and sufficient cause,
    - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and
    - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  - (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

## SECTION 11 NONCONFORMING USES

- Subd 1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance but which is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions. Historic structures, as defined in Section 2 Subd 7 (b) of this Ordinance, shall be subject to the provisions of Sections 11 A – E of this Ordinance.
- A. No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.
  - B. Any structural alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing techniques ( i.e. , FP-1 thru FP-4 floodproofing classifications) allowable in the State Building Code, except as further restricted in Section 11 Subd 1-C and F below.
  - C. The cost of all structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the cost of all previous and proposed alterations and additions exceeds 50 percent of the market value of the structure, then the structure must meet the standards of Section 4 or 5 of this Ordinance for new structures depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.
  - D. If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this Ordinance. The Assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses that have been discontinued for a period of 12 months.
  - E. If any nonconforming use or structure is substantially damaged, as defined in Section 2 Subd 7 of this Ordinance, it shall not be reconstructed except in conformity with the provisions of this Ordinance. The applicable provisions for establishing new uses or new structures in Sections 4, 5 or 6 will apply depending upon whether the use or structure is in the Floodway, Flood Fringe or General Flood Plain District, respectively.
  - F. If a substantial improvement occurs, as defined in Section 2 Subdivision 7 of this Ordinance, from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition (as required by Section 11 Subd. B above) and the existing nonconforming building must meet the requirements of Section 4 or 5 of this Ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

## SECTION 12. VIOLATIONS IN A FLOODPLAIN DISTRICT

- Subd. 1. In responding to a suspected Floodplain area violation, the Zoning Administrator and local government may utilize the full array of enforcement actions available to it including, but not limited to, prosecution and fines, injunctions, after the fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party.
- Subd. 2. When a violation in a Floodplain area is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as reasonably possible, this information will be submitted to the appropriate DNR and FEMA regional office along with the County's plan of action to correct the violation to the degree possible.

- Subd. 3. The Zoning Administrator shall notify the suspected party of the requirements of this Ordinance and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the County. If the construction or development is already completed, then the Zoning Administrator may either: 1) issue an order identifying the corrective action that must be made within a specified time period to bring the use or structure into compliance with the official controls, or 2) notify the responsible party to apply for an after the fact permit/ development approval within a specified period of time not to exceed thirty (30) days.
- Subd. 4. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this Ordinance and shall be prosecuted accordingly. The Zoning Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this Ordinance.

### SECTION 13 AMENDMENTS

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

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

## ARTICLE 32 W, WETLANDS DISTRICT

### **SECTION 1. INTENT**

Wetlands provide a valuable service by improving water quality, providing for flood water retention, reducing runoff, reducing stream sedimentation, and preserving wildlife habitat. For these reasons, Goodhue County intends by this Ordinance to establish a program that will protect, enhance, and conserve the wetlands of Goodhue County by implementing a policy calling for the replacement of all wetlands destroyed or diminished due to unavoidable activities.

### **SECTION 2. PURPOSE**

This chapter implements the Wetland Conservation Act of 1991, Laws 1991, chapter 354, as amended by Laws 1993, chapter 175; Laws 1994, chapter 627; Laws 1996, chapter 462; Laws 2000, chapter 382; and Laws 2001, chapter 146. This chapter shall be interpreted to implement the purpose of the act, which is to:

- A. achieve no net loss in the quantity, quality, and biological diversity of Minnesota's existing wetlands;
- B. increase the quantity, quality, and biological diversity of Minnesota's wetlands by restoring or enhancing diminished or drained wetlands;
- C. avoid direct or indirect impacts from activities that destroy or diminish the quantity, quality, and biological diversity of wetlands; and
- D. replace wetland values where avoidance of activity is not feasible and prudent.

Subd. 1. **Wetlands.** Goodhue County hereby adopts and incorporates MR Chapter 8420 defining and regulating wetlands except as otherwise superceded by the terms of this ordinance. "Wetlands" means 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 subpart, wetlands must:

1. have a predominance of hydric soils;
  2. be inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
  3. under normal circumstances, support a prevalence of hydrophytic vegetation.
- A. "A wetland" or "the wetland" means a distinct hydrologic feature with characteristics of item A, surrounded by nonwetland and including all contiguous wetland types, except those connected solely by riverine wetlands. "Wetland area" means a portion of "a wetland" or "the wetland."
  - B. Wetlands does not include public waters wetlands and public waters unless reclassified as wetlands by the commissioner under Minnesota Statutes, section 103G.201.
  - C. The wetland size is the area within its boundary. The boundary must be determined according to the United States Army Corps of Engineers Wetland Delineation Manual (January 1987). The wetland type must be determined according to United States Fish and Wildlife Service Circular No. 39. The local government unit may seek the advice of the technical evaluation panel as to the wetland size and type.

Subd 2. **Wetland District** is such land as identified and delineated in the official zoning maps and ordinances of Goodhue County, Minnesota.

### **SECTION 3. WETLAND CLASSES**

The Ordinance addresses the eight wetland classes defined in the U.S. Fish and Wildlife Services *Circular No. 39* and defined in Subdivisions 1 to 8.

Subd. 1. **Seasonally Flooded Basins or Flats (Type 1).** Soil is covered with water or is waterlogged during variable seasonal periods but usually is well drained during much of the growing season. Vegetation varies greatly according to season and duration of flooding from bottom-land hardwoods to herbaceous growths.

- Subd. 2. Inland Fresh Meadows (Type 2). Soil is usually without standing water during most of the growing season but is waterlogged within at least a few inches of the surface. Vegetation includes grasses, sedges, rushes, and various broadleaf plants. Meadows may fill shallow basins, sloughs, or farmland sags, or these meadows may border shallow marshes on the landward side.
- Subd. 3. Inland Shallow Fresh Marshes (Type 3). Soil is usually waterlogged early during growing season; often covered with as much as six inches or more of water. Vegetation includes grasses, bulrushes, spikerushes, and various other marsh plants such as cattails, arrowheads, pickerelweed, and smartweeds. These marshes may nearly fill shallow lake basins or sloughs, or may border deep marshes on landward side. Also common as seep areas on irrigated lands.
- Subd. 4. Inland Deep Fresh Marshes (Type 4). Soil is usually covered with six inches to three feet or more of water during growing season. Vegetation includes cattails, reeds, bulrushes, spikerushes, and wild rice. In open areas, pondweeds, naiads, coontail, watermilfoils, waterweeds, duckweeds, waterlilies, or spatterdocks may occur. These deep marshes may completely fill shallow lake basins, potholes, limestone sinks, and sloughs, or they may border open water in such depressions.
- Subd. 5. Inland Open Fresh Water (Type 5). Shallow ponds and reservoirs are included in this type. Water is usually less than ten feet deep and fringed by a border of emergent vegetation similar to open areas associated with inland deep fresh marshes.
- Subd. 6. Shrub Swamps (Type 6). Soil is usually waterlogged during growing season and is often covered with as much as six inches of water. Vegetation includes alders, willows, buttonbush, dogwoods, and swamp-privet. Occur mostly along sluggish streams and occasionally on floodplains.
- Subd. 7. Wooded Swamps (Type 7). Soil is waterlogged at least to within a few inches of surface during growth season and is often covered with as much as one inch of water. Occur mostly along sluggish streams, on floodplains, on flat uplands, and in shallow basins. Trees include tamarack, arborvitae, black spruce, balsam, red maple, and black ash. Northern evergreen swamps usually have a thick ground cover of mosses. Deciduous swamps frequently support beds of duckweeds, smartweeds.
- Subd. 8. Bogs (Type 8). Soil is usually waterlogged and supports a spongy covering of mosses. Occur mostly in shallow basins, on flat uplands and along sluggish streams. Vegetation is woody or herbaceous or both. Typical plants are health shrubs, sphagnum moss, and sedges. Scattered, often stunted, black spruce and tamarack may occur.

#### **SECTION 4. DETERMINATION OF WETLANDS**

- Subd. 1. The 1987 United States Army Corps of Engineers Wetland *Manual for Identifying and Delineating Jurisdictional Wetlands* must be used when identifying and delineating wetlands.
- Subd. 2. Resource maps maintained at the Soil and Water Conservation District and Land Use Management Offices will be used for preliminary, desk top determination. However, these maps are not considered to be law and sight evaluations may be required.

#### **SECTION 5. PROHIBITIONS**

A landowner or agency may not destroy or diminish any wetland unless a written permit from the appropriate county or state agency is obtained. Additionally, no home sewage treatment or other waste treatment system may be constructed in or deposited upon or within a wetland without approval from the appropriate agency.

#### **SECTION 6. EXEMPTIONS**

Persons proposing to conduct a regulated activity shall contact the Goodhue County Soil and Water Conservation District for advice on determining whether a proposed project is eligible for an exemption or no loss and to evaluate alternatives to avoid or minimize wetland impacts. The Goodhue County Soil and Water Conservation District shall refer applicants to appropriate agencies for necessary permits within wetland areas.

## **SECTION 7. REPLACEMENT**

Subd. 1. Replacement of a wetland shall be completed utilizing a replacement plan, approved by the Goodhue Board of Commissioners. All replaced wetlands shall be by conditional use and shall meet the criteria or standards in Article 4, Section 6.

Subd. 2. Prior to submittal of an application for a conditional use permit, a landowner must develop a replacement plan and have a review conducted by the Goodhue County Wetland Technical Evaluation Panel.

Subd. 3. Replacement must be in a ratio as required by MR. 8420 as presently adopted or as modified thereafter,

Wetland Replacement Siting: –

A. Siting wetland replacement must follow this priority order:

1. on site or in the same minor watershed as the affected wetland;
2. in the same watershed as the affected wetland and in Goodhue County;
3. in the same watershed as the affected wetland;
4. in the same county as the affected wetland;
5. in an adjacent watershed or county to the affected wetland; and
6. statewide, only for wetlands affected in greater than 80 percent areas and for public transportation projects, except that wetlands affected in less than 50 percent area must be replaced in less than 50 percent areas, and wetlands affected in the seven-county metropolitan area must be replaced at a ratio of two to one in: (i) the affected county or, (ii) in another of the seven metropolitan counties, or (iii) in one of the major watersheds that are wholly or partially within the seven-county metropolitan area, but at least one to one must be replaced within the seven county metropolitan area.

## **SECTION 8. FEES**

There will be a fee for the conditional use permit charged to the landowner or agency obtaining a replacement permit for destroyed or diminished wetlands. A fee, as established by the Goodhue County Soil and Water Conservation District may also be charged for any services provided by the Soil and Water Conservation District Office. Said fee will be based on the need for the following: wetland delineation review, replacement plan review, no-loss determination, exemption determination, banking plan review, and annual monitoring reporting.

## **SECTION 9. ENFORCEMENT**

Subd. 1. If a violation of this Ordinance is discovered, a zoning official, a conservation officer or County Sheriff/Deputy may issue a cease and desist order to the responsible party requiring stoppage of the illegal activity. Upon receipt of a cease and desist order, the responsible party shall apply to the Goodhue County Soil and Water Conservation District for a no-loss determination or a certification of exemption or a replacement plan or a conditional use permit before the work may proceed.

Subd. 3. A landowner or agency who feels a cease and desist order has been improperly issued must prove the land is not classified as wetland or the activity is exempt from the Wetland Conservation Act of 1991.

Subd. 4. A County Sheriff or Conservation Officer or County Official may issue a citation for a violation of this Ordinance.

Subd. 5. A violation of this Ordinance is a misdemeanor.

## **SECTION 10. APPEAL PROCESS**

If a landowner or agency does not agree with any decisions made by the Goodhue County Soil and Water Conservation District, they may appeal the decision to the County Board.

*Amended 3/22/04*

*Amended October 2, 2007*