

**Zoning Ordinance**

**TRAVERSE COUNTY LAND USE ORDINANCE**

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

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

**SECTION 1 TITLE**

**1.00 TITLE**

**1.00 Title.**

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

**SECTION 2 INTENT AND PURPOSE**

**2.00 INTERPRETATION AND APPLICATION**

**2.01 Interpretation and Application.**

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

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

**2.02 Purpose of Adult Use Regulations.**

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

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

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

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

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

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

**SECTION 3 APPLICATION OF THIS ORDINANCE**

**3.00 APPLICATION OF THIS ORDINANCE**

**3.01 Application.**

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

**SECTION 4 RULES**

**4.00 RULES**

**4.01 Rules.**

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

**SECTION 5 DEFINITIONS**

**5.00 DEFINITIONS.**

**5.01 Definitions.**

“**Accessory Use or Structure**” means a building, structure or use on the same lot with and of a nature customarily incidental and subordinate to the principal building or use.

“**Administrator, Zoning**” means the duly appointed person charged with enforcement of this Ordinance.

“**Adult Arcade**” means an establishment where, for any form of consideration, one or more motion picture projectors, slide projectors, or similar machines for viewing by five or fewer persons each are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

“**Adult Bookstore**” means an establishment that has as a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following: 1) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or 2) instruments, devices or paraphernalia that are designed for use in connection with specified sexual activities.

“**Adult Cabaret**” means a nightclub, bar, restaurant, or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, slides, or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

“**Adult Motion Picture Theater**” means an establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

“**Adult Theater**” means a theater, concert hall, auditorium, or similar establishment characterized by (activities featuring) the exposure of specified anatomical areas or by specified sexual activities.

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**“Adult Use Establishments”** include, but are not limited to: adult arcade, adult bookstore, adult cabaret, adult motion picture theater, adult theater, or sexual encounter establishment.

**“Agriculture”** The use of land for agricultural purposes, including farming, windfarming, dairying, pasturage, agriculture, horticulture, floriculture and animal and poultry husbandry and the necessary accessory uses for packing, treating or storing the produce; provided, however, that the operation of any such accessory use shall be secondary to that of the normal agricultural activities.

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

1. Field crops, including but not limited to: barley, soy beans, corn, hay, oats, potatoes, rye, sorghum, sunflowers, and wheat and tree farming.
2. Livestock, including but not limited to: dairy and beef cattle, buffalo, goats, horses, sheep, hogs, poultry, game birds, ponies, deer, rabbits, mink, lamas, elk, emus, ostriches, and other exotic animals.
3. Aquaculture.
4. Livestock products, including but not limited to: milk, butter, cheese, eggs, meat, fur and honey.

The definition includes sale of raw products, but not processing or sale of processed goods. This definition does not include animal feedlots which are defined and regulated separately.

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

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

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

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

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

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

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

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

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

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

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

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

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

**“Board”** means the board of County Commissioners.

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

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

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

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

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

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

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

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

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

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

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

**“Church or Place of Worship”** means a building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building,

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together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

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

**“Commercial Use”** means the principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.

**“Commissioner”** means the Commissioner of the Department of Natural Resources.

**“Community Water and Sewer Systems”** means utilities systems serving a group of buildings, lot, or any area of the community, with the design and construction of such utility systems as approved by the community and the State of Minnesota.

**“Compliance Inspection”** means any evaluation, investigation, inspection, or other such process to make conclusions, recommendations, or statements regarding an individual sewage treatment system to reasonably assure an individual sewage treatment system is in compliance as specified under part 7080.0060. Compliance inspections must be conducted by a qualified employee or under a license independent of the owner and the installer.

**“Comprehensive Plan”** means the policies, statements, goals, and interrelated plans for private and public land and water use, transportation, and community facilities including recommendations for plan execution, documented in texts, ordinances and maps which constitute the guide for the future development of the county or any portion of the county.

**“Conditional Use”** means a land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that (1) certain conditions as detailed in the zoning ordinance exist, and (2) the use or development conforms to the comprehensive land use plan of the county and (3) is compatible with the existing neighborhood.

**“Conservation District”** means shoreland located between the ordinary high water level of a lake, pond, flowage river or stream and an elevation of 983.00 feet mean sea level datum (1912 adjustment).

**“County”** means Traverse County, Minnesota.

**“County Board”** means the Traverse County Board of Commissioners.

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**“Cutting, Clear”** means the removal of an entire stand of vegetation.

**“Cutting, Selective”** means the removal of single scattered trees.

**“Deck”** means a horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than three feet above ground.

**“Department”** means the Traverse County Environmental Services or other designated agent who is a qualified employee or licensee.

**“Dike”** means an embankment or ridge of either natural or synthetic materials used to prevent the movement of liquids, sludges, solids, or other materials.

**“Duplex,” “Triplex,” and “Quad”** means a dwelling structure on a single lot, having two, three, and four units respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.

**“Dwelling”** means a residential building or portion thereof intended for occupancy by a single family, but not including hotels, motels, boarding or rooming houses or tourist homes.

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

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

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

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

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

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

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**“Encroachment Lines”** means the lateral limits or lines drawn along each side and generally parallel to a stream or another body of water, which delineates the floodway and within which the flood-carrying capacity of the stream or other body of water is to be preserved. Their location, if along a stream, should be such that the floodway between them will effectively carry and discharge a flood not less than the regional flood.

**“Equal Degree of Encroachment”** means a method of determining the location of encroachment lines so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows. This is determined by considering the effect of encroachment on the hydraulic efficiency of the floodplain along both sides of a stream for a significant reach.

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

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

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

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

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

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

**“Failed Sewage System”** means any system uncovered by flood waters, leaking or discharging into public waters or groundwater, leaking or discharging to ground surface

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or requiring any maintenance that exceeds 25% of the system's original cost; excepting pumping from holding tanks.

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

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

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

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

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

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

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

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

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

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

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

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

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

**“Floodplain”** means the areas adjoining a watercourse or water basin that have been or may be covered by the regional flood.

**“Floodplain Management”** means the full range of public policy and action for ensuring wise use of the floodplains. It includes everything from collection and dissemination of flood control information to actual acquisition of floodplain lands, construction of flood control measures, and enactment and administration of codes, ordinances, and statutes regarding floodplain land use.

**“Floodplain Regulations”** means the full range of codes, ordinances, and other regulations relating to the use of land and construction within floodplain limits. The term encompasses zoning ordinances, subdivision regulations, and sanitary and building codes.

**“Flood Profile”** means a graph or a longitudinal plot of water surface elevations of a flood event along a reach of a stream or river.

**“Floodproofing”** means a combination of structural provisions, changes or adjustments to properties and structures subject to flooding primarily for the reduction or elimination of flood damages to properties, water and sanitary facilities, structures, and contents of buildings in a flood hazard area.

**“Flood Stage”** means, as commonly used by the U.S. Weather Bureau and others, that stage, at a particular river gauge, where overflow of the natural banks of the stream results in significant flood damage in any portion of the reach for which the gauge is a representative index.

**“Floodway”** means the channel of the watercourse, the bed of water basins, and those portions of the adjoining floodplains which are reasonably required to carry and discharge floodwater and provide water storage during a regional flood.

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**“Forest Land Conversion”** means the clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

**“Frontage”** means that boundary of a lot which abuts an existing or dedicated public street.

**“Garage”** means an accessory building or accessory portion of the principal building which is intended for and used to store the private passenger vehicles of the family or families resident upon the premises.

**“Governing Body”** means a town board of supervisors, the council of a municipality, or board of county commissioners.

**“Government Survey”** a survey which was conducted by the United States of America in dividing the land into congressional townships, sections, and subdivisions thereof.

**“Guest Cottage”** means a structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.

**“Hardship”** as used in connection with the granting of a Variance means the property in question cannot be put to a reasonable use if used under the conditions allowed by the official controls; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the Variance, if granted will not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of this Ordinance. A variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located.

**“Height”** for the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the Zoning Map, the datum shall be mean sea level elevation unless otherwise specified.

**“Highway”** means any public thoroughfare or vehicular right-of-way with a federal, state or county numerical route designation.

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

- (1) No commodity is sold upon the premises.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**“Landscaping”** means plantings such as trees, grass, and shrubs.

**“Land Spreading”** means the placement of septage or human waste from septic or holding tanks on or into the soil surface and the placements of petroleum contaminated soils on or into the soil surface.

**“Land Use”** means any activity that involves use of the land or environmental quality involving structures, alteration of the land form or alteration of land, air or water quality. This includes, but is not limited to, buildings, essential services, agriculture, natural resource harvesting, commerce, industry, residential development and storm water systems.

**“Land Use Development Application”** means, including, but not limited to applications for the following: construction permits, ISTS Permits, vegetative alteration permits, topographic alterations permits, or other types of zoning permits, conditional use permits, amendments to this Ordinance, variances from the provisions of Ordinance, and the subdivision of real estate. The application is not considered complete and will not be accepted by the Environmental Services Department unless all fees are paid, preliminary reviews and approvals completed, submitted with associated supporting information and documents, and such other informational required by the Environmental Services Department.

**“Landing Area”** means the area of the airport used for the landing, taking off or taxiing of aircraft.

**“Local Governmental Unit”** means a county, statutory or home rule charter city, town, watershed district or lake improvement district.

**“Lot”** means a parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.

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**“Lot Area”** means the area of a lot in a horizontal plane bounded by the lot lines.

**“Lot Area, Buildable”** means that contiguous portion of a lot remaining after the deletion of any floodplain, road rights-of-way, setback areas, wetlands, slopes of twelve (12) percent or greater and protected waters.

**“Lot Depth”** means the mean horizontal distance between the front lot line and the rear lot line of a lot.

**“Lot Line”** means the property line bounding a lot except that where any portion of a lot extends into the public right-of-way. The right-of-way line shall be the lot line for applying this Ordinance.

**“Lot Line, Front”** means that boundary of a lot which abuts an existing or dedicated public street, and in the case of a corner lot it shall be the shortest dimensions on a public street. If the dimensions of a corner lot are equal, the front line shall be designated by the owner.

**“Lot Line, Rear”** means that boundary of a lot which is opposite the front lot line. If the rear line is less than ten feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten feet in length within the lot, parallel to, and at the maximum distance from the front lot line.

**“Lot Line, Side”** means any boundary of a lot which is not a front lot line or a rear lot line.

**“Lot Width”** means the shortest distance between lot lines measured at the midpoint of the building line.

**“Manufactured Home”** means living quarters designed for transportation after fabrication on streets and highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on jacks or permanent foundations, connection to utilities and the like. A manufactured home will be defined by reference to the latest publication of the Federal Manufactured Home Construction and Safety Standards Act of 1974 and Minnesota Statutes, Chapter 327.

**“Manufactured Home Park”** means any site, lot, field, or tract of land under single ownership, designed, maintained or intended for the placement of two (2) or more occupied manufactured homes. “Manufactured Home Park” shall include any buildings, structure, vehicle, or enclosure intended for use as part of the equipment of such manufactured home park.

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**“Manufactured Home Stand”** means the part of an individual manufactured home lot which has been reserved for placement of the manufactured home, appurtenant structures, or additions.

**“Metes and Bounds”** is a method used to describe property which does not rely on descriptions in the platted townsites or upon the U.S. Government survey, but rather identifies the property by reference to distances, angles, direction, objects, or a combination of two or more.

**“Migratory Labor Camp”** means temporary facilities provided by the employer on his own land for the housing of workers who for seasonal purposes are employed in the planting, harvesting, or processing of crops.

**“Mitigation”** means the act of alleviating the effects of floods and flooding by moderating or reducing the severe damages resulting from floods through structural and nonstructural flood management measures.

**“Mitigation Measures”** means structural or nonstructural flood management measures, or both.

**“Motel”** means a building or group of detached, semi-detached, or attached buildings containing guest rooms or dwellings, with garage or parking space conveniently located to each unit, and which is designed, used or intended to be used primarily for the accommodation of automobile transients.

**“Mottling”** as applied to soils, means a zone of chemical and reduction activity, appearing as splotchy patches of red, brown, or gray in the soil.

**“MPCA”** means the Minnesota Pollution Control Agency.

**“Multiple Family Dwelling”** means three (3) or more dwelling units in one structure including townhomes, apartment buildings, etc.

**“Municipality”** means a city however organized.

**“Non-Conforming Use”** means use of land, buildings or structures legally existing at the time of adoption of this Ordinance which does not comply with all the regulations of this Ordinance or any amendments hereto governing the zoning district in which such use is located.

**“Nonconformity”** means any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date it was established, recorded or authorized.

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**“Non-Farm Dwelling”** means any dwellings located on a parcel of land contiguous to or surrounded by farm land which is under separate ownership and whose occupants do not derive their predominant income from agricultural activities on the farm.

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

- (1) public acquisition of floodplain lands;
- (2) relocation of public and private structures and facilities;
- (3) floodproofing of public and private facilities;
- (4) installation and operation of flood warning systems and evacuation procedures;
- (5) adoption and enforcement of land use control ordinances and building codes;
- (6) installation of signs and other notifications in regional flood areas; and
- (7) provision of flood insurance and public education.

**“NRCS”** means the National Resources Conservation Service.

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

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

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

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

**“Official Control”** means legislatively defined and enacted policies, standards, precise detailed maps, and other criteria, all of which control the physical development of a municipality or a county or any part thereof or any detail thereof, and are the means of

## Zoning Ordinance

translating into ordinances all or any part of the general objectives of the comprehensive plan. Such official controls may include but are not limited to ordinances establishing zoning, subdivision controls, site plan rules, sanitary codes, building codes, housing codes, and official maps.

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

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

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

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

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

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

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

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

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

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

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

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

**“Planning Commission”** means the Planning Commission of Traverse County.

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

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

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

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

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

## Zoning Ordinance

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

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

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

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

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

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

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

## Zoning Ordinance

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

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

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

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

**“Regulatory Flood Protection Elevation”** means an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

**“Residence”** for purposes of the application of the feedlot ordinance means any dwelling which is currently occupied or has been occupied for a period of ninety (90) days within one (1) year of the permit application.

**“Residential Planned Unit Development”** means a use where the nature of residency is nontransient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential planned unit developments.

**“Residential Property”** means property which is either zoned for residential use or developed with single family or multiple family residential use including assisted living facilities.

**“Road”** means a public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land, place or however otherwise designated. Ingress and egress easements shall not be considered roads.

**“Road, Private”** means an unplatted access to more than one lot or parcel, including leased or rental properties where public access is limited.

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**“Rural Areas”** means all areas not included under urban areas, such as agricultural, forest, and undeveloped areas.

**“Salvage Yard”** means an open area where used or secondhand materials are bought, sold, exchanged, stored, baled, packed, disassembled, recycled or handled, including but not limited to: motor vehicles, scrap iron and other metals, paper, rags, rubber, tires, and bottles. This definition does not include solid waste or demolition landfills.

**“Saturated Soil”** (or seasonal high water table) means the highest elevation in the soil where all voids are filled with water, as evidenced by presence of soil mottling or other information.

**“Screening”** means opaque fencing or dense landscaping using evergreen trees or shrubs.

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

**“Sensitive Resource Management”** means the preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

**“Septage”** means solids and liquids removed during periodic maintenance of an ISTS, or solids and liquids which are removed from toilet waste treatment devices or a holding tank.

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

**“Sewage”** means any water-carried domestic waste, exclusive of footings and roof drainage, from any industrial, agricultural, or commercial establishment, or any dwelling or any other structure. Domestic waste includes liquid waste produced by toilets, bathing, laundry, culinary operations, and the floor drains associated with these sources, and specifically excludes animal waste and commercial or industrial wastewater.

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

**“Sexual Encounter Establishment”** means an establishment other than a hotel, motel, or similar establishment offering public accommodations, which, for any form of consideration, provides a place where two or more persons may congregate, associate, or

## Zoning Ordinance

consort in connection with specified sexual activities or the exposure of specified anatomical areas. This definition does not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in sexual therapy.

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

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

**“Shoreland Setback”** means the minimum horizontal distance between a structure and the normal high water mark.

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

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

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

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

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

**“Sign, Name Plate”** means any sign which states the name or address or both of the business or occupant of the lot where the sign is placed.

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

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**“Sign, Rotating”** means a sign which revolves or rotates on its axis by mechanical means.

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

**“Significant Historic Site”** means any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

**“Slope”** means an incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude.

$$\text{slope} = 3:1 = 3 \text{ ft. horizontal to} \\ 1 \text{ ft. vertical}$$

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

flows; or source, special nuclear, or by-product material as defined by The Atomic Energy Act of 1954, as amended.

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

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

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

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

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

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

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

**“Structural Alteration”** means any change, other than incidental repairs, which would prolong the life of the supporting members of a building, such as bearing walls, columns, beams, girders or foundations.

**“Structural Flood Management Measures”** means physical actions taken to modify the behavior and extent of floods and flooding, including the construction of dams, dikes, levees, flood bypass channels, floodwater storage and retardation structures, excluding deepening or straightening of existing stream channels.

## Zoning Ordinance

**“Subdivision”** means land that is divided for the purpose of sale, rent, or lease, including planned unit development.

**“Surface Water-Oriented Commercial Use”** means the use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts, and restaurants with transient docking facilities are examples of such use.

**“Toe of the Bluff”** means the lower point of a 50-foot segment with an average slope exceeding eighteen (18) percent.

**“Toilet Waste Treatment Devices”** means privies and other devices including incinerating, composting, biological, chemical, recirculating, or holding toilets.

**“Top of the Bluff”** means the higher point of a 50-foot segment with an average slope exceeding eighteen (18) percent.

**“Tower”** means any ground or roof mounted pole, spire, structure, or combination thereof exceeding fifteen (15) feet in height, which is intended primarily for the purpose of mounting an antenna, meteorological device or similar apparatus above grade. Tower includes supporting lines, cables, wires, braces and masts which are attached to or part of a Tower.

**“Township”** means any township.

**“Transfer of Property”** means the Act of a party by which a title to property is conveying from one person to another. The sale and every other method, direct or indirect, of disposing or parting with property, or with an interest therein, or with the possession thereof, absolutely or conditionally, voluntarily or involuntarily, by or with judicial proceedings, as a conveyance, sale, mortgage, gift, or otherwise.

**“Traverse ways”** for the purpose of determining height limits as set forth in this ordinance shall be increased in height by 17 feet for interstate highways; 15 feet for all other public roadways; 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for private roads; 23 feet for railroads; and for waterways and all other traverse ways not previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it.

**“Urban Areas”** means the area within the present corporate limits plus the adjoining areas that are or could be under the statutory extraterritorial zoning jurisdiction of any city or village.

**“Use”** means the purpose or activity for which the land or building thereon is designated, arranged or intended, or for which it is occupied, utilized or maintained.

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**“Variance”** means any modification or variation of official controls where it is determined that, by reason of exceptional circumstances, the strict enforcement of the official controls would cause unnecessary hardship.

**“Vehicle”** means car, truck, motorcycle, recreation vehicle or similar equipment which is permitted by license to operate on public roads.

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

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

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

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

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

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

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

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

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

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

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

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

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

**SECTION 6 NON-CONFORMING USES AND STRUCTURES**

**6.00 NON-CONFORMING USES AND STRUCTURES**

**6.01 Non-conforming Structures or Uses.**

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

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

**SECTION 7 ADMINISTRATION**

**7.00 ADMINISTRATION**

**7.01 Zoning Administrator.**

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

**7.02 Zoning Administrator Powers and Duties.**

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

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

**Zoning Ordinance**

**7.03 Environmental Officer.**

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

**7.04 Environmental Officer Powers and Duties.**

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

1. To receive and review applications for permits and issue permits only if such permit request is in full conformance with the provisions of Section 23 of this Ordinance.
2. To receive and review application requests for action by the Board of Adjustment and/or the County Planning Commission and provide such information, data and testimony as may be necessary for action to be taken.
3. To make inspections to discover violations and check for compliance with Section 23 of this Ordinance. If violations of Section 23 of this Ordinance are discovered, the Administrator shall notify the violator(s) and take such other steps as are necessary to correct the violation.
4. To maintain records of all actions taken pursuant to the provisions of Section 23 of this Ordinance.
5. To assist the public in complying with and understanding their responsibilities and rights under Section 23 of this Ordinance.
6. To identify and locate jurisdiction and zoning district boundaries and public waters by on-site investigation, interpretation of official maps and other appropriate methods.

**SECTION 8 ESSENTIAL SERVICES CONDITIONAL USE PERMIT**

**8.00 ESSENTIAL SERVICES CONDITIONAL USE PERMIT**

**8.01 Purpose and Intent.**

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

**8.02 Title.**

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

**8.03 Validity.**

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

**8.04 Jurisdiction and Scope.**

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

**8.05 Conditional Use Permits.**

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

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

## 8.06 Findings.

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

1. Make conditions reasonably necessary to protect and restore cultivated agricultural land and to mitigate the impact of the proposed use on the productive use of land.
2. Make conditions reasonably necessary for the protection and restoration of drainage and drain patterns, soil compaction, and for the removal of rocks and debris after construction.
3. Make conditions reasonably necessary for roadway crossings, and the protection and restoration of roadway services, road rights-of-way and all other county and other government property.
4. Find that all necessary state, federal and other governmental permits have been granted or will be granted for the applicant to commence construction.
5. Require that the applicant reimburse the county for all extraordinary costs and expenses paid or to be paid in connection with the application, including all costs of providing public notice of the application and public hearing on the application, all legal, engineering and other professional costs, and all costs paid or incurred in assuring that the terms of the Conditional Use Permit are met by the applicant.
6. Require that the applicant post a bond, cash or other security as determined by the County Board, to ensure that all terms and conditions of the Conditional Use Permit are met.
7. The Permit shall also be conditioned on any other conditions deemed necessary by the County Board to carry out the terms of this ordinance.
8. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity.

## **Zoning Ordinance**

9. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominate in the area.
10. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.
11. That adequate measures have been or will be taken to provide sufficient off street parking and loading space to serve the proposed use.
12. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

### **8.07 Report to County Board.**

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

### **8.08 Fees.**

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

### **8.09 Exemptions.**

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

**SECTION 9 APPEALS AND THE BOARD OF ADJUSTMENT AND APPEALS**

**9.00 APPEALS AND THE BOARD OF ADJUSTMENT AND APPEALS**

**9.01 Membership.**

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

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

**9.02 Decisions.**

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

**9.03 Duties.**

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

1. The Board of Adjustment shall hear and act on requests for Variances from the provisions of this Ordinance.
2. The Board of Adjustment shall hear and decide appeals from an order, requirement, decision or determination made by the Administrator.

**Zoning Ordinance**

3. The County Board may assign additional duties and responsibilities to the Board of Adjustment including but not restricted to:
  - A. The establishment of rules for the conduct of public hearings.
  - B. The authority to elect a Chairperson and Vice Chairperson from among its members.
4. The Board of Adjustment shall decide such other issues as are specifically defined in this Ordinance.

**9.04 Conflicts of Interest.**

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

**9.05 Authority.**

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

**SECTION 10 PLANNING COMMISSION**

**10.00 PLANNING COMMISSION**

**10.01 Membership.**

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

**10.02 Decisions.**

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

**10.03 Duties.**

The Planning Commission shall have the following powers and duties:

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

**SECTION 11 PERMITS AND FEES**

**11.00 PERMITS AND FEES**

**11.01 Zoning Permits.**

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

1. Erection of signs, except political and real estate signs that conform to the standards of Section 19.05.
2. Installation, alteration, repair or extension of any sewage disposal system or solid waste disposal operation.
3. Shoreland Alterations, including removal of trees and shoreland vegetation.
4. Land Alterations, including mineral extraction and landfills.
5. Erection, alteration or relocation of feedlots, holding ponds, and slurry systems.
6. Location of all essential services.
7. Fences (not including open fences), retaining walls, berms and landscaping higher than two (2) feet.
8. The construction or modification of a dam or dike.
9. Within the flood plain, prior to the erection, addition, or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the change or extension of a nonconforming use; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment.
10. The addition of a bedroom to a residence, either by creating additional space or by the conversion of existing space.

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**11.02 Zoning Permit Procedures**

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

**11.03 Other Regulations**

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

**SECTION 12 ZONING AMENDMENTS**

**12.00 ZONING AMENDMENTS**

**12.01 Criteria**

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

**12.02 Procedure**

1. **Initiation of Process/Application.** An amendment to the Ordinance or Zoning Map may be initiated by the County Board, the Planning Commission or by a petition of affected property owners. Individuals wishing to initiate an amendment to the Ordinance shall fill out a zoning amendment application form and submit it to the Zoning Administrator.
2. **Referral to Planning Commission.** An amendment not initiated by the Planning Commission shall be referred to the Planning Commission for study and report and may not be acted upon by the County Board until the County Board has received, prior to the recommendation of the Planning Commission. The Zoning Administrator may review the proposed amendment and provide the Planning Commission with a report and recommendation.
3. **Planning Commission Recommendation to the County Board.** After reviewing the proposed amendment, the Planning Commission will make a recommendation to the County Board as to whether the amendment should be made.
4. **County Board Agenda.** If practical, the report of the Planning Commission shall be placed on the agenda of the County Board, at its next regular meeting, following referral from the Planning Commission.

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5. **Public Hearing & Notice.** The County Board will hold a public hearing regarding any proposed amendment to the Zoning Ordinance. In addition to the requirements of Minnesota Statutes Section 375.51, subdivision 2, written notice of public hearings on all amendments to the Zoning Ordinance must be sent to the governing bodies of all towns and all municipalities located within the County. Such public hearings may be continued from time to time and additional hearings may be held. Written notice of public hearings regarding amendments to the zoning code which affect specific properties must be sent to:
  - A. The Applicant, if any;
  - B. Adjacent property owners as follows:
    - (1) In unincorporated areas of the County, property owners of record within one-half (1/2) mile of the affected property.
    - (2) In incorporated areas of the County, property owners of record within five hundred (500) feet of the affected property.
  - C. The affected board of town supervisors and the municipal council of any municipality within two miles of the property in question;
  - D. If the application affects land lying in a Shoreland or Flood Plain District to the Commissioner of Natural Resources.
6. **Appearance by Applicant.** The applicant, if any, or the applicant's representatives may appear before the County Board in order to answer questions concerning the zoning amendment application.
7. **4/5ths Vote Required.** A 4/5ths vote of the County Board is required for any amendment to this Ordinance.
8. **Resubmission.** No application of a property owner for a rezoning shall be considered within the one-year period following a denial of such request. The County Board may permit a new application, if in the opinion of the County Board, new evidence or a change or circumstances warrant it.
9. **Floodplain & Shoreland.** In addition to the procedures provided for above, all amendments to the Floodplain and Shoreland Districts including amendments to portions of the Official Zoning Map must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the floodplain portions of the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must

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receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given 10-days written notice of all hearings to consider an amendment to this Ordinance and said notice shall include a draft of the ordinance amendment or technical study under consideration.

10. **Change in Comprehensive Plan.** At the time the County Board considers any change in the Zoning Map it will also consider a change to Comprehensive Plan if required as part of the change to the Zoning Map.
11. **Records.** The Zoning Administrator shall maintain records of amendments to the text of the Ordinance and/or the Zoning Map, in addition to the records required by law to be kept and filed with the County Recorder by the County Auditor.
12. **Fee.** A fee, established by resolution of the County Board of Commissioners, shall be submitted along with the permit application. An additional fee may be charged, for atypical projects, whether based on size or type of use. In such case, the applicant shall reimburse the County for administrative time and professional services and costs incurred by the County.

**SECTION 13 VARIANCES AND APPEALS**

**13.00 VARIANCES AND APPEALS**

**13.01 Appeals and Administrative Decisions**

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

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

**13.02 Variances.**

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

**13.03 Criteria for Granting Variances**

1. Variances may only be granted by the Board of Adjustment when the following findings have been made by the Board:
  - A. There are practical difficulties or particular hardships in the way of carrying out the strict letter of any of this Ordinance. This involves a determination that:
    - (1) Without a variance the property in question cannot be put to a reasonable use; and

## Zoning Ordinance

- (2) The hardship is not based solely on economic considerations (except where the owner has no reasonable use for its property under this Ordinance.)
  - B. The terms of the proposed variance are consistent with the Comprehensive Plan.
  - C. The proposed variance will be in harmony with the general purposes and intent of the this Ordinance.
  - D. The plight of the landowner is due to circumstances unique to the property not created by the landowner.
  - E. The variance, if granted, will not alter the essential character of the locality.
2. No land “use” different from that permitted in the zoning district (use variance) may be issued.
  3. No variance shall have the effect of allowing a Floodplain District a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area or permit standards lower than those required by state law.

### 13.04 Variance Procedures

1. **Application.** A person applying for a variance must fill out and submit to the Zoning Administrator a variance application form.
2. **Application Deadline.** Applications must be received prior to any deadline which may be established by the Zoning Administrator.
3. **Notice for Floodplain Properties.** If the applicant is requesting a variance from floodplain elevation, the Zoning Administrator may notify the applicant that: 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance; and 2) Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.
4. **Submission to the Board of Adjustment.** The Zoning Administrator shall refer the application to the Board of Adjustment for review and consideration. The Zoning Administrator may prepare and submit such recommendations and reports as the Administrator believes may be helpful to the Board of Adjustment.

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5. **Public Hearing & Notice.** The Board of Adjustment will schedule a public hearing on the application. Notice of the public hearing will be published in the official newspaper at least ten (10) days prior to the hearing. In addition to the published notice, the Administrator shall notify the following of the time, place, and purpose of the public hearing:
  - A. The Applicant;
  - B. The board of township supervisors of the township in which the affected property is located.
  - C. The municipal council of any municipality within two (2) miles of the affected property.
  - D. To adjacent property owners of record within five hundred (500) feet of the affected property.
  - E. If the application is for land lying in a Flood Plain District or a Shoreland District, to the Commissioner of Natural Resources.
6. **Appearance by Applicant.** The applicant or the applicant's representatives may appear before the Board of Adjustment in order to answer questions concerning the variance application.
7. **Decision of Board of Adjustment.** After taking testimony from the public the Board of Adjustment will make a decision as to whether or not the variance should be granted.
8. **Conditions and Changes.** If the Board of Adjustment grants the variance, it may impose conditions it considers necessary to protect the public health, safety and welfare and such conditions may include a time limit for the use to exist or operate. The Board of Adjustment may also revise the variance to ensure that it is the minimum variance required.
9. **Notice of Decision.** The applicant will be provided with written notice of the Board of Adjustment's decision and the reasons for that decision. A copy of all decisions granting variances in Floodplain Zoning Districts shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

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10. **Resubmission.** No application which is substantially the same as an application of a denied variance shall be resubmitted for a period of one (1) year from the date of denial. The County Board may permit a new application, if in the opinion of the County Board, new evidence or a change or circumstances warrant it.

### 13.05 Administrative Variances

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

1. An encroachment on a public road, the road authority voices no objections on the basis of safety or future road projects or right-of-way widening on that road.
2. An encroachment on any other lot line setback, written consent from the abutting property owners affected is obtained.

The consent as outlined in (1) and (2) above shall be made upon forms prescribed by the Zoning Administrator and shall be recorded in the Office of the County Recorder, with any recording fees being paid by the applicant.

### 13.06 Recording of Variances

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

### 13.07 Appeal from the Board of Adjustment

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

### 13.08 Violations of Variance Conditions

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

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### **13.09 Fees**

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

**SECTION 14 CONDITIONAL USE PERMITS**

**14.00 CONDITIONAL USE PERMITS**

**14.01 Procedure**

1. **Application.** A person applying for a Conditional Use Permit must fill out and submit to the Zoning Administrator a Conditional Use Permit application form.
2. **Application Deadline.** Applications must be received prior to any deadline which may be established by the Zoning Administrator.
3. **Referral to Planning Commission.** After the application has been reviewed by the Zoning Administrator, the Zoning Administrator shall refer the application to the Planning Commission together with the Zoning Administrator's review and recommendations regarding the application.
4. **Recommendation to the County Board.** After taking public testimony and reviewing the Conditional Use Permit application, the Planning Commission will make a recommendation to the County Board as to whether the County Board should approve or deny the application, and, if approval is recommended, the Planning Commission may suggest conditions to be attached to the Conditional Use Permit.
5. **Appearance by Applicant.** The applicant or the applicant's representatives may appear before the Planning Commission in order to answer questions concerning the Conditional Use Permit application.
6. **County Board.** If practical, the report of the Planning Commission shall be placed on the agenda of the County Board at its next regular meeting following referral from the Planning Commission.
7. **Public Hearing & Notice.** The Planning Commission shall schedule a public hearing on the application. Notice of the public hearing shall be published in the official newspaper as designated by the County Board at least ten (10) days prior to the hearing. In addition to the published notice, the Administrator shall notify the following of the time, place, and purpose of the public hearing:
  - A. The Applicant.
  - B. The board of township supervisors of the township in which the affected property is located.

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- C. The municipal council of any municipality within two (2) miles of the affected property.
  - D. Adjacent property owners as follows:
    - (1) In unincorporated areas of the County, property owners of record within one-quarter ( $\frac{1}{4}$ ) mile of the affected property, or the ten (10) properties nearest to the affected property, whichever is the greatest number.
    - (2) In incorporated areas of the County, property owners of record within five hundred (500) feet of the property in question.
  - E. If the application is for land lying in a Flood Plain District, to the Commissioner of Natural Resources.
8. **Conditions.** If the County Board grants the Conditional Use Permit, it may impose conditions it considers necessary to protect the public health, safety and welfare and such conditions may include a time limit for the use to exist or operate.
9. **Amended Uses.** An amended Conditional Use Permit application shall be administered in the same manner as a Conditional Use Permit.
10. **Resubmission.** No application for a denied Conditional Use Permit shall be resubmitted for a period of one (1) year from the date of denial. The County Board may permit a new application, if in the opinion of the County Board, new evidence or a change or circumstances warrant it.
11. **Time Limitation.** If a time limit or periodic review is included as a condition by which a Conditional Use Permit is granted, the Conditional Use Permit may be reviewed at a public hearing with notice of said hearing published at least ten (10) days prior to the review. It shall be the responsibility of the Zoning Administrator to schedule such public hearings and the owner of the land will not be required to pay a fee for said review.

#### 14.02 Criteria for Granting Conditional Use Permits

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

1. **Not a Burden.** The use will not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.
2. **Compatible with Adjacent Uses.** The use will be sufficiently compatible or separated by distance or screening from adjacent agricultural or residential zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land in a similar context of the uses in the vicinity.
3. **No Adverse Affect on Adjacent Properties.** The structure and site will not have an appearance, traffic, noise and emission levels that will have an adverse effect upon adjacent properties.
4. **Relates to the Needs of the County.** The use is reasonably related to the overall needs of the County and to existing land uses.
5. **Consistent with the Comprehensive Plan.** The use is consistent with the purposes of the Zoning Ordinances and the purposes of the zoning district in which the applicant intends to locate the proposed use and the use is consistent with the Comprehensive Plan.
6. **Not a Traffic Hazard.** The use will not cause a traffic hazard or congestion.
7. **No Adverse Affect on Existing Business.** Existing nearby businesses will not be adversely affected because of curtailment of customer trade brought about by intrusion of noise, glare or general unsightliness.
8. **Floodplain.** For property located in Floodplain districts, the criteria set out in the Floodplain Ordinance will be met.
9. **Shoreland.** For property located in Shoreland districts, the criteria set out in the Shoreland Ordinance will be met.
10. **Feedlots.** Feedlots will meet the requirements of the Feedlot Ordinance.

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### 14.03 Additional Conditions

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

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

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### **14.04 Changes in Conditional Uses**

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

### **14.05 Recording Conditional Use Permits**

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

### **14.06 Revocation**

In the event that the applicant violates any of the conditions set forth in this permit, the County Board shall have the authority to revoke a Conditional Use Permit.

### **14.07 Fees**

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

**SECTION 15 ZONING DISTRICTS AND DISTRICT PROVISION**

**15.00 ZONING DISTRICTS AND DISTRICT PROVISION**

**15.01 Zoning Districts**

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

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

Symbol Name:

A- Agricultural Preservation

U-E - Urban Expansion

C-I - Commercial - Industrial

FP- Floodplain

S- Shorelands

**15.02 Zoning Map**

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

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

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

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and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board and to submit technical evidence.

**SECTION 16 AGRICULTURAL (A) DISTRICT**

**16.00 PURPOSE**

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

**16.01 Permitted Uses**

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

**16.02 Accessory Uses**

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

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### 16.03 Conditional Uses

1. Multiple Family Dwellings & Manufactured Home Parks
2. Feedlots subject to the terms of the Feedlot Ordinance
3. Retail nursery and garden supplies and greenhouses
4. Essential Services including without limitations dams, power plants, switching yards, transmission lines of over 35KV, flowage areas, pipelines and buildings supporting essential services
5. Churches and Places of Worship
6. Cemeteries
7. Schools
8. Extractive Uses and Mining
9. Kennels
10. Cabins
11. Horse stables
12. Any of the following structures if they exceed one hundred (100) feet in height: grain elevators, silos, windmills, elevator legs, cooling towers, water towers, chimneys, smokestacks and church spires
13. Demolition landfills/Sanitary landfills
14. Government buildings
15. Bulk storage (liquid) which must comply with Minnesota Pollution Control Agency (MPCA) regulations
16. Migrant labor camps that are in accordance with Minnesota Department of Health Migrant Labor Camp rules Chapter 4630 or as amended.
17. Telecommunication Towers
18. Airports
19. Advertising/Billboard Signs

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- 20. Hazardous substance storage which requires an MPCA permit and where the storage occurs for six (6) or more months in any one year period.

**16.04 Dimensional Standards for A. Districts**

**1. Height Regulations**

Maximum Structure Height of thirty-five (35) feet

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

**2. Front Yard Regulations**

Minimum setback from public road right-of-way:

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

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

**3. Side Yard Regulations**

Minimum side yard setback: 20 feet

**4. Rear Yard Regulations**

Minimum setback: 20 feet

**5. Bluffline**

Minimum setback: 30 feet

**6. Lot Area Regulations**

Minimum lot size: 3 acres

## **Zoning Ordinance**

### **7. Residential Setbacks from Feedlots**

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

### **8. General Regulations**

Additional requirements and other regulations are set forth in Section 19.

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

**SECTION 17 URBAN EXPANSION DISTRICTS**

**17.01 Purpose**

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

**17.02 Permitted Uses**

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

**17.03 Conditional Uses**

## Zoning Ordinance

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

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

1. **City Plans.** All proposed construction and uses should be consistent with the applicable City plans for land use, road rights-of-way and drainage, if any.
2. **Density.** All residential development not served by municipal utilities should be at density levels approved by both the City and the County, if any.
3. **Dimensions.** The minimum lot size and lot dimensions should be consistent with those jointly approved by the City and the County, if any. If not jointly approved, the dimensions required by this Section apply.
4. **Single Family Dwelling Placement.** A complete plat must be submitted for the development of Single Family Housing. Each house must be placed on one platted lot and conform to the building setbacks jointly approved by the City and the County, if any. If no setbacks have been jointly approved by the City and the County, the setbacks required by this Section apply. All single family homes should be placed on lots to allow future resubdivision of the lot to accommodate possible future municipal improvements.
5. **Site Plans.** Site plans for commercial and industrial development must meet the criteria jointly approved by the City and the County, if any. If no criteria are jointly approved for the property in question, the criteria in this Section will apply.

### 17.04 Accessory Uses

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

### 17.05 Dimensional Regulations

The regulations contained in this Section 17.05 relating to dimensional standards apply unless the City and County have agree to different standards or unless the property is

**Zoning Ordinance**

located within a two (2) mile area boarding a city and is covered by the subdivision and zoning regulations of the City.

1. **Height Regulations**

Maximum height of structures: 35 feet.

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

2. **Front Yard Regulations**

Minimum setback from public road right-of-way:

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

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

3. **Side Yard Regulations**

Minimum side yard setback: 20 feet

4. **Rear Yard Regulations**

Minimum setback: 20 feet

5. **Bluffline**

Minimum setback: 30 feet

6. **Lot Area Regulations**

Minimum lot area for Residential Buildings: 3 acres

Minimum lot area for Commercial and Industrial Buildings: 3 acres

7. **Lot Width and Depth Regulations**

Minimum lot width: 250 feet

**Zoning Ordinance**

**8. Residential Setbacks from Feedlots**

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

**9. General Regulations**

Additional requirements and other regulations are set forth in Section 19.

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

**SECTION 18 COMMERCIAL - INDUSTRIAL DISTRICT (C-I)**

**18.01 Purpose**

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

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

**18.02 Conditional Uses**

1. Commercial public recreation
2. Hotels and motels
3. Offices, clinics, and hospitals
4. Retail trade
5. Government buildings
6. Wholesale business
7. Indoor recreation, such as movie theaters
8. Restaurants, cafes, and supper clubs
9. Drive-in businesses
10. Clubs & lodges
11. Truck stops, automobile service stations, and convenience stores

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12. Erosion control and wildlife developments
13. Temporary construction buildings
14. Salvage yards
15. Extractive Uses
16. Distillation of bone, coal, tar, petroleum, grain or wood
17. Fertilizer manufacturing, compost or storage processing of garbage
18. Livestock slaughter houses as processing plants
19. On and off sale liquor establishment
20. Freight transportation terminals
21. Living quarters of persons employed on the premises
22. Industrial and manufacturing uses
23. Warehousing
24. Essential Services including without limitations dams, power plants, switching yards, transmission lines of over 35KV, flowage areas, pipelines and buildings supporting essential services
25. Auto, truck and implement dealerships
26. Bulk storage (liquid)
27. Advertising/Billboard Signs
28. Cutting or filling in excess of fifty (50) cubic yards that is not in connection with another permitted use
29. Telecommunication Towers
30. Adult Use Establishments with a minimum separation of three hundred fifty (350) lineal feet from the lot line of any property containing any other Adult Use Establishment and one thousand three hundred twenty (1,320) lineal feet from the lot line of any property containing a hotel, motel, nursing care home, assisted

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living facility, housing for the elderly, day care facility, church, school, or residence (and the location of an Adult Use Establishment shall also be limited to those areas shown on the Zoning Map)

- 31. Hazardous substance storage which requires an MPCA permit.

**18.03 Accessory Uses**

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

**18.04 Dimensional Standards**

**1. Height Regulations**

Maximum Structure Height: Thirty-five (35) feet

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

**2. Front Yard Regulations**

Minimum setback from public road right-of-way:

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

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

**3. Side Yard Regulations**

Minimum side yard setback: 20 feet

**4. Rear Yard Regulations**

Minimum setback: 20 feet

**5. Bluffline**

Minimum setback: 30 feet

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**6. Lot Area Regulations**

Minimum lot size: 3 acres

**7. Lot Width and Depth Regulations**

Minimum lot width: 250 feet

**8. Existing Structures**

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

**18.05 Business Adjacent to Residential Property:**

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

**18.06 Exterior Storage**

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

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

**18.07 Service Roads Required**

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

**SECTION 19 PERFORMANCE STANDARDS**

**19.00 PERFORMANCE STANDARDS**

**19.01 Purpose**

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

**19.02 Exterior Storage/Landscaping Maintenance**

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

**19.03 Refuse**

**A. Waste/Refuse.**

In all districts, all waste material, with the exception of crop residue debris, refuse, or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping such land free of refuse.

**B. Unused Refrigerators.**

It is unlawful for any person to own, possess or control any unused refrigerator or other container, which is of sufficient size to retain any person, which is exposed and accessible to the public without removing the doors, lids, hinges or latches or providing locks to prevent access by the public.

#### 19.04 Permitted Encroachments and Exceptions

- A. The following are exceptions to the setbacks established within the district:
- (1) In any yard: Posts, decks under one (1) foot off the ground, off-street open parking spaces, driveways, individual hookups for essential services, flues, belt course, leaders, sills, pilasters, lintels, cornices, eaves, gutters, awnings, berms, retaining walls, open terraces, landscaping, open canopies, steps, chimneys, flag poles, open fire escapes, sidewalks, and open fences. New trees shall be subject to the setback requirements except in the case of a tree planted as a replacement of a pre-existing tree.
  - (2) Except as provided in subparagraph 1 above, location of essential services, including, but not limited to, wells, on site septic systems, electric, gas, communication, sewage, steam or water transmission or distribution systems and structures, shall meet the appropriate front yard setbacks when adjacent to a road, and are not permitted encroachments or exceptions under this section.
- B. Fences, retaining walls, berms and dense landscaping (hedges, shrubs) over two (2) feet higher than the natural ground level may be no closer than twenty (20) feet to highway and street right-of-way lines, except this provision shall not apply to barbed wire, electrical, or woven wire fences.

#### 19.05 Sign Regulations.

1. **Exemption.**

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

- (1) Official signs erected and maintained by a public body.
- (2) Real Estate and Construction signs limited to one (1) sign per parcel.
- (3) Nameplate signs less than sixteen (16) square feet.
- (4) Signs painted, attached by adhesive, or otherwise attached directly to or visible through windows and glass portions of doors.

## Performance Standards

### 2. **Purpose.**

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

### 3. **Hazard.**

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

### 4. **Traffic Hazard.**

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

### 5. **Traffic Signs.**

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

### 6. **Private Signs.**

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

### 7. **Illuminated Signs.**

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

### 8. **Political Signs.**

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

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9. **Construction Signs.**

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

10. **Advertising/Billboard Signs.**

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

11. **Size - All Signs.**

Except where a lesser maximum size is specifically provided, the maximum size of any sign is four hundred (400) square feet of surface including boarder.

12. **Setbacks - All Signs.**

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

13. **Sign Design, Construction and Maintenance.**

A. **Required Marking on Signs.**

Every outdoor advertising sign erected under the provisions of this ordinance shall be plainly marked with the name of the person, or firm erecting such sign.

D. **Sign Maintenance.**

(1) **Painting.**

The owner of any sign shall be required to have such sign properly painted as needed.

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### 14. **Non-Conforming Signs.**

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

### 15. **Obsolete Signs.**

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

### 16. **Unsafe or Dangerous Signs.**

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

### 17. **Permit Length.**

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

Performance Standards

**19.08 Mining and Extraction**

**A. Purpose.**

The purpose of this section is to address issues which arise between mining and extraction and other adjoining land uses. In addition, this section is intended to ensure that land is rehabilitated after being subjected to mining and extraction uses.

**B. Administration.**

A Conditional Use Permit is required for all mining operations except for the extraction of gravel, clay and black dirt. Said permit will be valid for up to three (3) years after which a permit renewal shall be required. The County Board will also require a performance bond. Such bond must be in the amount of at least \$2,500 per acre or an amount to be determined by the County and must be valid for a period of not less than one (1) year beyond the expiration date of the permit.

**C. Information Required.**

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

1. Name and address of the person requesting the permit.
2. The exact legal property description and acreage of the area to be mined.
3. The following maps of the site which must also include all areas within five hundred (500) feet of the site, and which must be drawn at a scale of one (1) inch to one hundred (100) feet:
  - (1) Map A-Existing Conditions to include:
    - (a) Contour lines at reasonable intervals;
    - (b) Existing vegetation;
    - (c) Existing drainage and permanent water areas;
    - (d) Existing structures;
    - (e) Existing wells;
    - (f) Structures to be erected;
    - (g) Location of sites to be mined showing depth of proposed excavation;
    - (h) Location of tailings deposits showing maximum height of deposits;

## Performance Standards

- (i) Location of machinery to be used in the mining operation;
  - (j) Location of storage of mined materials, showing height of storage deposits;
  - (k) Location of vehicle parking;
  - (l) Location of storage of explosives;
  - (m) Erosion and sediment control structures;
  - (n) Access Routes;
  - (o) Final grade of proposed site showing elevations and contour lines at reasonable intervals;
  - (p) Location and species of vegetation to be replanted;
  - (q) Location and nature of any structures to be erected in relation to the end use plan;
- (4) A soil erosion and sediment control plan;
  - (5) A plan for dust and noise control;
  - (6) A full and adequate description of all phases of the proposed operation to include an estimate of duration of the operation;
  - (7) A land reclamation plan;
  - (8) Any other information requested by the Planning Commission or the County Board;

### D. **Renewal of Mining Permits.**

A public hearing will be conducted for renewal permit approval.

### E. **Use Restrictions.**

- (1) The crushing, washing, refining or processing other than the initial removal of material shall be considered a separate conditional use.
- (2) In stone quarries the production or manufacturing of veneer stone sills, lintels, cut flagstone, hearthstones, paving stone and similar architectural or structural stone and the storing or stockpiling of such products on the site will be considered a separate conditional use.
- (3) The manufacture of concrete building blocks or other similar blocks, the production or manufacture of lime products, the production of ready-mixed concrete and any similar production or manufacturing

## Performance Standards

processes which might be related to the mining operation shall be considered a separate conditional use.

- (4) The Court may impose additional performance standards as part of the conditional use permit.

### F. **Performance Standards.**

#### (1) **General Provisions.**

- (a) Appearance, vegetation, weeds and any other unsightly or noxious vegetation shall be cut or trimmed as may be necessary to preserve a reasonably neat appearance and to prevent seeding on adjoining property.

- (b) **Parcel Size.**

No sand and gravel operation may be conducted on parcels of less than twenty (20) acres in size. This limitation shall not apply when the tract of land is contiguous to an active mining operation, provided that both tracts are being operated by the same person.

- (c) **Equipment.**

All equipment used for mining operations shall be maintained and operated in such a manner as to minimize, as far as is practicable, noises and vibrations which are injurious or substantially annoying to persons living in the vicinity.

#### (2) **Water Resources.**

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

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### (3) **Safety Fencing.**

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

#### (a) **Holding or Ponding Areas.**

Where collections of water occur that are one and one half (1 ½) feet or more in depth existing for any period of at least one (1) month, and occupy an area of seven hundred (700) square feet or more, all access to such collections of water shall be barred by a fence or some similarly effective barrier of at least four (4) feet in height.

#### (b) **Steep Slopes.**

In locations where slopes occur that are steeper than one (1) foot vertical to three (3) feet horizontal existing for a period of one (1) month or more, access to such slope shall be barred by a fence or some similarly effective barrier at least four (4) feet in height.

### (4) **Mining Access Roads.**

The location of the intersection of mining access roads with any public roads shall be selected such that traffic on the access roads will have a sufficient distance of public road in view so that any turns onto the public road can be completed with a margin of safety. The appropriate Road Authority must approve all open roads to the site.

### (5) **Screening Barrier.**

(a) To minimize problems of dust and noise and to shield mining operations from public view, a screening barrier must be maintained between the mining site and adjacent residentially and commercially developed properties.

(b) A screening barrier must be maintained between the mining site and any public road within five hundred (500) feet of any mining or processing operations. The screening barrier shall be planted with a species of fast growing trees such as green ash.

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- (c) Existing trees and ground cover along public road frontage shall be preserved, maintained, and supplemented for the depth of the roadside setback except where traffic safety requires cutting and trimming.

### (6) **Setback.**

- (a) Processing of minerals may not be conducted closer than one hundred (100) feet to the property line and not closer than five hundred (500) feet to any residential or commercial structure located prior to commencement of processing operations without the written consent of all owners and residents of said structures.
- (b) Mining operations shall not be conducted closer than thirty (30) feet to the boundary of any zone where such operations are not permitted, nor shall such production or processing be conducted closer than thirty (30) feet to the boundary of an adjoining property, unless written consent of all owners, is first secured in writing.
- (c) Mining operations shall not be conducted closer than thirty (30) feet to the right-of-way line of any existing or platted street, road or highway, except that excavating may be conducted within such limits in order to reduce the elevation thereof in conformity to the existing or platted street, road or highway.

### (7) **Appearance.**

- (a) All buildings, structures and plants used for the production or processing of sand and gravel shall be maintained in such a manner as is practicable and according to acceptable industrial practice as to assure that such buildings, structures and plants will not become dangerously dilapidated.

### (8) **Erosion Control.**

- (a) All materials to be used for erosion control such as seed mixtures and so forth must be approved by the County.
- (b) The County may require culverts, berms, or other measure for erosion control purposes.

## Performance Standards

### (9) **Dust and Dirt.**

- (a) All equipment used for mining operations shall be constructed, maintained and operated in such a manner as to minimize, as far as is practicable, dust conditions which are injurious or substantially annoying to persons living within six hundred (600) feet of the mining operations lot line.
- (b) All access roads from mining operations to public highways, roads or streets or to adjoining property shall be paved or surfaced with gravel to minimize dust conditions.

### G. **Land Rehabilitation.**

All mining sites shall be rehabilitated immediately after mining operations cease. Rehabilitation shall be complete within one (1) calendar year after operation ceases. The following standards shall apply:

#### (1) **Removal of Buildings, Structures and Plants.**

- (a) All buildings, structures and plants incidental to such operation shall be dismantled and removed by, and at the expense of, the mining operator last operating such buildings, structures and plants within the following period of time:
  - 1) within three (3) months after the termination of a mining operation; 2) within three (3) months after abandonment of such operation for a period of six (6) months; or 3) within three (3) months after expiration of a mining permit.
- (b) A temporary extension may be granted by the County Board for those buildings, structures, machinery and plants required to process previously mined materials stored on the site. Such variance may apply for only one (1) year, after which said buildings, structures, machinery and plants shall be removed.

#### (2) **Surface Grading.**

The peaks and depressions of the area shall be graded and backfilled to a surface which will result in a gently rolling topography in substantial conformity to the land area immediately surrounding, and which will minimize erosion.

**Performance Standards**

(3) **Slopes.**

Banks of all excavations shall be sloped at a rate which shall not be less than three (3) feet horizontal to one (1) foot vertical, otherwise approved by the Zoning Administrator.

(4) **Vegetation and Topsoil.**

(a) Reclaimed areas shall be sodded or surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding the site, and to a depth of at least three (3) inches.

(b) Such required topsoil shall be planted with legumes and grasses. Trees and shrubs may also be planted but not as a substitute for legumes and grasses. Such planting must adequately retard soil erosion.

(c) Excavations completed to a water producing depth need not be backfilled if the water depth is at least ten (10) feet and if banks are sloped to the water-line at a slope no greater than three (3) feet horizontal to one (1) foot vertical.

(5) **Finished Grade.**

The finished grade must be such that it will not adversely affect the surrounding land or future development of the site upon which the mining operations have been conducted. The mining site must be restored to a condition that allows the site to be utilized for the type of land use proposed by the reclamation plan approved by the County Board.

(6) **Notification and Final Inspection.**

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

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**19.08 Telecommunication Towers.**

**A. Purpose.**

The purpose of the Telecommunication Towers Section shall be to establish predictable and balanced regulations that protect the public, health, safety, and general welfare of the county. These regulations are intended to:

1. Facilitate the provision of telecommunications services and facilities including commercial wireless telecommunication services in Traverse County.
2. Minimize adverse visual effects of towers through careful design and siting standards.
3. Avoid potential damage to adjacent properties from tower or antenna failure and weather related occurrences through structural standards, careful siting, and setback requirements.
4. Encourage the use of existing towers and buildings to accommodate commercial wireless telecommunication service antennas in order to minimize the number of towers needed to serve the County.

**B. Tower and Antenna Design Requirements.**

Proposed or modified towers and antennas shall meet the following design requirements:

1. Towers and antennas must blend into the surrounding environment through the use of color and camouflaging architectural treatment except in instances where the color is dictated by federal or state authorities.
2. Platforms, catwalks, crow's nests, or like structures, may not be attached to or constructed on any tower except during periods of construction or repair.
3. Towers and their antennas must be certified by a qualified and licensed professional engineer to conform to applicable state structural building standards.
4. Towers and their antennas must be designed to conform with accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.

**Performance Standards**

5. Metal towers must be constructed of, or treated with, corrosive resistant material.

**C. Tower Setbacks.**

Towers and all accessory structures or buildings must conform to the following minimum setback requirements:

1. Towers must be setback from all property lines an amount equal to the height of the structure.
2. Guy wires for towers may not be located closer than twenty-five (25) feet to any property line and must meet the setback of the underlying zoning district with respect to the public road right of way.
3. Suitable protective anti-climbing fencing, with a minimum height of six (6) feet, must be provided around any tower and guy wires.

**D. Tower Location.**

Towers that are two hundred (200) feet or more in height must be located a distance of at least three (3) miles from any public or private airport.

**E. Co-location Requirements.**

All commercial wireless telecommunication towers erected, constructed, or located within the County must comply with the following requirements:

1. Documentation of the area to be served including a search ring for the antenna location. A narrative describing a search ring for the request, with not less than one (1) mile radius clearly explaining why the site was selected, what existing structures were available and why they are not suitable as locations or co-locations.
2. Documentation that the communications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within the search ring of the service area due to one or more of the following reasons:

## Performance Standards

- (a) The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned equipment at a reasonable cost.
  - (b) The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer or qualified radio frequency engineer and the interference cannot be prevented at a reasonable cost.
  - (c) Existing or approved towers and buildings within the search radius that are sixty (60) feet or over in height that cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.
  - (d) Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.
3. Any proposed tower must be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two (2) additional users if the tower is over one hundred (100) feet in height, or for at least one (1) additional user if the tower is over sixty (60) feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept towers mounted at varying heights.
4. An agreement stating that the site will be designed for not less than three (3) users with applicant and property owner commitments to co-location, whereby, any prohibition of additional users on a tower will be considered a violation of the permit and County policy. The agreement must also include a statement that any unused or abandoned tower shall be removed by the property owner and/or applicant within twelve (12) months of cessation of operations. Said agreement shall be signed by the applicant and the property owner and shall be attached to and become a part of the permit.

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**F. Antennas Mounted on Existing Buildings or Towers.**

The placement of telecommunication antennas including wireless telecommunication antennas on existing buildings, towers or structures, shall meet the requirements of the underlying zoning district and this section. A site plan and building plan must be submitted to the County as part of the zoning permitting process.

Where a tower is nonconforming due to the requirements of this Section, additional telecommunication antennas may be permitted to be placed on the tower after being reviewed by the Zoning Administrator.

**G. Accessory Utility Buildings.**

All buildings and structures accessory to a tower must meet the following requirements:

1. Towers must be architecturally designed to blend in with the surrounding environment and setback limitations as established for each zoning district.
2. Ground mounted equipment must be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

**H. Tower Lighting.**

Towers shall not be illuminated by artificial means and shall not have affixed or attached to it in any way except during time of repair or installation any lights reflectors, flashers, or other illuminating device, except as required by the Federal Aviation Administration or the Federal Communications Commission, a state agency or the County. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower.

**I. Abandoned or Unused Towers.**

Abandoned or unused towers and associated facilities shall be removed within twenty-four (24) months of the cessation of operations at the site unless a time extension is approved by the Zoning Administrator. In the event that a tower is not removed within the twenty-four (24) months of the cessation of operations at a site, the tower and associated facilities may be removed by the County and the County may in its sole discretion either (i) have the costs of removal assessed

**Performance Standards**

against the property, (ii) subtract the cost of removal from any security deposit or bond posted by the owner, or (iii) seek a judgment against the owner personally for the cost of removal. Unused towers must continue to be maintained.

**J. Public Safety Telecommunications Interference.**

Commercial wireless telecommunications services shall not interfere with public safety telecommunications. All applications shall include adequate information that will be reviewed by the Traverse County public safety communications system before a permit may be issued. Before the introduction of new service or changes in existing service, telecommunication providers shall notify the County at least ten (10) calendar days in advance of any changes and allow the County to monitor interference levels during the testing process.

**K. Signs and Advertising.**

The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

**L. Non-Conforming Towers.**

In order to avoid requiring new towers and to minimize the number of towers needed to serve the county the following provisions shall apply to nonconforming towers. Telecommunication towers in existence at the time of this amendment may be permitted to increase tower height after being issued a conditional use permit. The Planning Commission shall consider the following criteria as part of the conditional use permit process:

1. Tower safety concerns including tower collapse, falling ice, and airplane traffic.
2. Land use character and history of the towers.
3. Comparative visual impact to the surrounding lands of the proposed tower height increase.
4. Disturbance or conflict with agricultural uses on the property.
5. Other factors which tend to reduce conflicts or are incompatible with the character and need of the area.

**M. Additional Submittal Requirements.**

In addition to the information required elsewhere, applications shall include the following information:

## Performance Standards

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

**SECTION 20 SEWAGE AND WASTEWATER TREATMENT**

**20.00 SEWAGE AND WASTEWATER TREATMENT**

**20.01 General Provisions.**

1. **Purpose.** The purpose of the Sewage and Wastewater Treatment Section shall be to provide minimum standards for and regulation of Individual Sewage Treatment Systems (ISTS) and septage disposal including the proper location, design and construction; their necessary modification and reconstruction; their operation, maintenance and repair to protect surface water and groundwater from contamination by human sewage and waterborne household and commercial wastes; to protect the public's health and safety, eliminate or prevent the development of public nuisances pursuant to the authority granted under Minn. Stat. Chapters 115 and 145A and Minnesota Rules Chapter 7080 and as amended that may pertain to sewage and wastewater treatment.
2. **Objectives.** The principal objectives of this Section shall include the following:
  - A. The protection of Traverse County's lakes, wetlands, rivers and streams and supplies of groundwater essential to the promotion of public health, safety and welfare; the protection of the County's environment and its socioeconomic growth and development of the County in perpetuity.
  - B. Given the extensive resources and numerous supplies of surface water and groundwater and their susceptibility to contamination, regulation of proper septage disposal is essential to prevent the entry and migration of contaminants, thereby ensuring the non-degradation of surface water and groundwater.
  - C. The provision of establishing minimum standards for ISTS placement, design, construction, re-construction, repair and maintenance to prevent contamination and, if contamination is discovered, to identify and control its consequences and abate its source and migration.
  - D. The provision of establishing minimum standards for septage removal, transport, treatment and disposal.
  - E. The utilization of privy vaults and other non-water carried ISTS.
  - F. The prevention and control of water-borne disease, lake degradation, ground water related hazards, and public nuisance conditions through plan

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reviews, inspections, ISTS surveys and complaint investigation, as well as through technical assistance and education.

3. **Scope.** This Section shall regulate the design, construction and repair of ISTS in Traverse County, including but not necessarily limited to individual on-site and cluster or community ISTS privy vaults and other non-water carried ISTS, repair and/or replacement of failing ISTS and septage disposal.

### 20.02 Administration.

1. **Standards Adopted By Reference.** This Ordinance hereby adopts by reference Minnesota Rules Chapter 7080, Section 7080.0020, 7080.0060, 7080.0065, 7080.0110, 7080.0120, 7080.0125, 7080.0130, 7080.0150, 7080.0160, 7080.0170, 7080.0175, 7080.0176, being the Sections containing the technical standards and criteria contained in the “Individual Sewage Treatment Systems Program” and all amendments after June 7, 1997.
2. **Administration By State Agencies.**
  - A. For an on-site ISTS, or group of systems that are located on adjacent properties and under single ownership, the owner or owners shall make application for and obtain a State Disposal System Permit from the Minnesota Pollution Control Agency if the on-site ISTS or group of systems are designed to treat an average design flow greater than 10,000 gallons per day.
  - B. For dwellings, including apartment, townhouses, resort units, rental cabins and condominiums, the sum of the flows from all existing and proposed sources under single management or ownership will be used to determine the need for a State Disposal System Permit.
  - C. ISTS serving establishments or facilities licensed or otherwise regulated by the State of Minnesota including, but not limited to, campgrounds, resorts, mobile home parks, and eating and drinking establishments, shall conform to state and local requirements.
  - D. Any ISTS requiring approval by the State of Minnesota shall also comply with all local codes and this Section.
  - E. Plans and specifications must receive appropriate state and local approval before construction is initiated.

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3. **Administration By Traverse County.** The Environmental Services Department shall regulate ISTS and septage disposal in Traverse County pursuant to this Section.
  - A. The Department shall have the following duties and responsibilities:
    1. To review all applications for ISTS;
    2. To issue all permits required by this Section;
    3. To investigate complaints regarding ISTS and septage disposal;
    4. To issue Stop Work Orders and Notices of Violation, pursuant to this Section;
    5. To take complaints to the County Attorney for violations of this Section;
    6. To maintain proper records for ISTS and septage disposal including site evaluation records, design records including calculations and summaries for all system component sizings and as-builts; and
    7. To submit annual reports to the MPCA to demonstrate enforcement of the local ordinance per Chapter 7080.0310.
  - B. Neither the issuance of permits, certificates of compliance or notices of noncompliance as requested or issued shall be construed to represent a guarantee or warranty of the system's operation or effectiveness. Such certificates signify that the system in question is or has been designed and installed in compliance or noncompliance with the provisions of these standards and regulations.

### 20.03 Permitting

1. **Permits Required.**
  - A. **Construction Permits.** A permit shall be obtained whenever any ISTS in Traverse County is installed, replaced, altered, repaired or extended. Installation, replacement, alteration, repair, or extension of an ISTS shall not begin without first making an application for a permit and obtaining said permit from the Department for each specific installation, replacement, alteration, repair, or extension pursuant to this Section. A permit shall not be required only for the work identified under Section 20.03 Subdivision 1.C. Such permits are not transferable as a person or place. Such permit shall expire 12 months after date of issuance.
  - B. **Posting Of Permits.** Permits shall be provided by permittee at the time of inspection upon the request of inspector.

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- C. Permits Not Required. Permits shall not be required if the only work involves the repair or replacement of pumps, floats, or other electrical devices of the pump or baffles in a septic tank.
- D. Property Owner Doing Own Work. Property owners permitted to construct or repair ISTS on their own properties shall be exempted from providing proof of a State License but shall be required to execute a signed indemnification agreement pursuant to Section 20.03 Subdivision 1.E. Property owners doing their own work must comply with Subdivision 1. of this Section, as well as other applicable provisions of this Section. A property owner shall have a current license issued by the Minnesota Pollution Control Agency for either a Designer I or II if they wish to perform the site evaluation or design their own ISTS. Pressurized systems or mounds cannot be constructed by anyone other than a licensed installer.
- E. Indemnification Agreement. The permittee shall provide a signed agreement to the Department which indemnifies and saves the County, holding it harmless from all losses, damages, costs and charges that may be incurred by the County due to the failure of the permittee to conform and comply with the provisions of this ordinance.
- F. Permit Application Requirements. All applications for an ISTS permit shall include the following information:
  - 1. Name and address of property owner.
  - 2. Legal description of the property including parcel number.
  - 3. ISTS Designer Name, address, phone number and State ISTS License number (or Department qualified employee name and number).
  - 4. On lots created after January 23, 1996, the system design shall include at least one designated additional soil treatment area which can support a standard soil treatment system.
- G. Application Review and Approval. If, after consideration of the application for a permit, a qualified employee or authorized licensee of the Department shall be satisfied that the work completed conform to and complies with provisions of this Section, the Department shall issue a written permit granting preliminary approval authorizing initiation of construction of the system as designed.
- H. Incomplete Application Information. If after consideration of the application for a permit, the Department shall be satisfied that the work contemplated will not conform to or comply with the provisions of this Section, the Department shall deny the application for a permit. Notice of such denial shall be served on the applicant or permittee. The notice shall

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state the reason for denial. The permit application may be revised or corrected and resubmitted to the Department at any reasonable time for reconsideration.

- I. Fees. The County Board shall establish fees for permits required by this Ordinance. Fees shall be due and payable at the time of permit issuance.

### 20.04 Variances.

An affected property owner may request variance from standards. Variances to decrease the three (3) feet of vertical separation required beneath the distribution medium and the saturated soil or bedrock must be approved by the MPCA as per the procedures contained in Minnesota Rules Chapter 7080.03 05 Subp. 3. Variances to well and water supply lines require approval from the Minnesota Department of Health.

### 20.05 Inspections Requirements.

#### 1. General Requirements.

- A. Compliance Inspection. Compliance inspections for construction, replacement, alteration or repair work on ISTS shall be conducted by a qualified employee or under a license authorized by the Department who is independent of the owner and installer.
- B. Access to Premises and Records. Upon the request of the Department, the applicant, permittee or any other person shall allow access at any reasonable time to the affected premises as well as any related records, for the purposes of regulating and enforcing this Section.
- C. Interference Prohibited. No person shall hinder or otherwise interfere with the Department in the performance of their duties and responsibilities pursuant to this Section. Refusal to allow reasonable access to the Department shall be deemed a separate and distinct offense, whether or not any other specific violations are cited.

2. **Inspections.** The permittee shall notify the Department prior to the completion and covering of the ISTS. The installation and construction of the ISTS shall be in accordance with the permit requirements and application design. If any ISTS component is covered before being inspected and approved by the Department, it shall be uncovered upon the direction of the Department. Proposals to alter the permitted construction shall be reviewed and the proposed change accepted by the Department prior to construction. Inspections shall be conducted at least once during the construction of the ISTS at such time as to assure that the system has been constructed per submitted and approved design.

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**3. Notifications for Inspections.**

- A. It shall be the duty of the permittee to notify the Department on the workday preceding the day inspection is desired.
- B. If the permittee provides proper notice as described above and the Department does not appear for an inspection within two hours after time set, the permittee may complete the installation. The permittee shall then file a signed As-Built, including photographs of the system prior to covering, with the Department within five working days. The As-Built shall include a certified statement that the work was installed in accordance with submitted design and permit conditions and that it was free from defects.
- C. As-Builts shall be submitted to the Department within five working days of completion of the work on the ISTS. These shall be submitted on forms provided or approved by the Department.
- D. When required by the Department, holding, septic, or dosing tanks shall be filled with liquid to the discharge invert level for sufficient period of time to demonstrate they are water tight.

**4. Inspection Report.** A Certificate of Compliance or Notice of Noncompliance shall be prepared by the licensed inspector following an inspection or review of as-built plans submitted in accordance with Section 20.05 Subdivision 3.B. A Certificate of Compliance or Notice of Noncompliance must include a signed statement by the inspector identifying the type of ISTS inspected and whether the system is in compliance with Minnesota Rules Chapter 7080.0060. A copy of the Certificate of Compliance or Notice of Noncompliance shall be provided to the property owner within 30 days of the compliance inspection and a copy kept on file in the Department.

**5. Stop Work Orders.** Whenever any work is being done contrary to the provisions of this Section, the Department may order the work stopped by verbal or written notice personally served upon the installer or owner of the land. All installation and construction shall cease and desist until subsequent authorization to proceed is received from the Department.

**6. Inspection Requirements for Existing Systems.** Only a qualified employee or authorized licensee or licensed Designer I or Inspector independent of the owner shall conduct an inspection when a compliance inspection is required for an existing ISTS. A copy of the Certificate of Compliance or Notice of

## Sewage Ordinance

Noncompliance resulting from a compliance inspection shall be provided to the property owner and the County within 30 days of the inspection.

### **7. Mandatory Compliance Inspections of Existing Systems.**

An ISTS shall require a compliance inspection when any one of the following conditions occur;

- A. No owner of tract of land on which a dwelling is located, or a tract of land on which a structure which is required to have an individual sewage treatment system is located, shall sell or transfer to another party said tract of land unless requirements as stated in Section 20.05 Subdivisions 9. through 11. are met.
- B. In designated Shoreland Management Areas, failing on-site sewage treatment systems shall be reconstructed pursuant to Minnesota Rules Chapter 6120 of 1989, known as "Statewide Standards for Management of Shoreland Areas".
- C. At any time the Department deems appropriate such as upon receiving a complaint or other information of system failure.

### **8. Failing Septic Systems.** A Notice of Noncompliance shall be issued and copies provided to the property owner and the County within 30 days under the following conditions:

- A. A failed ISTS shall be upgraded, replaced or repaired in compliance with Minnesota Rules Chapter 7080.0060, as applicable within one (1) year. The Department will give consideration to weather conditions as compliance dates are established;
- B. An ISTS posing an imminent threat to public health or safety will be upgraded, replaced or repaired within 10 months;
- C. When the ISTS is determined to be failing at the point of sale or transfer of property;
- D. The owner(s) shall submit to the Department an acceptable Replacement Plan within twenty (20) days after notification by the Department.

The Replacement Plan shall identify the location and design of the ISTS and a schedule for its replacement. Failure to submit and execute an acceptable Replacement Plan is a violation of this Section.

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The Department may not require re-certification of the ISTS within five (5) years of its certification date provided the system does not fail or become an imminent public health threat or other cause as deemed appropriate by the Department.

### **9. Sale or Transfer of Property.**

- A. A Certificate of Compliance shall be provided by the seller to the buyer at or before closing.
- B. The Certificate of Compliance shall be completed by a sewage treatment system inspector licensed by the State of Minnesota and shall indicate that said ISTS is in compliance with Minnesota Rules Chapter 7080 as amended.
- C. In the event that one of the exemptions listed in Subdivision 10. or 11. below, of this Section applies, the Certificate must be signed by both parties to the transaction.
- D. The Certificate shall be filed with the County Auditor along with the Certificate of Real Estate Value. A copy of the Certificate of Compliance shall also be filed with the Department.

### **10. Exempt Transactions.** The Certificate need not be completed if the sale or transfer involves the following circumstances:

- A. The tract of land is without buildings or contains no dwellings or other buildings with plumbing fixtures.
- B. The sale or transfer completes a contract for deed entered into prior to the effective date of this Ordinance. This subsection applies only to the original vendor and vendee on such a contract.
- C. Any dwellings or other buildings with running water are connected to a municipal wastewater treatment system.

### **11. Transactions Occurring Between December 1 and April 1.**

- A. If the transaction occurs between December 1 and April 1, and the inspection cannot be completed, the transfer may occur with a stipulation that a compliance inspection, as certified by a licensed inspector, be completed and filed with the County Auditor by June 15 following the closing date (and a certificate of compliance is completed by the following September 30).

### **12. Prohibition Against Transfer of Property; Enforcement.**

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- A. No real property in Traverse County shall be transferred unless the parties to the transaction have complied with the requirements in this Section.

**13. Notice of Violations.**

- A. Cause to Issue a Notice of Violation. Unresolved and either separate, recurrent, or continuing violations of this Section by an applicant, permittee, installer or other person, as determined by inspections, re-inspection, or investigations shall constitute nonconformance or noncompliance with this Section.
- B. Serving a Notice of Violation. A Notice of Violation shall be served by mail upon the applicant, permittee, installer or other person found to be in violation of this Section.
- C. Contents of a Notice of Violation. A Notice of Violation shall contain the following:
  - 1. A Statement documenting the findings of fact through inspections, reinspections or investigations;
  - 2. A list of specific violations of this Section;
  - 3. The specific requirements for correction or removal of said violations;
  - 4. A mandatory time schedule for correction, removal and compliance with this Section; and
  - 5. Specific enforcement actions that will be taken if corrective action is not completed.
- D. State Notification of Violations. Any inspection installation, design, construction, alteration or repair of an ISTS by a licensed person or any pumping and disposal of septage by a licensed pumper or hauler done in violation of the provisions of this Section shall be cause for notification to the Minnesota Pollution Control Agency.
- E. Enforcement. Any person, firm, corporation or other entity who violates any of the provisions of this Section, or who makes any false statement on

a Certificate of Compliance, shall be guilty of a misdemeanor, punishable by imprisonment or a fine or both as defined by law. In the event of a violation of this Ordinance, in addition to other remedies, the County Attorney may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations.

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**20.06 Additional Standards for Health and Environmental Protection.** The following standards shall also apply:

**1. Separation Distances.**

- A. The separation distance from a well to an ISTS shall be as specified in M.S., 30li, Minnesota Rules Chapter 4725, as amended.
- B. The separation distances from ISTS to designated lakes and rivers shall be as identified in the Traverse County Shoreland Ordinance.
- C. The separation distance from an ISTS to Type 3,4,5 or 6 wetland shall be seventy-five (75) feet.

**2. Maintenance.**

- A. The owner of an ISTS or the owner's agent shall regularly, but in no case less frequently than every 3 years, measure or remove the accumulations of scum and sludge in the septic tank and is responsible for full maintenance of the ISTS as indicated by Minnesota Rules Chapter 7080.0175.

**3. Alternative and Experimental Systems.** This subdivision hereby adopts by reference Minnesota Rules Chapter 7080.0910, Alternative and Experimental Systems.

- A. Alternative systems are allowed only in areas where a standard system cannot be installed or is not the most suitable treatment.
- B. Experimental systems may be used in areas where a standard system cannot be installed or if a system is considered new technology with limited data on reliability.
- C. Standards for alternative systems are specified in Minnesota Rules Chapter 7080.0910 Subp. 3 for the following conditions:
  - 1. Slowly permeable soils
  - 2. Rapidly permeable soils
  
  - 3. Artificial Drainage
  - 4. Floodplain areas
  - 5. Greywater systems
  - 6. Privies
  - 7. Existing dwellings on small lots



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- C. Separation from Surface Waters. Septage shall not be land spread in designated Shoreland Management Areas as identified in the Traverse County Shoreland Ordinance. Separation distances from surface waters, sinkholes, fractured bedrock, outcrops, wetlands, and agricultural drainage ditches shall be observed as follows:

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**SLOPE**

**SEPARATION DISTANCES**

	MAY-OCT. INJECT OR INCORP.	SURFACE	NOV. - APRIL SURFACE
0-2%	25 FT	300 FT.	600 FT.
2-6%	50 FT.	600 FT.	-
6-12%	100 FT.	-	-

Surface application of septage on frozen soil is prohibited unless slopes are 2% or less.

- D. Soil Suitability. To be suitable for land spreading, the soil must meet the following criteria:
  - 1. Have medium or fine surface textures (no sandy or peaty surface textures).
  - 2. Have a 3 foot separation distance to the water table or bedrock

**20.07 Licensing Requirements**

- 1. **Site Evaluators, Designers, Installers and Pumpers.** No person shall engage in the evaluation, inspection, design, installation, construction, alteration, extension, repair, maintenance, or pumping of on-site sewage treatment systems in Traverse County without first obtaining a license to perform such tasks from the Minnesota Pollution Control Agency.
- 2. **License Exemption.** A license is not required for:
  - A. An individual who is constructing a system on land that is owned or leased by the individual and functions solely as a dwelling or seasonal dwelling for that individual based upon a design by a licensed designer. The system must be inspected before being covered and as-built plans submitted in accordance with Section 20.05 Subdivision 2. A certificate of compliance or notice of non-compliance will be issued by a licensed inspector;
  - B. An individual who performs labor or services under a licensee;
  - C. A farmer who pumps sewage waste from individual sewage treatment systems from dwellings or other establishments that are owned or leased by the farmer and disposes of those wastes on land that is owned or leased by the farmer;

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- D. A property owner who personally gathers information, evaluates, or investigates the ISTS on or serving the property to provide a disclosure.

**20.08 Enforcement**

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

## SECTION 21 FLOODPLAIN DISTRICT

### 21.00 FLOODPLAIN DISTRICT

#### 21.01 Authorization, Findings of Fact & Purpose.

1. **Authorization.** The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and 394.21 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses.
2. **Findings of Fact.**
  - A. The flood hazard areas of Traverse 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 or flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
  - B. This Ordinance is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.
3. **Statement of Purpose.** It is the purpose of this Ordinance to promote the public health, safety, and general welfare and to minimize those losses described in Section 21.01(2)(A) by provisions contained herein.

#### 21.02 General Provisions.

1. **Lands to which Section Applies.** This Ordinance shall apply to all lands within the jurisdiction of Traverse County shown on the Official Zoning Map and/or the attachments thereto as being located within the boundaries of the Floodway; Flood Fringe, or General Flood Plain Districts.
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 Rate Map for the County of Traverse dated August 19, 1987, which was developed by the Federal Emergency Management Agency and is hereby adopted by reference as the Official Flood Plain Zoning District Map and made part of this Ordinance.

## Floodplain Ordinance

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 flood plain that result from designation of a floodway.
4. **Interpretation.**
  - A. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Governing Body and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.
  - B. The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to 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 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 and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board and to submit technical evidence.
5. **Abrogation and Greater Restrictions.** It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.
6. **Warning and Disclaimer of Liability.** This Ordinance does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This Ordinance shall not create liability on the part of Traverse County or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.
7. **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.

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### 21.03 Establishment of Floodplain Zoning Districts.

1. **Districts.**
  - A. **Floodway District.** The Floodway District shall include those areas designated as floodway on the Flood Boundary and Floodway Map adopted in Section 21.02.
  - B. **Flood Fringe District.** The Flood Fringe District include those areas designated as floodway fringe on Flood Boundary and Floodway Map adopted in Section 21.02.
  - C. **General Flood Plain District.** The General Flood Plain District shall include those areas designated as unnumbered A Zones on the Flood Insurance Rate Map adopted in Section 21.02.
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 this Ordinance. Within the Floodway, Flood Fringe and General Flood Plain Districts, all uses not listed as permitted uses or conditional uses in Sections 21.04, 21.05 and 21.06 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 21.09;
  - B. Modifications, additions, structural alterations or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this Ordinance and specifically Section 21.11; and
  - 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 the general provisions of this Ordinance and specifically as stated in Section 21.10 of this Ordinance.

**21.04 Floodway District (FW).**

1. **Permitted Uses in a Floodway District.**
  - 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.
2. **Standards for Floodway District 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.
3. **Conditional Uses in a Floodway District.**
  - A. Structures accessory to the uses listed above and the uses listed in B-H below.
  - 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.

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- 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 Subdivision 4 of Section 21.09 of this Ordinance.
- 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 10-year frequency flood event.

### **4. Standards for Floodway Conditional Uses.**

- A. 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 will be subject to the procedures and standards contained in Section 21.10 of this Ordinance.
- C. The Conditional Use must be permissible in the underlying zoning district if one exists.
- D. Fill:
  - (1) Fill, dredge spoil and all other similar materials deposited or stored in the flood plain 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 site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.
  - (3) As an alternative, and consistent with Subsection (2) immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would 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

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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, and, (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 classification 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; and
  - (b) Any mechanical and utility equipment in a structure must be elevated to or above the Regulatory Flood Protection Elevation or properly flood proofed.

### 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

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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 Statute, Chapter 103G. Community-wide structural works for flood control intended to remove areas from the regulatory flood plain 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.

### **21.05 Flood Fringe District (FF).**

#### **1. Permitted Uses in a Flood Fringe District.**

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 districts exist, 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 21.05(2) and the “Standards for all Flood Fringe Uses” listed in Section 21.05(5).

#### **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 Regulatory Flood Protection Elevation. The finished fill elevation for structures shall be no lower than one (1) foot below the Regulatory Flood Protection Elevation and the fill shall extend at such elevation at least fifteen (15) feet 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 Section 21.04(E)(3).
- 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

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intended to elevate a structure in accordance with Section 21.05(2)(A) of this Ordinance.

- D. The storage of any materials or equipment shall be elevated on fill to the Regulatory Flood Protection Elevation.
- E. The provisions of Section 21.05(5) of this Ordinance shall apply.

### 3. **Conditional Uses.**

Any structure that is not elevated on fill or flood proofed in accordance with Section 21.05(2)(A) and (B) or any use of land that does not comply with the standards in Section 21.05(2)(C) and (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 Sections 21.05(4) and (5) and 21.10(4) of this Ordinance.

### 4. **Standards for Flood Fringe Conditional Uses.**

- A. Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the Regulatory Flood Protection Elevation. 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) the enclosed area is above-grade on at least one side of the structure;
  - 2) it is designed to internally flood and is constructed with flood resistant materials; and
  - 3) it is used solely for parking of vehicles, building access or storage.The above-noted alternative elevation methods are subject to the following additional standards:
  - (1) **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 Regulatory Flood Protection Elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.
  - (2) **Specific Standards for Above-grade, Enclosed-Areas** - Above-grade, fully enclosed areas such as crawl spaces or tuck under

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garages must be designed to internally flood and the design plans must stipulate:

- (a) The minimum area of openings in the walls where internal flooding is to be used as a flood proofing technique. When openings are placed in a structure's walls to provide for entry of flood waters to equalize pressures, the bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.
  - (b) 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 this Ordinance, shall be subject to the following:
- (1) Residential basement construction shall not be allowed below the Regulatory Flood Protection Elevation.
  - (2) Non-residential basements may be allowed below the Regulatory Flood Protection Elevation provided the basement is structurally dry flood proofed in accordance with Section 21.05(4)(C) of this Ordinance.
- C. All areas of non residential structures including basements to be placed below the Regulatory Flood Protection Elevation 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 watertight 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

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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 flood plain 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 21.05(5) of this Ordinance shall also apply.

## **5. Standards for All Flood Fringe Uses.**

- A. All new principal structures must have vehicular access at or above an elevation not more than two (2) feet below the Regulatory Flood Protection Elevation. 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 - use accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the Regulatory Flood Protection Elevation. 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 greater than two (2) feet or be subject to flood velocities greater than four (4) feet per second upon occurrence of the regional flood.
- B. Manufacturing and Industrial Uses - measures shall be taken to minimize interference with normal plant operations especially along streams having
- C. 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 21.05(5)(B) above. In considering permit applications, due

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consideration shall be given to needs of an industry whose business requires that it be located in flood plain 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. Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.
- F. Standards for travel trailers and travel vehicles are contained in Section 21.09(4).
- 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 to be 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.

### **21.06 General Flood Plain District.**

- 1. **Permissible Uses.**
  - A. The uses listed in Section 21.04(1) of this Ordinance shall be permitted uses.
  - B. All other uses shall be subject to the floodway/flood fringe evaluation criteria pursuant to Section 21.06(2) below. Section 21.04 shall apply if the proposed use is in the Floodway District and Section 21.05 shall apply if the proposed use is in the Flood Fringe District.
- 2. **Procedures for Floodway and Flood Fringe Determinations Within the General Flood Plain District.**

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- A. Upon receipt of an application for a Conditional Use Permit for a use within the General Flood Plain 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 Regulatory Flood Protection Elevation and whether the proposed use is within the Floodway or Flood Fringe District.
- (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; size, location, and spatial arrangement of all proposed and existing structures on the site; location and 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 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 District and to determine the Regulatory Flood Protection Elevation. Procedures consistent with Minnesota Regulations 2183, 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 Department of Natural Resources' 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 feet. A lesser stage increase than 0.5 feet shall be required if, as a result of the additional stage increase, increased flood damages would result.

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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 District boundary or deny the permit application. The Governing Body, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, the Department of Natural Resources 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 21.04 and 21.05 of this Ordinance.

### **21.07 Subdivisions.**

#### **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 flood plain districts shall contain a building site at or above the Regulatory Flood Protection Elevation. 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 to the individual building sites no lower than two (2) feet below the Regulatory Flood Protection Elevation. For all subdivisions in the flood plain, the Floodway and Flood Fringe boundaries, the Regulatory Flood Protection Elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

#### **2. Floodway/Flood Fringe Determinations in the General Flood Plain District.**

In the General Flood Plain District, applicants shall provide the information required in Section 21.06(2) of this Ordinance to determine the 100-year flood elevation, the Floodway and Flood Fringe. District boundaries and the Regulatory Flood Protection Elevation for the subdivision site.

#### **3. Removal of Special Flood Hazard Area Designation.**

The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly

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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.

### **21.08 Public Utilities, Railroads, Roads, and Bridges.**

#### **1. Public Utilities.**

All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the flood plain shall be flood-proofed in accordance with the State Building Code or elevated to above the Regulatory Flood Protection Elevation.

#### **2. Public Transportation Facilities.**

Railroad tracks, roads, and bridges to be located within, the flood plain shall comply with Sections 21.04 and 21.05 of this Ordinance. Elevation to the Regulatory Flood Protection Elevation 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.

#### **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 b) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters 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 statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section.

### **21.09 Manufactured Homes and Manufactured Home Parks and Placement of Travel Trailers and Travel Vehicles.**

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1. New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by Section 21.07 of this Ordinance.
2. The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with Section 21.05 of this Ordinance. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with Section 21.05(5)(A), then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the Governing Body.
3. 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 to be 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.
4. Travel trailers and travel vehicles that do not meet the exemption criteria specified in Section 21.09(4)(A) below shall be subject to the provisions of this Ordinance and as specifically spelled out in Sections 21.09(4)(C) and (D) below.
  - A. **Exemption:** Travel trailers and travel vehicles are exempt from the provisions of this Ordinance if they are placed in any of the areas listed in Section 21.09(4)(B) 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 in campgrounds and trailer parks and the travel trailer/travel vehicle has no permanent structural type additions attached to it.
    - (3) The travel trailer or travel vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.
  - B. **Areas Exempted For Placement of Travel/Recreational Vehicles:**
    - (1) Individual lots or parcels of record.

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- (2) Existing commercial recreational vehicle parks or campgrounds.
  - (3) Existing condominium type associations.
- C. Travel trailers and travel vehicles exempted in Section 21.09(4)(A) lose this exemption when development occurs on the parcel exceeding \$500.00 for a structural addition to the travel trailer/travel vehicle or an accessory structure such as a garage or storage building. The travel trailer/travel vehicle and all additions and 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 21.04 and 21.05 of this Ordinance.
- D. New commercial travel trailer or travel 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 travel trailer or travel vehicle will be allowed in the Floodway or Flood Fringe Districts provided said trailer or vehicle and its contents are placed on fill above the Regulatory Flood Protection Elevation and proper elevated road access to the site exists in accordance with Section 21.05(5)(A) of this Ordinance. No fill placed in the floodway to meet the requirements of this Section shall increase flood stages of the 100-year or regional flood.
  - (2) All new or replacement travel trailers or travel vehicles not meeting the criteria of 21.09(D)(1) above may, as an alternative, be allowed as a Conditional Use if in accordance with the following provisions and the provisions of 21.10(4) of the 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 and shall demonstrate that adequate time and personnel exist to carry out the evacuation. All attendant sewage and water facilities for new or replacement travel trailers or other recreational vehicles must be protected or constructed so as to not be impaired or
  - (3) contaminated during times of flooding in accordance with Section 21.08(3) of this Ordinance.

## 21.10 Administration.

### 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 21.12 of the Ordinance.

### 2. Permit Requirements.

- A. **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, or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the change or extension of a nonconforming use; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain.
- B. **Application for Permit.** Application for a Permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.
- C. **State and Federal Permits.** Prior to granting a Permit or processing an application for a Conditional Use Permit or Variance, the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal Permits.
- D. **Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use.** It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a Certificate of Zoning Compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Ordinance.
- E. **Construction and Use to be as Provided on Applications, Plans, Permits, Variances and Certificates of Zoning Compliance.** Permits, Conditional Use Permits, or Certificates of Zoning Compliance issued on the basis of approved plans and applications authorize only the use,

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arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance, and punishable as provided by Section 21.12 of this Ordinance.

- F. **Certification.** The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this ordinance. Flood-proofing measures shall be certified by a registered professional engineer or registered architect.
- G. **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 flood plain. The Zoning Administrator shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood-proofed.

### 3. **Board of Adjustment.**

- A. **Rules.** The Board of Adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such Boards by State law.
- B. **Administrative Review.** The Board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this Ordinance.
- D. **Variations.** 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

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the Regulatory Flood Protection Elevation for the particular area, or permit standards lower than those required by State law.

- D. **Hearings.** Upon filing with the Board of Adjustment of an appeal from a decision of the Zoning Administrator, or an application for a variance, the Board shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The Board shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten (10) days notice of the hearing.
- E. **Decisions.** The Board shall arrive at a decision on such appeal or variance within thirty (30) days. In passing upon an appeal, the Board may, so long as such action is in conformity with the provisions of this Ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Zoning Administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a variance, the Board may prescribe appropriate conditions and safeguards such as those specified in Section 21.10(G) which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance punishable under Section 21.12. A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.
- F. **Appeals.** Appeals from any decision of the Board may be made, and as specified in this Community's Official Controls and also Minnesota Statutes.
- G. **Flood Insurance Notice and Record Keeping.** 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 for \$100 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 community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

## 4. Conditional Uses.

## Floodplain Ordinance

The Traverse County 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.

- A. **Hearings.** Upon filing with the Zoning Administrator, an application for a Conditional Use Permit, the Planning Commission shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed Conditional Use sufficiently in advance so that the Commissioner will receive at least ten (10) days notice of the hearing.
- B. **Decisions.** The Planning Commission shall arrive at a decision on a Conditional Use within thirty (30) days. In granting a Conditional Use Permit, the Planning Commission shall prescribe appropriate conditions and safeguards, in addition to those specified in Section 21.10(4)(F), which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the Conditional Use Permit is granted, shall be deemed a violation of this Ordinance punishable under Section 21.12. A copy of all decisions granting Conditional Use Permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.
- C. **Procedures to be followed by the Planning Commission in passing on Conditional Use Permit Applications within all Flood Plain Districts.**
  - (1) Require the applicant to furnish such of the following information and additional information as deemed necessary by the Planning Commission for determining the suitability of the particular site for the proposed use:
    - (a) 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.
    - (b) Specifications for building construction and materials, flood-proofing, filling, dredging, grading, channel improvement, storage of materials, water supply, and sanitary facilities.

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- (2) Transmit one copy of the information described in subsection (1) above, 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.
- (3) Based upon the technical evaluation of the designated engineer or expert, the Planning Commission shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

D. **Factors Upon Which the Decision of the Planning Commission Shall be Based.** In passing upon Conditional Use applications, the Planning Commission shall consider all relevant factors specified in other sections of this Ordinance, and:

- (1) The danger to life and property due to increased flood heights or velocities caused by encroachments.
- (2) 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.
- (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- (5) The importance of the services provided by the proposed facility to the community.
- (6) The requirements of the facility for a waterfront location.
- (7) The availability of alternative locations not subject to flooding for the proposed use.
- (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

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- (9) The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
- (10) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (11) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- (12) Such other factors which are relevant to the purposes of this Ordinance.

E. **Time for Action on Application.** The Planning Commission shall act on an application in the manner described above within thirty (30) days from receiving the application, except that where additional information is required pursuant to 21.10 of this Ordinance. The Planning Commission shall render a written decision within thirty (30) days from the receipt of such additional information.

F. **Conditions Attached to Conditional Use Permits.** Upon consideration of the factors listed above and the purpose of this Ordinance, the Planning Commission shall attach such conditions to the granting of Conditional Use Permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:

- (1) Modification of waste treatment and water supply facilities.
- (2) Limitations on period of use, occupancy, and operation.
- (3) Imposition of operational controls, sureties, and deed restrictions.
- (4) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
- (5) 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.

### 21.11 Nonconforming Uses.

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

## **Floodplain Ordinance**

provisions of this Ordinance may be continued subject to the following conditions:

- A. No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.
- B. Any 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 21.11(1)(C) below.
- C. The cost of any structural alterations or additions to any nonconforming 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 Community's initial flood plain 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 21.04 or 21.05 of this Ordinance for new structures depending upon whether the structure is in the Floodway or Flood Fringe, respectively.
- D. If any nonconforming use is discontinued for twelve (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 which have been discontinued for a period of twelve (12) months.
- E. If any nonconforming use or structure is destroyed by any means, including floods, to an extent of fifty (50) percent or more of its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance. The applicable provisions for establishing new uses or new structures in Sections 21.04, 21.05, or 21.06 will apply depending upon whether the use or structure is in the Floodway, Flood Fringe or General Flood Plain District, respectively.

### **21.12 Penalties for Violation.**

- 1. Violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of Variances or Conditional Uses) shall constitute a misdemeanor and shall be punishable as defined by law.

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2. Nothing herein contained shall prevent the County of Traverse from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:
  - A. In responding to a suspected ordinance 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. The community must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.
  - B. When an ordinance violation 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 is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources and Federal Emergency Management Agency Regional Office along with the Community's plan of action to correct the violation to the degree possible.
  - C. 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 Community. If the construction or development is already completed, then the Zoning Administrator may either: (1) issue an order identifying the corrective actions 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.
  - D. 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.

## **21.13 Amendments.**

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1. 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 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.
  
2. 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 22 SHORELAND DISTRICT**

**22.01 Statutory Authorization and Policy**

**1. Statutory Authorization**

This shoreland ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F, Minnesota Regulations, Parts 6120.2500 - 6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 394 (for counties) or Chapter 462 (for municipalities).

**2. Policy**

The uncontrolled use of shorelands of Traverse County, Minnesota affects the public health, safety and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety, and welfare to provide for the wise subdivision, use and development of shorelands of public waters. The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by Traverse County.

**22.02 General Provisions**

**1. Jurisdiction**

The provisions of this ordinance shall apply to the shoreland of the public waterbodies as classified in Section 22.04 of this Ordinance. Pursuant to Minnesota Regulations, Parts 6120.2500 - 6120.3900, no lake, pond, or flowage less than ten (10) acres in size in municipalities or twenty-five (25) acres in size in unincorporated areas need be regulated in a local government's shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from this ordinance. Jurisdiction of this ordinance shall apply to all areas of Traverse County outside the incorporated limits of any municipality.

**2. Compliance**

The use of any shoreland of public waters; the size and shape of lots; the use, size, type, and location of structures on lots; the installation and maintenance of water supply and waste treatment systems, the grading and filling of any shoreland area; the cutting or shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of this ordinance and other applicable regulations.

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### 3. **Enforcement**

The Board of County Commissioners are responsible for the administration and enforcement of this ordinance, any violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law. Violation of this ordinance can occur regardless of whether or not a permit is required for the regulated activity pursuant to Section 22.03(1) of this ordinance.

- A. In the event of a violation or a threatened violation of this ordinance, the Board of County Commissioners, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations or threatened violations.
- B. Any tax payer or tax payers of the County may institute mandamus proceedings in District Court to compel specific performance by the proper official or officials of any duty required by this ordinance.
- C. A petition may be filed with the Board of County Commissioners alleging that a land use practice is contributing to excessive erosion.
- D. All petitions shall be in writing and signed by two or more riparian landowners. The petition shall state:
  - (1) The names of the petitioning riparian owners;
  - (2) The legal descriptions of the petitioning riparian owners' property;
  - (3) The name and post office address of the offending land owner;
  - (4) The legal description of the property on which the land use is occurring; and
  - (5) A concise description of the land use practice, supported by photographs and measurements.
- E. Upon receipt of a petition, the Board of County Commissioners shall direct the Administrative Assistant to investigate the allegations with the assistance of the Soil Conservation Service, Bois de Sioux Watershed District, and Soil & Water Conservation District.
- F. Upon completion of the investigation by the Administrative Assistant, a hearing shall be held, after due notice to all parties named in the petition, at which each party shall be allowed to present testimony and the results of the investigation shall be presented.

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- G. After receipt of the testimony and investigation reports, the Board of County Commissioners shall issue Findings of Fact and Conclusions as to the existence of excessive erosion due to the alleged land use practice. The Findings of Fact and Conclusions shall be in writing and completed within sixty (60) days of the hearing.
- H. Upon concluding that a land use practice is causing excessive erosion, the Board of County Commissioners may require that conservation or shoreland protection practices be adopted to abate the erosion.

### **4. Interpretation**

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.

### **5. 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.

### **6. Abrogation and Greater Restrictions**

It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. The previous Traverse County Shoreland Management Ordinance, dated September 4, 1973, with an effective date of November 1, 1973 is hereby repealed. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

### **7. Definitions**

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the same meaning as they have in common usage and as defined in Section 5.01 of the Zoning Ordinance, and so as to give this ordinance its most reasonable application. For the purpose of this ordinance, the words “must” and “shall” are mandatory and not permissive. All distances, unless otherwise specified, shall be measured horizontally.

## **22.03 Administration**

### **1. Permits Required**

- A. A permit is required for the construction of buildings or building additions as required in the Traverse County Zoning Ordinance (and including such related

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activities as construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by Section 22.05(3) of this Ordinance. Application for a permit shall be made to the Administrative Assistant on the forms provided. The application shall include the necessary information so that the Administrative Assistant can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.

- B. A permit authorizing an addition to an existing structure shall stipulate that an identified nonconforming sewage treatment system, as defined by Section 22.05(8), shall be reconstructed or replaced in accordance with the provisions of this ordinance.
- C. A fee of \$5.00 payable to the County shall be required for each permit on all projects with estimated construction costs of \$10,000 or less. The fee shall increase at the rate of \$5.00 for each additional \$10,000 of the estimated construction costs.
- D. No permit shall be issued by the Administrative Assistant or Board of County Commissioners, or variance granted by the Board of Adjustment authorizing:
  - 1. The construction of or addition to any buildings or related structures; or
  - 2. The installation and/or alteration of any sewage treatment system; or
  - 3. Any grading and/or filling activity;

within the conservation district, except upon the applicant's providing the appropriate authority with copies of all necessary permits from the U. S. Army Corps of Engineers, State of Minnesota Department of Natural Resources, the Bois de Sioux Watershed District, Traverse County Soil and Water Conservation District, and USDA Soil Conservation Service.

### E. **Certificate of Occupancy.**

- 1. A certificate of occupancy shall be obtained from the Administrative Assistant before any building hereafter erected or structurally altered is occupied or used or the use of any such building is altered.
- 2. Application for a certificate of occupancy for a new building or an existing building which has been altered shall be made to the Administrative Assistant as part of the application for a building permit.
- 3. Every certificate of occupancy shall state that the building or the proposed use of a building or land complies with all provisions of law and this ordinance. A record of all certificates of occupancy shall be kept on file in the office of the Administrative Assistant and copies shall be furnished on

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request to any person having a proprietary or tenancy interest in the building or land effected.

### 2. **Certificate of Zoning Compliance**

The Administrative Assistant shall issue a certificate of zoning compliance for each activity requiring a permit as specified in Section 22.03(1) of this Ordinance. This certificate will specify that the use of land conforms to the requirements of this ordinance. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this Ordinance and shall be punishable as provided in Section 22.02(3) of this Ordinance.

### 3. **Variances**

- A. Variances may only be granted in accordance with Minnesota Statutes, Chapter 394 (for counties) or 462 (for municipalities), as applicable. A variance may not circumvent the general purposes and intent 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. 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 must also consider whether the property owner has reasonable use of the land without the variance, 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.
- B. The Board of Adjustment 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 22.03(4)B below shall also include the Board of Adjustment's summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.
- C. For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system.

### 4. **Notifications to the Department of Natural Resources**

- A. Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under local shoreland management controls 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/plats must include copies of the subdivision/plat.

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- B. A copy of approved amendments and subdivisions/plats, and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked within ten (10) days of final action.

### 5. **Administrative Assistant.**

- A. The office of the Administrative Assistant is hereby established, for which the Board of County Commissioners may appoint such employee for an indefinite term which shall terminate at the pleasure of the Board of County Commissioners.
- B. The Board of County Commissioners hereby delegates to the Administrative Assistant the duties and responsibilities as follows:
  - 1. Issue building permits and certificates of occupancy;
  - 2. To administer the terms of this ordinance subject to any required approval of the Board of County Commissioners; and
  - 3. Keep necessary records.

### 6. **Board of Adjustment.**

- A. The Board of Adjustment shall be created and appointment made pursuant to Minnesota Statutes Section 394.27 concurrent with the adoption of this ordinance. The Board of Adjustment shall hear and decide appeals from and review any order, requirements, decisions or determinations made by the Administrative Assistant.
- B. An appeal may be taken from the Board of Adjustment to the District Court in and for Traverse County on questions of law and fact, provided nonetheless, that notice of such appeal shall be served upon the Board of County Commissioners and the Board of Adjustment within thirty days of the determination by the Board of Adjustment, by filing with the Board of Adjustment and the Board of County Commissioners, a notice of appeal specifying the grounds thereof.

## 22.04 Shoreland Classification System and Land Use Districts

### 1. **Shoreland Classification System**

The public waters of Traverse County have been classified below consistent with the criteria found in Minnesota Regulations, Part 6120.3300, and the Protected Waters Inventory Map for Traverse County, Minnesota.

- A. The shoreland area for the waterbodies listed in Sections 22.04(1)(B) and 22.04(1)(C) shall be defined in Section 5.01 of the Zoning Ordinance and as shown on the Official Zoning Map.

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B. Lakes.

	<u>Protected Waters Inventory I.D. #</u>
1). <u>General Development Lakes</u> Lake Traverse	78-0025P
2). <u>Natural Environmental Lakes</u>	<u>Protected Waters Inventory I.D.#</u>
Mud Lake	78-0024P
Smithwicks	06-0151P
St. Mary's	78-0001P
Wet Lake	78-0053W
Unnamed	78-0002W
Unnamed	78-0003W
Unnamed	78-0004P
Unnamed	78-0005W
Unnamed	78-0006P
Unnamed	78-0007W
Unnamed	78-0008P
Unnamed	78-0009W
Unnamed	78-0010P
Unnamed	78-0017W
Unnamed	78-0020P
Unnamed	78-0021P
Unnamed	78-0022P
Unnamed	78-0023P
Unnamed	78-0026W

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Unnamed	78-0027W
Unnamed	78-0034W
Unnamed	78-0035W
Unnamed	78-0039P
Unnamed	78-0040P
Unnamed	78-0041P
Unnamed	78-0042P
Unnamed	78-0043P
Unnamed	78-0044P
Unnamed	78-0054W
Unnamed	78-0056W
Unnamed	78-0060W
Unnamed	78-0061W
Unnamed	78-0067W
Unnamed	78-0068W
Unnamed	78-0069W
Unnamed	78-0070W

**C. Rivers and Streams.**

1) Agricultural Rivers

Legal Description

Mustinka

From the East Section line of Section 12-T128N-R46W to inlet of Lake Traverse in Section 31-T127N-R47W

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Five Mile Creek	South Section line Section 8-T128N-R45W to West Section line Section 7-T128N-R45W
Bois de Sioux	From outlet of Mud Lake in Section 4-T127N-R47W to a border of Traverse and Wilkin Counties
2) <u>Tributary Streams</u>	<u>Legal Descriptions</u>
Twelve Mile Creek	From Section 25-T126N-R45W to Section 19-T128N-R45W
Eighteen Mile Creek	From Section 3-T126N-R46W to Section 26-T127N-R47W
Little Minnesota River	From Section 32-T125N-R49W to Section 33-T125N-R49W

All protected watercourses in Traverse County shown on the Protected Waters Inventory Map for Traverse County, a copy of which is hereby adopted by reference, not given a classification in Items C.1 and 2 above shall be considered “Tributary”.

**2. Land Use District Descriptions.**

A. **Criteria for Designation.** The land use districts in Section 22.04(2) and the delineation of a land use district’s boundaries on the Official Zoning Map, must be consistent with the goals, policies, and objectives of the comprehensive land use plan (when available) and the following criteria, considerations, and objectives:

- 1) **General Considerations and Criteria for All Land Uses:**
  - (1) preservation of natural areas;
  - (2) present ownership and development of shoreland areas;
  - (3) shoreland soil types and their engineering capabilities;
  - (4) topographic characteristics;
  - (5) vegetative cover;
  - (6) in-water physical characteristics, values, and constraints;

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- (7) recreational use of the surface water;
- (8) road and service center accessibility;
- (9) socioeconomic development needs and plans as they involve water and related land resources;
- (10) the land requirements of industry which, by its nature, requires location in shoreland areas; and
- (11) the necessity to preserve and restore certain areas having significant historical or ecological value.

### 2) **Factors and Criteria for Planned Unit Developments:**

- (1) existing recreational use of surface waters and likely increases in use associated with planned unit developments;
- (2) physical and aesthetic impacts of increased density;
- (3) suitability of lands for the planned unit development approach;
- (4) level of current development in the area; and
- (5) amounts and types of ownership of undeveloped lands.

B. **Land Use District Descriptions.** The land use district provided below, and the allowable land uses there in for the given classifications of water bodies shall be properly delineated on the shoreland management map for the shorelands of this community. These land use districts are in conformance with the criteria specified in Minnesota Regulation, Part 6120.3200 Subp.3:

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1. Land Use Districts For Lakes  
P = Permitted; C = Conditional

	General Development	Natural Development		
(a) Conservation District				
-Forest management	P	P		
-Sensitive resource management	P	P		
-Agricultural: cropland and pasture	P	P		
-Parks and historic sites		C		C
-Single residential		C		C
(b) Agricultural Use District				
-Agriculture		P		P
-Commercial	P	P		
-Commercial planned unit development	P	P		
-Surface water-oriented commercial		P		P
-Semipublic		P		P
-Parks and historic sites		C		C
-Forest management	P	P		
-Single residential		P		P
-Duplex, triplex and quad residential		C		C

2. Land Use Districts for Rivers and Streams

	Agricultural	Tributary		
(a) Conservation District				
-Forest management	P	P		
-Sensitive resource management	P	P		
-Agricultural: cropland and pasture		P		P
-Parks and historic sites		C		C
-Single residential		C		C
(b) Agricultural Use District				
-Agriculture		P		P
-Commercial	P	P		
-Commercial planned unit development	P	P		
-Surface water-orientated commercial		P		P
-Semipublic		P		P
-Parks and historic sites		C		C

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-Forest management	P	P	
-Single residential		P	P
-Duplex, triplex and quad residential		C	C

**C. Use and Adoption of Inconsistent Land Use Districts.**

- 1) Any land use districts adopted in the Traverse County Zoning and Floodplain Ordinance as they apply to shoreland areas, in their delineated boundaries on the Official Zoning Map, shall be consistent with the land use district designation criteria specified in Section 22.04(2) herein.
- 2) If a subsequent county zoning ordinance is proposed, the following criteria and procedures shall apply:
  - (1) **For Lakes.** If a subsequent county zoning ordinance proposes land use district designations on a lake, the land use district boundaries and use provisions therein for all the shoreland areas within the jurisdiction of this ordinance on said lake, shall be substantially compatible with the framework in Sections 22.04(2) of this ordinance.
  - (2) **For Rivers and Streams.** If a subsequent county zoning ordinance proposes land use district designations on a river or stream, the land use district boundaries and the use provisions therein for all shoreland on both sides of the river or stream within the same classification within the jurisdiction of this ordinance, shall be substantially compatible with the framework in Section 22.04(2) of this ordinance.
- 3) When an interpretation question arises about whether a specific land use fits within a given “use” category, the interpretation shall be made by the Board of Adjustment. When a question arises as to whether a land use district’s boundaries are properly delineated on the Official Zoning Map, this decision shall be made by the County.
- 4) When a revision is proposed to an inconsistent land use district provision by an individual party or landowner, this individual party or landowner will only be responsible to provide the supporting and/or substantiating information for the specific parcel in question. The Board of County Commissioners will direct the Administrative Assistant to provide such additional information for this waterbody as is necessary to satisfy Items 22.04(2)(C)(1) and 22.04(2)(C)(2).
- 5) If a subsequent county zoning ordinance is adopted, the Board of County Commissioners shall make a detailed finding of fact and conclusions that the land

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use district designations in said ordinance as they affect shorelands are consistent with the enumerated criteria and use provisions of Section 22.04(2).

**22.05 Zoning and Water Supply/Sanitary Provisions**

**1. Lot Area and Width Standards.**

The lot area (in square feet) and lot width standards (in feet) for single, duplex, triplex, and quad residential lots created after the date of enactment of this ordinance for the lake and river/stream classifications are the following:

**A. Unsewered Lakes**

1) General Development:

	Riparian Lots		Nonriparian Lots	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
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) Natural Environment

	Riparian Lots		Nonriparian Lots	
	<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. Sewered Lakes:** 1) General Development

	Riparian Lots		Nonriparian Lots	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Single	15,000	75	10,000	75
Duplex	26,000	135	17,500	135
Triplex	38,000	195	25,000	190
Quad	49,000	255	32,500	245

2) Natural Environment

	Riparian Lots		Nonriparian Lots	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>

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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

**C. 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 river/stream classifications are:

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

**D. Additional Special Provisions.**

- 1) Residential subdivisions with dwelling unit densities exceeding those in the tables in Section 22.05(1)(B) and 22.05(1)(C) can only be allowed if designed and approved as residential planned unit developments under Section 22.08 of this Ordinance. 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 22.05(1)(B) can only be used if publicly owned sewer system service is available to the property.
- 2) Subdivisions of duplexes, triplexes, and quads on Natural Environment Lakes must also meet the following standards:
  - (1) Each building must be set back at least two hundred (200) feet from the ordinary high water level;
  - (2) Each building must have common sewage treatment and water systems in one location and serve all dwelling units in the building;
  - (3) Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building; and
  - (4) No more than twenty-five (25) percent of a lake's shoreline can be in duplex, triplex, or quad developments.

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- 3) One (1) guest cottage may be allowed on lots meeting or exceeding the duplex lot area and width dimensions presented in Sections 22.05(1)(A) - 22.05(1)(C) provided the following standards are met:
  - (1) For lots exceeding the minimum lot dimensions of duplex lots, the guest cottage must be located within the smallest duplex-sized lot that could be created including the principal dwelling unit;
  - (2) A guest cottage must not cover more than seven hundred (700) square feet of land surface and must not exceed fifteen (15) feet in height; and
  - (3) A guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.
  
- 4) Lots intended as controlled accesses to public waters or as recreation areas for use by owners of nonriparian lots within subdivisions are permissible and must meet or exceed the following standards:
  - (1) They must meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots.
  - (2) If docking, mooring, or over-water storage of more than six (6) watercraft is to be allowed at controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by the percent of the requirements for riparian residential lots for each watercraft beyond six (6), consistent with the following table;

**Controlled Access Lot Frontage Requirements:**

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

- (3) They must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot; and

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



- 4) **Uses Without Water-oriented Needs.** 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.

**B. Design Criteria for Structures.**

- 1) **High Water Elevations.** Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:
  - (1) For lakes, by placing the lowest floor at a level at least three (3) feet above the highest known water level, or three (3) feet above the ordinary high water level, whichever is higher;
  - (2) For rivers and streams, by placing the lowest floor at least three (3) feet above the flood of record, if data are available. If data are not available, by placing the lowest floor at least three (3) feet above the ordinary high water level, or by conducting a technical evaluation to determine effect of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with parts 6120.5000 to 6120.6200 governing the management of flood plain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities; and
  - (3) Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation, and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.
- 2) **Water-oriented Accessory Structures.** Each lot may have one (1) water-oriented accessory structure not meeting the normal structure setback in Section 22.05(2)(A) of this Ordinance if this water-oriented accessory structure is located outside of the conservation district and, also complies with the following provisions:
  - (1) The structure or facility must not exceed ten (10) feet in height, exclusive of safety rails, and cannot occupy an area greater than two hundred fifty (250) square feet. Detached decks must not exceed eight (8) feet above grade at any point;

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- (2) The setback of the structure or facility from the ordinary high water level must be at least ten (10) feet;
  - (3) The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color assuming summer, leaf-on conditions;
  - (4) The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;
  - (5) The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and
- 3) **Stairways, Lifts, and Landings.** Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:
- (1) Stairways and lifts must not exceed four (4) feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments;
  - (2) Landings for stairways and lifts on residential lots must not exceed thirty-two (32) square feet in area. Landings larger than thirty-two (32) square feet may be used for commercial properties, public open-space recreational properties, and planned unit developments;
  - (3) Canopies or roofs are not allowed on stairways, lifts, or landings;
  - (4) Stairways, lifts, and landings may be either constructed above the ground on posts of pilings, or placed into the ground provided they are designed and built in a manner that ensures control of soil erosion;
  - (5) Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
  - (6) 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

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subitems (1) to (5) are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.

- 4) **Significant Historic Sites.** No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.
- 5) **Steep Slopes.** The Administrative Assistant must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.
- 6) **Height of Structures.** All structures in residential districts, except churches and nonresidential agricultural structures, must not exceed twenty-five (25) feet in height.

### 3. Shoreland Alterations

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

#### A. Vegetation Alterations.

- 1) Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by Section 22.05(4) of this Ordinance are exempt from the vegetation alteration standards that follow.
- 2) Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in Sections 22.05(6)(B) and 22.05(6)(C) respectfully, is allowed subject to the following standards:
  - (1) Intensive vegetation clearing within the conservation district, shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.
  - (2) In the conservation district, shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the

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water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:

- (a) The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
- (b) Along rivers, existing shading of water surfaces is preserved; and
- (c) The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

### **B. Topographical Alterations/Grading and Filling.**

- 1) Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this Section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.
- 2) Public roads and parking areas are regulated by Section 22.05(4) of this Ordinance.
- 3) Notwithstanding Items 1 and 2 above, a conditional use permit shall be required for grading and filling within the conservation district.
- 4) Notwithstanding Items 1 and 2 above, a grading and filling permit will 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.
- 5) The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:

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- (1) Grading or filling in any type wetland must be evaluated to determine how extensively the proposed activity would effect 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) shoreland or bank stabilization; and
  - (f) noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or other.

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

- (2) Any alteration must be designed and conducted in accordance with the Traverse County Floodplain Management Ordinance.
- (3) Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;
- (4) Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible;
- (5) Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;
- (6) Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service;
- (7) Fill or excavated material must not be placed in a manner that creates an unstable slope;

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- (8) Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of thirty (30) percent or greater;
  - (9) Fill or excavated material must not be placed in bluff impact zones;
  - (10) Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under Minnesota Statutes, Section 103G.005;
  - (11) Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and
  - (12) 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.
- 5) **Connections to public waters.** Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, must be controlled by local shoreland controls. Permission for excavations may be given only after the commissioner has approved the proposed connection to public waters.
4. **Placement and Design of Roads, Driveways, Parking, and Access Paths.**
- A. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.
  - B. Roads, driveways, and parking areas must meet structure setbacks and must not be placed within the conservation district, bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.
  - C. Public 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 subpart are met. For private facilities, the grading and filling provisions of Section 22.05(3)(B) of this Ordinance must be met.

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- D. Single residential lots with public waters frontage, shall be allowed one vegetative access path to the public water. The width of the access shall not exceed twenty-five percent (25%) of the lot width or thirty feet (30'), whichever is less.
- E. Duplex, triplex, quad, residential PUD, and surface water-oriented commercial lots with public waters frontage, shall be allowed access paths to the public waters at a rate of two, twenty foot (20') wide paths for every three hundred feet (300') of public waters frontage.

### 5. **Stormwater Management.**

The following general and specific standards shall apply:

#### **A. General Standards:**

- 1) When possible, existing natural drainage ways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.
- 2) Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.
- 3) When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types on constructed facilities such as diversions, settling basins, skimming devises, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

#### **B. Specific Standards:**

- 1) Impervious surface coverage of lots must not exceed twenty (25) percent of the lot area.
- 2) When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.
- 3) New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

### 6. **Special Provisions for Commercial, Industrial, Public/Semipublic, Agricultural, Forestry and Extractive Uses and Mining of Metallic Minerals and Peat.**

**A. Standards for Commercial, Industrial, Public and Semipublic Uses.**

- 1) Surface water-oriented commercial uses and industrial, public, or semi public uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:
  - (1) In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this ordinance, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;
  - (2) Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and
  - (3) Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:
    - (a) No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff.
    - (b) Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten (10) feet above the ground, and must not exceed thirty-two (32) square feet in size. If illuminated by artificial lights, the light must be shielded or directed to prevent illumination out across public waters; and
    - (c) Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

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- 2) 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.

### **B. Agriculture Use Standards.**

- 1) General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local soil and water conservation districts or the United States Soil Conservation Service, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and fifty (50) feet from the ordinary high water level.
- 2) Animal feedlots must meet the following standards:
  - (1) New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of three hundred (300) feet from the ordinary high water level of all public waters basins; and
  - (2) Modifications or expansions to existing feedlots that are located within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.

### **C. Slope Standards.**

The following are general standards established for lakes, rivers and streams. If these minimum standards are met, no individual conservation plan on any given parcel, in shoreland areas will be required. General land slope shall be determined by using the Traverse County Soil Survey Data:

- (1) **Cultivated Agricultural Use.**
  - (a) Land with less than two percent slope requires that ten feet be maintained in a permanent vegetation filter strip or best management practices, which requires thirty percent residue or more present at all times.
  - (b) Land with two to six percent slope requires a twenty foot permanent vegetation filter strip.

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- (c) Land with greater than six percent slope requires a fifty foot permanent vegetation filter strip.
      - (d) All shoreland areas adjacent to lakes, will require a fifty foot permanent vegetation filter strip regardless of slope.
    - (2) **Livestock Ag Production.**
      - (a) Grazing shall be allowed on lakes, rivers and streams provided that the U.S.D.A. - S.C.S. Pasture and Hayland Management Standard, Publ. #570, Standards For Operation & Maintenance, are met within the area of fifty feet from the ordinary high water level.
  - C. **Forest Management Standards.** The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment-Forestry and the provisions of Water Quality in Forest Management “Best Management Practices in Minnesota”.
  - D. **Extractive Use Standards.**
    - 1) **Site Development and Restoration Plan.** An extractive use site development and restoration plan must be developed, approved, and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours, and duration of operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.
    - 2) **Setbacks for Processing Machinery.** Processing machinery must be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.
  - E. **Mining of Metallic Minerals and Peat.** Mining of metallic minerals and peat, as defined in Minnesota Statutes, Sections 93.44 to 93.51, shall be a permitted use provided the provisions of Minnesota Statutes, Sections 93.44 to 93.51, are satisfied.
7. **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 established community wide. The following additional evaluation criteria and conditions apply within shoreland areas:
- A. Any proposed conditional use shall be presented to the Board of County Commissioners for the determination of its applicability to the Shoreland

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Management District wherein proposed. In support of such determination, the Board of County Commissioners may require preliminary architectural drawings or sketches on all buildings or groups of buildings showing the front, side and rear elevations of the proposed buildings, structures and other improvements, and the proposed location of such buildings on the lot as the same shall appear after the work has been completed. Such drawing or sketch shall be considered by the Board of County Commissioners in an endeavor to ascertain that such buildings, structures and other improvements shall be so designated and constructed that they will not be unsightly, undesirable or obnoxious in appearance to the extent that they will hinder the orderly and harmonious development of the county in the zoning district wherein located.

- B. The applicant for a conditional use permit shall file his application in the office of the Administrative Assistant and pay a fee of \$10.00 to the county when the application is filed.
- C. The Administrative Assistant shall refer the application to the Board of County Commissioners with his recommendation. Property owners within five hundred feet of the property in question and the Commissioner of Natural Resources shall be given not less than twenty days notice of the date the Board of County Commissioners will consider said application, although failure of any property owner to receive such a notification shall not invalidate the proceeding. Notice shall be given the governing body of any incorporated city the limits of which lie within two miles of the proposed conditional use. Notice shall also be given the town board of the township wherein the conditional use is proposed.
- D. The Board of County Commissioners shall consider the application at its next regular meeting after compliance with the provisions of notice above specified.
- E. The applicant or his representative shall appear before the Board of County Commissioners and answer any questions concerning the proposed conditional use.
- F. The Board of County Commissioners shall take action on the application within forty-five days thereafter. A copy of all granted conditional use permits shall be forwarded to the Commissioner of Natural Resources within fifteen days of such action.
- G. **Evaluation criteria.**
  - 1. The Board of County Commissioners shall consider possible adverse effects of the proposed conditional use and what additional requirements may be necessary to prevent such adverse effects. No permit shall be issued by the Administrative Assistant nor the Board of County Commissioners nor shall a conditional use permit be issued where the land is unsuitable for the proposed use by reason of

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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 district.

2. A thorough evaluation of the waterbody and the topographic, vegetation, and soils' conditions on the site must be made to insure:
  - 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 site is adequate for water supply and on-site sewage treatment; and
  - d) 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.

H. **Conditions attached to conditional use permits.** The Board of Commissioners, upon consideration of the criteria listed above and the purposes of this ordinance, shall attach such conditions to the issuance of the 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:

- 1) Increased setbacks from the ordinary high water level;
- 2) Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and
- 3) Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

## 8. Water Supply and Sewage Treatment

- A. **Water Supply.** Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.
- B. **Sewage Treatment.** Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:
  - 1) Publicly-owned sewer systems must be used where available.
  - 2) All private sewage treatment systems must meet or exceed the Minnesota Pollution Control Agency's standards for individual sewage treatment systems contained in the document titled, "Individual Sewage Treatment

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Systems Standards, Chapter 7080”, a copy of which is hereby adopted by reference and declared to be a part of this ordinance.

- 3) On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in Section 22.05(2)(A) of this Ordinance.
- 4) All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in subitems (a)-(d) below. If the determination of a site’s suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on-site field investigations.

### **Evaluation criteria:**

- a) depth to the highest known or calculated ground water table or bedrock;
  - b) soil conditions, properties, and permeability;
  - c) slope;
  - d) the existence of lowlands, local surface depressions, and rock outcrops;
- 5) Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with Section 22.06(3) of this Ordinance.
  - 6) A structure with a failed sewage system must cease discharging sewage into it. The structure shall be evacuated until the owner of the structure repairs or replaces the sewage system in accordance with the requirements of this ordinance.

## **22.06 Nonconformities**

All legally established nonconformities as of the date of this ordinance may continue, but they will be managed according to applicable state statutes and other regulations of this community for the subjects of alterations and additions, repair after damage, discontinuance of use, and intensification of use; except that the following standards will also apply in shoreland areas:

### **1. Construction on Nonconforming Lots of Records.**

- A. Lots of record in the office of the county recorder on the date of enactment of local shoreland controls that do not meet the requirements of Section 22.05(1) of this Ordinance may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became

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substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this ordinance are met.

- B. A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the board of adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.
- C. If, in a group of two (2) or more contiguous lots under the same ownership, any individual lot does not meet the requirements of Section 22.05(1) of this Ordinance the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one (1) or more contiguous lots so they equal one (1) or more parcels of land, each meeting the requirements of Section 22.05(1) of this Ordinance as much as possible.

## 2. Additions/Expansions to Nonconforming Structures.

- A. All additions of expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of Section 22.05 of this Ordinance. Any deviation from these requirements must be authorized by a variance pursuant to Section 22.03(3).
- 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 existed on the date the structure setbacks were established;
  - 2) A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;
  - 3) The deck encroachment toward the ordinary high water level does not exceed 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;
  - 5) The deck encroachment will not be located in the conservation district or a shore impact zone.
- C. Within the conservation district, or any shore and bluff impact area: (1) no nonconforming structure or use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity; and (2) the cost of all structural alterations or additions both inside and outside of a structure to any nonconforming structure over the life of the structure shall not exceed fifty percent (50%) of the market value of the structure unless the conditions of Section 22.05 of this Ordinance are satisfied. The cost

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of all structural alterations and additions constructed since the addition of the community's initial shoreland 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 man power or labor. If the current cost of all previous and proposed alterations and additions exceeds fifty percent (50%) of the current market value of the structure, then the structure must meet the standards of Section 22.05 of this ordinance for new structures.

- D. If any nonconforming use of a structure or land or nonconforming structure is destroyed by any means, including floods, to an extent of fifty percent (50%) or more of its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance.

### 3. **Nonconforming Sewage Treatment Systems.**

- A. A sewage treatment system not meeting the requirements of Section 22.05(8) of this ordinance must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if : (1) the sewage treatment system is located in the agricultural district; and (2) the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.
- B. The governing body of Traverse County has by formal resolution notified the commissioner of its program to identify nonconforming sewage treatment systems. Traverse County will require upgrading or replacement of any nonconforming system identified by this program within a reasonable period of time which will not exceed two (2) years. Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, Section 105.485, in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the Minnesota Pollution Control Agency's Chapter 7080 for design of on-site sewage treatment systems, shall be considered nonconforming.

## 22.07 Subdivision/platting Provisions

### 1. **Land Suitability.**

Each lot created through subdivision, including planned unit developments authorized under Section 22.08 of this Ordinance, must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the local unit of government shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for the development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of

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significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

### 2. **Consistency with Other Controls.**

Subdivisions must conform to all official controls of this community. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with Sections 22.05(2) and 22.05(8) can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of Section 22.05(1), including at least a minimum contiguous lawn area, that is free of limiting factors sufficient for the construction of two (2) standard soil treatment systems. Lots that would require use of holding tanks must not be approved.

### 3. **Information Requirements.**

Sufficient information must be submitted by the applicant for the community to make a determination of land suitability. The information shall include at least the following:

- A. Topographic contours at ten (10) foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics;
- B. The surface water features required in Minnesota Statutes, Section 505.02, subdivision 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;
- C. Adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;
- D. Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;
- E. Location of 100-year flood plain areas and floodway districts from existing adopted maps or data;

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- F. Location of areas within the conservation district; and
- G. 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.

### 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 stormwater and significant wetlands.

### 5. **Platting.**

All subdivisions that create five (5) or more lots or parcels that are two and one-half (2 ½) acres or less in size shall be processed as a plat in accordance with Minnesota Statutes, Chapter 505. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after these official controls were enacted unless the lot was approved as part of a formal subdivision.

### 6. **Controlled Access or Recreational Lots.**

Lots intended as controlled accesses to public waters or for recreational use areas for use by nonriparian lots within a subdivision must meet or exceed the sizing criteria in Section 22.05(1)(D) of this Ordinance.

## **22.08 Planned Unit Developments (PUD’S)**

### 1. **Types of PUD’s Permissible.**

Planned unit developments (PUD’s) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. The land use districts in which they are an allowable use are identified in the land use district descriptions in Section 22.04(2)(A) of this Ordinance and the official zoning map.

### 2. **Processing of PUD’s.**

Planned unit developments must be processed as a conditional use, except that an expansion to an existing commercial PUD involving six (6) or less new dwelling units or sites since the date of this Ordinance was adopted is permissible as a permitted use provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures in Section 22.08(5). Approval cannot occur until the environmental review process (EAW/EIS) is complete.

### 3. **Application for a PUD.**

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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 (10) foot intervals or less. When a PUD is a combined commercial and residential 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 PUD's) with mandatory membership, and all in accordance with the requirements of Section 22.08(6) of this Ordinance.
- 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 PUD's; and 2) ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in Section 22.08(6) of this Ordinance.
- 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 Board of Commissioners that are necessary to explain how the PUD will be designed and will function.

**4. Site "Suitable Area" Evaluation.**

- A. 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 Section 22.08(5).
- B. The project parcel must be divided into tiers by locating one (1) or more lines approximately parallel to a line that identified the ordinary high water level at the following intervals, proceeding landward:

<b>Shoreland Tier Dimensions</b>		
	Unsewered (feet)	Sewered (feet)
General development lakes - first tier	200	200
General development lakes - second and additional tiers	267	200
Natural environment lakes	400	320

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All river classes 300 300

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

**5. Residential and Commercial PUD Density Evaluation.**

The procedures for determining the “base” density of a PUD and density increase multipliers are as follows. Allowable densities may be transferred from any tier to any other tier further from the waterbody, 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 Section 22.08(6).

**B. Commercial PUD “Base”Density Evaluation.**

1) Determine the average inside living areas 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.

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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; agricultural, tributary river segments	Second and additional tiers on unsewered general development lakes;	Natural environmental lakes
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 two hundred (200) square feet. For areas greater than shown, use the ratios listed for one thousand five hundred (1,500) square feet. For recreational camping areas, use the ratios listed at four hundred (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 one thousand (1,000) square feet.

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- 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 dwelling 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 and analysis herein and the design criteria in Section 22.08(6).

**C. Density Increase Multipliers.**

- 1) Increases to the dwelling unit or dwelling site bases densities previously determined are allowable if the dimensional standards in Section 22.05 are met or exceeded and the design criteria in Section 22.08(6) 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 waterbody 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:

Density evaluation tiers	Maximum density increase within each tier (percent)
First	50
Second	100
Third	200
Fourth	200
Fifth	200

**6. 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

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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:

- (1) Commercial uses prohibited (for residential PUD's);
  - (2) Vegetation and topographic alterations other than routine maintenance prohibited;
  - (3) Construction of additional buildings or storage of vehicles and other materials prohibited; and
  - (4) 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:
- (1) Membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers;
  - (2) Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites;
  - (3) Assessments must be adjustable to accommodate changing conditions; and
  - (4) The Association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

B. **Open Space Requirement.** 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;

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- 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 conservation district and the shore impact zone, based on normal structure setbacks, must be included as open space. For residential PUD's, 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 or existing state. For commercial PUD's, at least fifty (50) percent of the shore impact zone must be preserved in its natural state.

C. **Erosion Control and Stormwater Management.** Erosion control and stormwater management plans must be developed and the PUD must:

- 1) be designed, and the construction managed, to minimize the likelihood of serious erosion 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 stormwater runoff. Impervious surface coverage within any tier must not exceed twenty-five (25) percent of the tier area, except that for commercial PUD's, thirty-five (35) percent impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan and consistency with Section 22.05(3).

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

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treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and Sections 22.05(2) and 22.05(8) of this Ordinance. On-site sewage treatment systems must be located on the most suitable areas of the development, and sufficient lawn 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 (1) 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 22.08(5)(C) of this Ordinance 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 groundwater and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one (1) 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, except water oriented accessory structures, must meet the required principal structure setback and must be centralized; and
- 6) Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in Section 22.05(2) of this Ordinance and are centralized.

## 7. Conversions.

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Local governments may allow existing resorts or other land uses and facilities to be converted to residential planned unit developments if all of the following standards are met:

- A. Proposed conversions must be initially evaluated using the same procedures for residential planned unit developments involving all new construction. Inconsistencies between existing features of the development and these standards must be identified.
- B. Deficiencies involving water supply and sewage treatment, structure, color, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit.
- C. Shore and bluff impact zone deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:
  - 1) Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;
  - 2) Remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water; and
  - 3) If existing dwelling units are located in shore or bluff impact zones, conditions are attached to approvals of conversions that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.
- D. Existing dwelling unit or dwelling site densities that exceed standards in Section 22.08(5) may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.

### **22.09 Consideration for Township Zoning**

1. Townships may adopt shoreland management controls under authority of Minnesota Statutes, Section 394.33, Subdivision 1, if the controls are not inconsistent with or less restrictive than the controls adopted by the county in which the township is located. This must be accomplished in accordance with the following conditions:
  - A. For the purposes of Minnesota Regulations, Parts 6120.2500 to 6120.3900, shoreland management controls adopted by townships will only be considered to be consistent with county controls if they cover the same full range of shoreland management provisions covered by the county controls, contain dimensional

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standards at least as restrictive as those in the county controls, and do not allow land uses in particular areas that are not allowed under the county's official controls.

- B. The township must demonstrate to the county board that their proposed ordinance and administration is at least as restrictive as the county's prior to final adoption by the township. This will include, at a minimum, that the township has the staff necessary to administer the ordinance, has sufficient building permit application and certification forms and procedures, and an enforcement mechanism to enforce the ordinance should violations occur.
  - C. Townships must provide for administration and enforcement of shoreland management controls at least as effective as county implementation. Townships that adopt shoreland controls must provide the notifications in Section 22.03(4) of the sample ordinance to the Commissioner or the Commissioner's designee and to the zoning official of the county.
  - D. After adequate shoreland management controls are adopted by a township, property owners must only obtain necessary permits and approvals as required in the township shoreland management controls. Property owners do not have to obtain similar permits or approvals under the county's shoreland controls.
2. The Commissioner of the Department of Natural Resources must also approve a township's shoreland ordinance. The DNR and the respective county should work together to make a joint determination as to whether the township's ordinance is in compliance with state and county standards.

**SECTION 23 FEEDLOT**

**23.00 FEEDLOT ORDINANCE.**

**23.01 Statutory Authorization.**

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

**23.02 Policy.**

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

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

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

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

These rules comply with the policy and purpose of the State of Minnesota in regard to the control of pollution as set forth in Minnesota State Statutes Chapters 115 and 116, and the Land Use Enabling Legislation Chapters 394. By following these regulations, the environmental, residential and agricultural uses of land will be more compatible. The purpose of the Feedlot Ordinance is to regulate the use and development of land in

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Traverse County so that effects on the health, safety, morale and general welfare of the public will be minimized.

### **23.03 Jurisdiction.**

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

### **23.04 Compliance.**

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

### **23.05 Administration and Enforcement.**

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

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

### **23.06 Interpretation.**

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

### **23.07 Severability.**

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

### **23.08 Abrogation and Greater Restrictions.**

It is not the intent of this Ordinance to repeal, abrogate, or impair any existing ordinances, rules or statute. However, when this Ordinance is inconsistent with any other

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ordinance, rule or statute, the ordinance, rule or statute which impose the greater restriction shall prevail.

### **23.09 Definitions.**

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

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

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

- A. If land or conditional use permits are required, permits shall be issued by the County and shall be conditional upon complying with the terms and conditions of the certificate of compliance or permits issued by the Minnesota Pollution Control Agency for the operation of feedlots. No land use permit shall be issued without a:
  - 1. Waste Utilization's Plan, and
  - 2. An approved DNR Water Appropriation Permit, if required.
- B. Feedlots where all other provisions of this Ordinance have been met and the animal units are less than 1,000 where the manure is stored within an approved concrete storage structure, shall be a permitted use.
- C. Feedlots where all other provisions of this Ordinance have been met and the animal units are less than 600 where the manure is stored within an approved earthen storage basin shall be a permitted use.
- D. Any animal feedlot exceeding 2,000 animal units per square quarter section of land shall require a conditional use permit
- E. Permittees shall be required to comply with all laws and regulations pertaining to dead animal disposal as a condition of the permit.
- F. All other feedlots shall require conditional use permits.

### **23.11 Area Regulations for New Feedlots**

- A. The following shall be considered as minimum requirements for setbacks of new feedlots; no new feedlots shall be located within:

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

**23.12 New Animal Manure Holding Structures.**

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

**23.13 Animal Waste Utilization and Application Setbacks**

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

<u>Surface Irrigation Applied</u>	<u>Incorporated or Recommended within 48 hours</u>	<u>Injected (in feet)</u>	
1. 300 feet	100 feet OHWL	100	Watercourses, streams, rivers, lakes, non crop drainage ditches
2. 1,000 feet	1,000 feet	1,000	Municipal well
3. 500 feet	500 feet	500	Private wells
4. 500 feet	500 feet	500	Residential area (10 or more homes) or municipality
5. 500 feet	500 feet	500	Residence, neighboring resident
6. 100 feet	50 feet	10	Field tile intakes
7. Prohibited	Permitted		Permitted 100 year floodplain

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

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

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- C. All waste utilization of animal manure as fertilizer, applied in areas not included in Section 23.14, Subd. A of this Ordinance, shall be according to the Natural Resource Conservation (NRCS) or the MPCA.
- D. Where adequate acres for spreading animal waste are not available, spreading agreements shall be provided to the MPCA and the Traverse County Environmental Office.

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

- A. All plans shall be prepared and approved by a registered professional engineer or NRCS job authority approval.
- B. All basins designed within Traverse County shall meet minimum practice standards, and recommendations of NRCS storage ponds; and have an approved Waste Utilization Plan.
  - 1. Shall have a signed Operations and Maintenance Plan.
  - 2. Shall have a construction plan agreement by the Engineer.
  - 3. Upon completion, shall provide to the Traverse County Environmental Officer, a construction inspection log.
- C. Any situation not covered by the above standards shall be controlled by the Midwest Plan Service # 18 Livestock Waste Facilities Handbook, and applicable Extension Engineering Fact Sheets involving animal waste.
- D. Soils with severe limitations due to seepages as described in the Traverse County Soil Survey, shall have a synthetic liner as required by NRCS.
- E. Owner and Operator's Responsibility. The landowner, and the owner and operator of any feedlot shall be responsible for the storage, transportation, and disposal of all animal manure generated in a manner consistent with the provisions of the Ordinance.
  - 1. Upon abandonment of one year, termination or non-renewal of any permit or certificate necessary to operate a feedlot, or failure to operate the feedlot in any manner consistent with this Ordinance or with State and Federal regulations, the landowner, and the owner and operator of any feedlot shall remain responsible for all costs of closure, cleanup or other costs necessary to bring the property into compliance with all Federal, State and County regulations, and to restore the property to a suitable use.
- F. The permit holder shall allow the Traverse County Environmental Officer to inspect the site whenever necessary. All testing must be done in compliance with MPCA regulations.

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### 23.15 Conditional Use Permits

- A. Conditional use permits shall be required for:
  - 1. Those feedlots which are not a permitted use within Section 23.10 of this Ordinance.
  - 2. Any expansion or modification of an existing feedlot within the shoreland management district or bluff impact zone.
  - 3. Any feedlot requiring the Environmental Review Program pursuant to M. S. 116D.04 and 116D.045 and its administrative rules adopted by the EQB 44 10.0200-4410.7800.
  - 4. Any existing feedlot which expands or modifies over 20 percent (20%) above the number of animal units existing at the time of the last permit or certificate granted by MPCA, to the extent that the total number of animal units exceeds the number of animal units which is required for new feedlot conditional use permits.
  
- B. All conditional use permits shall have animal waste plans, consisting of the following:
  - 1. Compliance with all standards established within the County Feedlot Ordinance.
  - 2. Submission of any other additional information requested by the Traverse County Environmental Officer, Planning Commission, County Board of Commissioners, or MPCA.
  - 3. After the review by the Planning Commissioner, any conditional use permit granted shall require, as a condition, that the permittee obtain a certificate of compliance or related permit required by MPCA rules and shall require revocation of the permit if the interim certificate of compliance or permit are not given.
  - 4. Operational and Maintenance Plan.
  - 5. Approval Plans for earthen storage basins and concrete holding structures over 500,000 gallons.
  - 6. Construction inspection plan and verification log.
  - 7. Dead Animal Disposal Plan.
  
- C. Standards for conditional use permits:
  - 1. Any changes involving structural alterations and intensification of use or changes not included on the certificate of compliance or not specifically

**Feedlot Ordinance**

permitted in a conditional use permit, shall be considered only as a new application for a conditional use permit.

- 2. A conditional use permit shall consider the issue of odor and the applicant shall be required to develop and implement a plan whereby windbreak or other odor controlling measures will be installed so as to minimize odors where the Planning Commission and Board of County Commissioners deem it is necessary to protect the interests of the adjacent property owners.

**23.16 Variance**

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

**23.17 Amendment by County Board**

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

- A. The governing bodies of all towns and all municipalities located within the county.

**FEEDLOT PERMIT NO:\_\_\_\_\_**

**23.18 Ag Waste Management System Operation and Maintenance Plan.**

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

- A. All Components of the System:**
  - 1. Inspect embankments, water course channels and ridges, level spreaders and filter strips, and holding pond inlets regularly, especially following heavy rains and spring runoff. Repair damage as soon as conditions allow with compacted earth fill, reshaping, staked sod, re-seeding and/or mulch as needed.

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2. Control brush, weed and tree growth. Use herbicides that do no harm to the grass sod, or mow and clip where possible.
3. Control domestic animals, gophers, moles, badgers, woodchucks or other animals. They may burrow in the embankment, diversion dikes and level spreaders creating holes that will cause wash out.
4. Uncontrolled grazing should not be permitted on the embankment sideslopes, grassed waterways, vegetated diversions and the filter strips

### **B. Waste Storage Structures and Holding Ponds:**

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

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

### **C. Other Practices and Appurtenances:**

1. Maintain all fences in good condition; repairing broken wires, gates and posts to insure that the safety intent of the fencing is not compromised.
2. Maintain all mechanical diversions (concrete and/or treated plank) as originally installed.

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3. Maintain commercially manufactured manure delivery systems (ram pumps, liquid pumps, gutter scrapers, etc.) in good operating condition according to manufacturer's specifications and recommendations.
4. Provide personal flotation devise and/or life saving pole in the immediate vicinity

**D. Call the Traverse County Environmental Officer, Your Consulting Engineer or the Minnesota Pollution Control Agency for Guidance if you see:**

1. Evidence of holding pond leakage such as:
  - a. Seepage along the toe of the embankment (standing water, particularly "polluted" water, soft, spongy, wet areas; growth of water loving vegetation).
  - b. Failure of the holding pond to fill up (water level remains constant over extended time periods or raises after significant rains and then drops).
  - c. A sudden drop in the water level.
2. Evidence of significant waterway or diversion channel erosion.

**E. Applicant's Agreement.**

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

**SIGNATURE OF APPLICANT:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**DEAD ANIMAL DISPOSAL PLAN**

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

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

\_\_\_\_\_  
Signature of Livestock Producer

## CONSTRUCTION INSPECTION PLAN

The Construction Inspection shall contain the following minimum criteria:

1. Contractor or landowner to contact Engineer prior to the start of construction.
2. Review plans and specification requirements with contractor.
3. During construction, I will inspect the following:
  - a. Moisture content of earthfill material.
  - b. Compaction of earth embankment.
  - c. Basin bottom and slope material after it is cut and placed to grade, but before it is scarified and re-compacted.
  - d. Final elevations, grades and dimensions.

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Project Engineer Signature

**Feedlot Ordinance**

**ADDITIONAL MANURE DISPOSAL  
AREA APPLICATION**

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

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

\_\_\_\_\_  
Signature of Landowner/Tenant

Address and Phone Number:

\_\_\_\_\_  
\_\_\_\_\_

**SECTION 24 SUBDIVISIONS**

**24.00 SUBDIVISIONS**

**24.01 Metes and Bounds Descriptions.**

After the effective date of this Ordinance, no deed containing a metes and bounds description shall be recorded unless first the County Recorder is furnished with an accurate sketch or drawing of the land to be conveyed, containing a legal description prepared and signed by a surveyor covering the land described in the deed. At the same time, a copy shall also be furnished to the County Assessor.

**24.02 Recording.**

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

**24.03 Deeds Already of Record.**

This Ordinance shall not apply to deeds already of record.

**24.04 Previous Metes and Bounds Descriptions.**

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