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## **AMENDED BROWN COUNTY ZONING ORDINANCE**

AN ORDINANCE REGULATING THE USE OF LAND IN BROWN COUNTY BY DISTRICTS, INCLUDING THE REGULATION OF THE LOCATION, SIZE, USE AND HEIGHT OF BUILDINGS, THE ARRANGEMENT OF BUILDINGS ON LOTS AND THE DENSITY OF POPULATION FOR THE PURPOSE OF PROMOTING THE PUBLIC HEALTH, SAFETY, ORDER, CONVENIENCE, AND GENERAL WELFARE OF BROWN COUNTY.

THE BROWN COUNTY BOARD DOES ORDAIN AS FOLLOWS:

### **SECTION 1. TITLE**

- 101. This Ordinance shall be known, cited, and referred to as the Brown County Zoning Ordinance.**

## SECTION 2. INTENT AND PURPOSE

### **201. Statutory Authorization, Findings of Fact**

Statutory Authorization: The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and 394 Counties and 462 Municipalities - Rule 6120.5100 Policy - 44 C.F.R., Chapter 1, and Parts 59-77 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses.

Findings of Fact: The flood hazard areas of Brown 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.

Methods Used to Analyze Flood Hazards: 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.

### **202. This Ordinance is Adopted for the Purpose of:**

- (1) Protecting the public health, safety, comfort, convenience and general welfare, and minimizing those losses described herein relating to flood hazard areas.
- (2) Protecting and preserving agricultural land.
- (3) Promoting orderly development of the residential, commercial, industrial, recreational and public land.
- (4) Conserving the natural and scenic beauty and attractiveness of the county.
- (5) Conserving the natural resources in the county including wetlands and woodlands.
- (6) Providing for the compatibility of different land uses and the most appropriate use of land throughout the county.
- (7) Minimizing environmental pollution.
- (8) Conserving energy by allowing solar and earth sheltered housing.

### **SECTION 3. GENERAL PROVISIONS**

#### **301. Jurisdiction.**

The jurisdiction of this Ordinance shall apply to all the area of Brown County outside the incorporated limits of municipalities.

#### **302. Scope.**

From and after the effective date of this Ordinance and subsequent amendments, the use of all land and every building or portion of a building erected, altered in respect to height and area, added to or relocated, and every use within a building or use accessory thereto in Brown County shall be in conformity with the provisions of this Ordinance. Any existing building or structure and any existing use of properties not in conformity with the regulations herein prescribed shall be regarded as non-conforming, but may be continued, extended or changed, subject to the special regulations herein provided with respect to nonconforming properties or uses.

#### **303. Application**

- (1) In their interpretation and application, the provisions of this Ordinance shall be held to the minimum requirements for the promotion of the public health, safety, and welfare.
- (2) 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.

#### **304. Separability**

It is hereby declared to be the intention that the several provisions of this Ordinance are separable in accordance with the following:

- (1) If any court of competent jurisdiction shall adjudge any provision of this Ordinance to be invalid, such judgment shall not affect any other provisions of this Ordinance not specifically included in said judgment
- (2) If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular property, building, or structure, such judgment shall not affect other property, buildings or structures.

#### **305. Lot of Record**

- (1) All lots which are a part of a subdivision legally recorded with the County Recorder, and lot or lots described by metes and bounds, compliant with official controls at the time, the deed to which has been recorded in the Office of the County Recorder prior to June 16, 1971, shall be considered to be Lots of Record and shall thereby be considered a legally buildable lot even though such lot or lots may not conform to the minimum requirements of this Ordinance, providing further that the lot is in separate ownership from abutting lands, and all sanitary sewer standards and setback requirements of the County are compiled with.

- (2) Abutting lots under common ownership must be combined when necessary to accommodate conforming septic systems.

### **306. Non-Conforming Uses**

#### **306.1 Intent and General Application**

It is the intent of this Ordinance to permit non-conforming uses or structures to continue through their life span or until they are removed, but not to encourage their survival. Such uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. This is not intended to exempt non-conforming uses from applicable further regulations.

- (1) A non-conforming use of a structure, a non-conforming use of land and water, or a non-conforming structure, shall not be extended or enlarged after passage of this Ordinance by attachment on a building or premises or additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.
- (2) If a non-conforming use of a structure or building is discontinued for a period of one year, further use of the structures or property shall conform to this Ordinance. The County Assessor shall notify the Zoning Administrator or Planning Commission in writing of all instances of non-conforming uses which have been discontinued for a period of twelve consecutive months.
- (3) If a non-conforming structure is destroyed by any cause, to an extent exceeding fifty percent of its fair market value as indicated by the records of the County Assessor, a future structure on the site shall conform to this Ordinance.
- (4) In the Floodplain Zone, the cost of any structural alterations or additions to any non-conforming structure, since the adoption of Floodplain Management Controls, shall not exceed 50 percent of the market value of the structure unless the conditions of this Ordinance are satisfied. The cost of all structural alterations and additions constructed since the adoption of Brown County'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 since the adoption of Floodplain Management Controls exceeds 50 percent of the current market value of the structure, then the structure must meet the standards of this Ordinance for new structures depending upon whether the structure is in the Floodway or Flood Fringe, respectively.
- (5) If a substantial improvement occurs, as defined in Section 402.196 of this Ordinance, from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition and the existing non-conforming building must meet the requirements of Section 609.5 or 609.6 of this Ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.



### **306.2 Alterations**

- (1) Alterations may be made to a residential building containing non-conforming residential units when they will improve the livability of such units, provided, however, that they do not increase the number of dwelling units in the building.
- (2) Any alteration or addition to a non-conforming use or structure which would result in increasing the flood damage potential of that use or structure shall be protected to the regulatory flood protection elevation in accordance with any of the elevation or flood proofing standards (FP-1 through FP-4) contained in this Ordinance, except as further restricted in Section 306.1(4).

### **306.3 Normal Maintenance**

Maintenance of a building or other structure containing or used as a non-conforming use will be permitted when it includes necessary, non-structural repairs and alterations which do not extend or intensify the non-conforming building or use, but are necessary to continue in use as allowed by this Ordinance. Nothing in this Ordinance shall prevent the placing of a structure in safe condition when said structure is declared unsafe by the County Zoning Administrator.

### **306.4 Changes and Substitutes**

Once a non-conforming use has been changed to a conforming use or a substandard structure has been altered so as to comply with the lot area, established setback lines along arterial streets, highways and property lines, and the yard, height, parking, loading unloading, access and any other applicable provisions of this Ordinance, it shall not revert back to a non-conforming use of a substandard structure. Once the Board of Adjustment has permitted the substitution of a more restrictive non-conforming use for the existing non-conforming use, the prior existing use shall lose its status as a legal non-conforming use and the substituted use shall become subject to all the conditions required by the Board of Adjustment.

### **306.5 Non-Conforming Signs**

- (1) Signs existing on June 16, 1971 which do not conform to the regulations set forth in this Ordinance shall become a non-conforming use and shall be discontinued within ninety (90) days after being notified by the Zoning Administrator or as determined by the County Board of Commissioners; uses of signs which become non-conforming by reason of a subsequent change in this Ordinance shall also be discontinued within ninety (90) days after being notified by the Zoning Administrator.
- (2) Business signs on the premises of a non-conforming building or use may be continued, but such signs shall not be increased in number, area, height or illumination. New signs not to exceed thirty-five (35) square feet in aggregate sign area may be erected only upon the complete removal of all other signs existing at the time of the adoption of this Ordinance. Such signs may be illuminated, but no flashing rotating or moving signs shall be permitted.
- (3) Signs erected before the passage of this Ordinance shall not be rebuilt, altered or moved to a new location without being brought into compliance with the requirements of this Ordinance.
- (4) In the event that the use of a non-conforming sign is discontinued or its normal operation stopped for a period of six (6) months, the sign or structure shall be removed by the owner.

### **307. Injunctive Relief**

The Zoning Administrator, upon certification by the County Board, shall have the authority to petition the District Court for injunctive relief against continued violations of any of the provisions of this Ordinance.

### **308. Zoning Coordination**

Any zoning district change on land adjacent to or across a public right-of-way from an adjoining county or community shall be referred to the Planning Commission, and the adjacent community for review and comment prior to action by the County Board granting or denying the zoning district classification change. A period of at least thirty (30) days shall be provided for receipt of comments; such comments shall be considered as advisory only.

### **309. Zoning and the Comprehensive Land Use Plan**

Any change in zoning granted by the County Board shall automatically amend the Comprehensive Land Use Plan in accordance with said zoning change.

## SECTION 4 RULES AND DEFINITIONS

### 401. Rules

#### 401.1 Word Usage

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

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

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

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

The word "parcel" shall include the words "piece", "lot", and "plot".

The word "building" shall include "structures" of every kind, regardless of similarity to buildings.

The masculine gender shall include the feminine and neuter.

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

The word "Board" includes the "county commissioners", the "Board of County Commissioners" or any other word or words meaning the "Brown County Board of Commissioners".

### 402. Definitions

- (1) **Accessory Structure** - A subordinate structure or a portion of a main structure which is located on the same lot as the main structure and the use of which is clearly incidental to the use of the main structure.
- (2) **Accessory Structure, Water Oriented** - 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.
- (3) **Administrator, Zoning** - The duly appointed person charged with enforcement of this Ordinance.

- (4) **Aggregated Project (WECS)** - Projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also included as part of the aggregated project. The planned kW generating capacity of the entire aggregated project will be used to determine whether an aggregated project is a Commercial WECS or Non-Commercial WECS.
- (5) **Agricultural Use** - The use of land for the growing and/or production of field crops, livestock, and livestock products for the production of income including but not limited to the following:
- A) field crops, including but not limited to: barley, soy beans, corn, hay, oats, potatoes, rye, sorghum, sunflowers, and wheat.
  - B) livestock, including but not limited to: dairy and beef cattle, goats, horses, sheep, hogs, poultry, game birds and other animals including dogs, ponies, deer, rabbits, and mink.
  - C) livestock products, including but not limited to: milk, butter, cheese, eggs, meat, fur and honey.
  - D) sale of products raised/produced on the premises and feed/seed sales where the activity shows no exterior evidence other than a farm operation.
- (6) **Airport or Heliport** - Any land or structure which is used or intended for use, for the landing and take-off of aircraft, and any appurtenant land or structure used or intended for use for port buildings or other port structures or right-of-ways.
- (7) **Animal Unit** - A unit of measure used to compare differences in the production of animal manure that employs as a standard the amount of manure produced on a regular basis by a slaughter steer or heifer for an animal feedlot or manure storage area, calculated by multiplying the number of animals of each type as listed below by the respective multiplication factor and summing the resulting values to obtain the total number of animal units. For purposes of this ordinance, the following shall apply:

	<u>Animal Unit Multiplication Factor</u>
A) (1) Mature dairy cow over 1,000 lbs	1.4
B) (1) Mature dairy cow under 1,000 lbs	1.0
C) (1) Dairy heifer	0.7
D) (1) Dairy calf	0.2
E) (1) Slaughter steer or stock cow	1.0
F) (1) Feeder cattle or heifer	0.7
G) (1) Cow and calf pair	1.2
H) (1) Calf	0.2
I) (1) Veal, calf	0.2
J) (1) Horse	1.0
K) (1) Swine over 300 lbs	0.4
L) (1) Swine between 55 and 300 lbs	0.3
M) (1) Swine under 55 lbs	0.005
N) (1) Duck	0.01
O) (1) Sheep or lamb	0.1
P) (1) Turkey over 5 lbs	0.018
Q) (1) Turkey under 5 lbs	0.005
R) (1) Chicken over 5 lbs	0.005
S) (1) Chicken under 5 lbs	0.003

- (8) **Apartment** - A room or suite of rooms with cooking facilities available which is occupied as a residence by a single family, or a group of individuals living together as a single family unit. This includes any unit in buildings with more than two dwelling units.
- (9) **Auto or Motor Vehicle Reduction Yard** - A lot or yard where one or more unlicensed motor vehicles(s), or the remains thereof, are kept for the purpose of dismantling, wrecking, crushing, repairing, rebuilding, sale of parts, sale as scrap, storage, or abandonment. (*See also Junk Yard.*)
- (10) **Basement** – Is 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.
- (11) **Bed & Breakfast Inn** - An owner-occupied residence where lodging and breakfast are provided to the traveling public by the resident owner for compensation.
- (12) **Bluff** - A topographic feature such as a hill, cliff, or embankment having the following characteristics (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):
  - A) Part or all of the feature is located in a shoreland area;
  - B) The slope rises at least 25 feet above the ordinary high water level of the waterbody;
  - C) 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
  - D) The slope must drain toward the waterbody.

The definition of "bluff" in non-shoreland areas is as follows:

A topographic feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than 18 percent over a distance of 50 feet or more, measured on the ground, shall not be considered part of the bluff):

- A) The slope rises at least 25 feet above the toe of the bluff.
- B) The grade of the slope averages 30 percent or greater.

- (13) **Bluff impact zone** - A bluff and land located within 20 feet from the top of a bluff.
- (14) **Boarding house (Rooming or Lodging House)** - A building other than a motel or hotel where, for compensation and by prearrangement for definite periods, meals or lodgings are provided for three or more persons, but not to exceed twenty persons.
- (15) **Boathouse** - A structure used solely for the storage of boats or boating equipment.
- (16) **Building** - Any structure having a roof which may provide shelter or enclosure of persons, animals, chattel, or property of any kind and when said structures are divided by party walls without openings, each portion of said building so separated shall be deemed a separate building.
- (17) **Building Line** - A line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.
- (18) **Building Height** - The vertical distance to be measured from the grade of a building line to the top, to the cornice of a flat roof, to the deck line of a mansard roof, to a point on the roof directly above the highest wall of a shed roof, to the uppermost point on a round or other arch type roof, to the mean distance of the highest gable on a pitched or hip roof.
- (19) **Building Setback** - The minimum horizontal distance between the building and a lot line.

- (20) **Business** - Any occupation, employment or enterprise wherein merchandise is exhibited or sold, or where services are offered for compensation.
- (21) **C-Bed Project (WECS)** – A Community Based Energy Development Project that must have local owners, no single owner may be allowed to own more than fifteen (15) percent of a project, must have a local resolution of support , and the power purchase agreement must ensure levelized cash flow to the project owners. Based on their total name plate generating capacity, C-Bed Projects are considered micro WECS, non-commercial WECS, or commercial WECS as defined in this section.
- (22) **Carport** - An automobile shelter having one or more sides open.
- (23) **Church** - A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.
- (24) **Class V Injection Well** – A shallow well used to place a variety of fluids directly below the land surface. This includes SSTs that are designed to receive sewage or non-sewage from a two-family dwelling or greater or receive sewage or non-sewage from another establishment that serves more than twenty (20) persons per day. The US Environmental Protection Agency and delegated state groundwater programs permit these wells to inject wastes below the ground surface provided they meet certain requirements and do not endanger underground sources of drinking water. Class V motor vehicle waste disposal wells and large-capacity cesspools are specifically prohibited (see 40 CFR Parts 144 and 146.0
- (25) **Clear-cutting** - The removal of an entire stand of vegetation.
- (26) **Clustering/Cluster Housing** - The development pattern and technique whereby structures are arranged in closely related groups to make the most efficient use of the natural amenities of the land.
- (27) **Cluster (Septic) System** – A septic system under some form of common ownership that collects wastewater from two or more dwellings or buildings and conveys it to a treatment and dispersal system located on an acceptable site near the dwellings or buildings.
- (28) **Commercial Use** - The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.
- (29) **Commissioner** - Commissioner of the Department of Natural Resources.
- (30) **Communication Tower** – A tower that is used for communication devices such as cell phones, radio, television, etc. It may be free standing, guyed or a monopole structure. A repeater is not considered a communication tower under this ordinance.
- (31) **Community Water and Sewer Systems** - 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.
- (32) **Comprehensive Land Use Plan** - A compilation of goals, policy statements, standards, programs and maps for guiding the physical, social and economic development, both public and private, of the county and its environs, and includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.
- (33) **Conditional Use** - Means a specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that: (1) certain conditions as detailed in the zoning ordinance exist and (2) the structure

and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.

- (34) **Condominium** - A form of individual ownership with a multi-family building with joint responsibility for maintenance and repairs. In a condominium, each apartment or townhouse is owned outright by its occupant, and each occupant owns a share of the land and other common property of the building.
- (35) **Contractor Yard** – A site used for the storage of vehicles, equipment, and materials by a person whose business is contracting work in any of the building trades, landscaping, road building, sewer installation, transport/hauling or similar trade.
- (36) **Cooperative** - A multi-unit development operated for and owned by its occupants. Individual occupants do not own their specific housing unit outright as in a condominium, but they own shares in the enterprise.
- (37) **Conservancy** - A zoned area, the purpose of which is to protect the natural resources and manage areas unsuitable for development.
- (38) **County Board** - Brown County Board of Commissioners.
- (39) **County Feedlot Officer (CFO)** – An employee or officer of a delegated county who is knowledgeable in feedlots and who is designated by the county board to perform the duties under Minnesota Rule [7020.1600](#).
- (40) **Curb Level** - The grade elevation established by the governing body of the curb in front of the center of the building. Where no curb level has been established, the engineering staff shall determine a curb level or its equivalent for the purpose of this Ordinance.
- (41) **Deck** - A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than three feet above ground.
- (42) **Design Flow** – The daily volume of discharge that a septic system is designed to treat.
- (43) **Direct Sunlight** - Sunlight unobstructed by any improvement or tree within the Solar Access Space.
- (44) **Drain or Drainage** – Any method for removing or diverting water from wetlands. This method shall include but is not limited to excavation of an open ditch, installation of drainage tile, filling, diking or pumping.
- (45) **Drive-In** - Any use where products and/or services are provided to the customer under conditions where the customer does not have to leave the car or where fast service to the automobile occupants is a service offered regardless of whether service is also provided within a building.
- (46) **Dwelling Site** - A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.
- (47) **Dwelling Unit** - A residential building or portion thereof, frame houses, manufactured homes and earth sheltered homes, intended for occupancy by a single family but not including hotels, motels, boarding or rooming houses or tourist homes.
- (48) **Dwelling Seasonal** – See section 402.157 “Seasonal Dwelling”
- (49) **Dwelling Attached** - A dwelling which is joined to another dwelling at one or more sides by a party wall or walls. Two or more attached dwellings are considered a multi-family unit.
- (50) **Dwelling Detached** - A dwelling which is entirely surrounded by open space on the same lot.
- (51) **Easement** - 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.

- (52) **Energy Storage Facility** - Equipment consisting of containers, heat, exchangers, piping, and other transfer mechanisms (including fluids, gases, or solids), controls and related structural support for transporting and storing collected energy (from solar energy systems), including structural elements designed for use in passive solar energy systems.
- (53) **Equal Degree of Encroachment** - a method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.
- (54) **Erosion Control and Wildlife Developments** - 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.
- (55) **Essential Services** - Overhead or underground electric, gas, communication, 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.
- (56) **Excavation** – The displacement or removal of substrate, sediment or other materials by any method.
- (57) **Exterior Storage (includes open storage)** - The storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.
- (58) **Extraction Area** - 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 earth, or sod, soil, sand, gravel, stone or other natural matter, or made by turning, or breaking or undermining the surface of the earth.
- (59) **Failure to Protect Groundwater (septic)** – A septic system with less than the required vertical separation distance as described in Minnesota Rules 7080.1500 Subpart 4 B, D and E; and a system not abandoned in accordance with Minnesota Rules 7080.2500.
- (60) **Fall Zone** - The area, defined as the furthest distance from the tower base, in which a guyed tower will collapse in the event of a structural failure. This area is less than the total height of the structure.
- (61) **Family** - An individual, or two or more persons related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit, exclusive of usual service.
- (62) **Farm** - A tract of land which is principally used for agricultural activities such as the production of crops, livestock or poultry farming. Such farms may include agricultural dwelling and accessory buildings and structures necessary to the operation of the farm.
- (63) **Feeder Line** - Any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electric power grid, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the WECS.



- (64) **Feedlot, Livestock** - 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 rules, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots under these rules. *Also see Section 725.*
- (65) **Fence** - Any partition, structure, wall or gate erected as a dividing marker, barrier or enclosure and located along the boundary, or within the required yard.
- (66) **Fill** - Any solid material added to or re-deposited in a wetland that would alter its cross-section or hydrological characteristics, obstruct flow patterns, change the wetland boundary, or convert the wetland to a non-wetland.
- (67) **Flood** - A temporary rise in stream flow or stage that results in inundation of the areas adjacent to the channel.
- (68) **Flood Frequency** - The average frequency, statistically determined, for which it is expected that a specific flood stage or discharge may be equaled or exceeded.
- (69) **Flood Fringe** - That portion of the floodplain outside of the flood way and which has been or hereafter may be covered by the regional flood. The Flood Fringe shall, at a minimum, include all Zone AE areas shown on the Flood Insurance Rate Map panels adopted in Section 602(1) that are located outside the floodway.
- (70) **Floodplain** - The areas adjacent to a watercourse, lake or wetland which have been or hereafter may be covered by the regional flood.
- (71) **Flood Proofing** - A combination of structural provisions, changes or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages. For the purposes of this Ordinance, the classification of buildings and structures (FP-1 through FP-4) shall be as defined in Section 210.1 of the 1972 Edition of "Flood Proofing Regulations" as developed by the Office of the Chief of Engineers, U.S. Army, Washington, D.C.
- (72) **Floodway** - The channel of the watercourse and those portions of the adjoining floodplains which are reasonably required to carry and discharge the regional flood. The floodway, at a minimum, shall include all floodway areas shown on the Flood Insurance Rate Map panels adopted in Section 602(1).
- (73) **Floor Area** - The sum of the gross horizontal areas of the several floors of the building or portion thereof devoted to a particular use, including accessory storage areas located within selling or working space and including any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, the floor area shall not include: basement floor area other than area devoted to retailing activities, the production or processing of goods or to business or professional offices.
- (74) **Floor Area Ratio** - The numerical value obtained through dividing the gross floor area of a building or buildings by the net area of the lot or parcel of land on which such building or buildings are located.
- (75) **Floor Plan-General** - A graphic representation of the anticipated utilization of the floor area within a building or structure but not necessarily as detailed as construction plans.

- (76) **Forestry** - The use and management including logging, or a forest, woodland or plantation and related research and educational activities, including the construction, alteration or maintenance of wood roads, skidways, landings and fences.
- (77) **Forest land conversion** - The clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.
- (78) **Frontage** - That boundary of a lot which abuts an existing or dedicated public street.
- (79) **Garage, Private** - 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.
- (80) **Generator Nameplate Capacity (WECS)** – The maximum rated output of a generator under specific conditions designated by the manufacturer. Generator nameplate capacity is usually indicated in units of kilovolt amperes (kVA) and in kilowatts (kW) on a nameplate physically attached to the generator.
- (81) **Governing Body** - Brown County Board.
- (82) **Habitable Room** - A space used for living, sleeping, eating or cooking, or combination thereof, but not including bathrooms, toilet compartment, closets, halls, storage rooms, laundry and utility rooms, cellars and similar spaces.
- (83) **Highway** - Any public thoroughfare or vehicular right-of-way with a federal or state numerical route designation; any public thoroughfare or vehicular right-of-way with a Brown County numerical route designation.
- (84) **Holding Pond** - An impoundment made by excavation, earthen fill, concrete, fabricated steel or other suitable material for the safe non-water polluting temporary storage of animal or other agricultural waste usually for a period of six to twelve months.
- (85) **Home Occupation** - Any gainful occupation or profession engaged in by the occupant of a dwelling at or from the dwelling when carried on within a dwelling unit.
- (86) **Horticulture** - Horticultural uses and structures designed for the storage or products and machinery pertaining and necessary thereto.
- (87) **Hotel** - 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.
- (88) **Industrial Use** - The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.
- (89) **Imminent Threat to Public Health and Safety (septic)** – A septic system with direct discharge of sewage or effluent to the ground surface, drainage system, ditch, stormwater drain/sewer, or directly to surface water or as further defined in Minnesota Rules 7080.
- (90) **Individual Sewage Treatment System (ISTS)** – A septic system having a design flow of no more than 5,000 gallons per day.
- (91) **Intensive vegetation clearing** - The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.
- (92) **Irrigation System** - Any structure or equipment, mechanical or otherwise, used to supply water to cultivate fields or supplement normal rainfall including but not limited to wells, pumps, motors, pipes, culverts, gates, dams, ditches, tanks, ponds, and reservoirs.

- (93) **Junk Yard** - An open area where waste, used, or secondhand materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including but not limited to: scrap iron and other metals, paper, rags, rubber, tires, and bottles. A junk yard includes an auto wrecking yard but does not include uses established entirely within enclosed buildings. This definition does not include sanitary landfills.
- (94) **Kennel** - Any structure or premises on which four (4) or more dogs over four (4) months of age are kept for sale, breeding, profit, etc.
- (95) **Large Wind Energy Conservation System (LWECS)** – means any combination of WECS with a combined nameplate generating capacity of 5,000 kW or more (see Minnesota Statue 216F.01).
- (96) **Liquid Manure Storage Area (Feedlot)** - An area either above or below ground constructed through the removal of earthen material and for the purpose of storing liquid manure.
- (97) **Landscaping** - Plantings such as trees, grass, and shrubs.
- (98) **Lodging Room** - A room rented as sleeping and living quarters, but without cooking facilities. In a suite of rooms, without cooking facilities, each room which provides sleeping accommodations shall be counted as one lodging room.
- (99) **Logging** - The cutting of timber on any public or private land of one acre or more for the major purpose of selling the timber for a profit. This shall not include the selective cutting of trees by the property owners for the purpose of removing dead or diseased trees.
- (100) **Lot** - A parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.
- (101) **Lot of Record** - Any lot which is one unit of a plat heretofore duly approved and filed, or one unit of an Auditor's Subdivision or a Registered Land Survey that has been recorded in the Office of the County Recorder for Brown County, Minnesota, prior to June 16, 1971.
- (102) **Lot Area** - The area of a lot in a horizontal plane bounded by the lot lines.
- (103) **Lot, Corner** - A lot situated at the junction of, and abutting on two or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed one hundred thirty-five degrees.
- (104) **Lot Depth** - The mean horizontal distance between the front lot line and the rear lot line of a lot.
- (105) **Lot Line** - The property line bounding a lot except that where any portion of a lot extends into a public right-of-way, the public right-of-way shall be the lot line for applying this ordinance.
- (106) **Lot Line, Front** - That boundary of a lot which abuts an existing or dedicated public street, and in the case of a corner lot it shall be the shortest dimension on a public street. If the dimensions of a corner lot are equal, the front line shall be designated by the owner and filed with the County Board.
- (107) **Lot Line, Rear** - 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.
- (108) **Lot Line, Side** - Any boundary of a lot which is not a front lot line or a rear lot line.
- (109) **Lot, Substandard** - A lot or parcel of land for which a deed has been recorded in the Office of the Brown County Recorder upon or prior to the effective date of this Ordinance which does not meet the minimum lot area.

- (110) **Lot, Through** - A lot which has a pair of opposite lot lines abutting two substantially parallel streets, and which is not a corner lot. On a through lot both street lines shall be front lines for applying this Ordinance.
- (111) **Lot Width** - The shortest distance between lot lines measured at the midpoint of the building line.
- (112) **Lowest Floor** – The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor.
- (113) **Management Plan (septic)** – A plan that requires the periodic examination, adjustment, testing, and other operational requirements to meet system performance expectations, including a planned course of action in the event a septic system does not meet performance expectations.
- (114) **Manufactured Home** - A structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that the term includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary and complies with the standards established under M.S. Chapter 327. "Secretary" means the Secretary of the United States Department of Housing and Urban Development or the head of any successor agency with responsibility for enforcement of federal laws relating to manufactured homes.
- (115) **Manufactured Home (floodplain)** – A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term manufactured home does not include a recreational vehicle. Manufactured homes must meet the same requirements as stick built or conventional housing. They must be elevated so that the lowest floor is above the Regulatory Flood Protection Elevation. Manufactured homes must be elevated and anchored to a permanent foundation to resist flotation, collapse, or lateral movement.
- (116) **Manufactured Home Park** - Any site, lot, field, or tract of land upon which two or more occupied manufactured homes are located, either free of charge or for compensation, and includes any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of the manufactured home park.
- (117) **Manufactured Home Stand** - The part of an individual manufactured home lot which has been reserved for placement of the manufactured home, appurtenant structure, or additions.
- (118) **Manure Storage Area (Feedlot)**- An area where animal manure or process wastewater(s) are stored or processed. Short-term and permanent stockpile sites and composting sites are considered manure storage areas.
- (119) **Meteorological Tower** - For the purposes of this Wind Energy Conversation System Ordinance, meteorological towers are those towers which are erected primarily to measure wind speed and directions plus other data relevant to siting WECS. Meteorological towers do not include towers and equipment used by airports, the Minnesota Department of Transportation, or other similar applications to monitor weather conditions.

- (120) **Metes and Bounds Description** - A description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and describing the bearing and distances of the lines forming the boundaries of the property or delineates a fractional portion of a section, lot or area by described lines or portions thereof.
- (121) **Micro WECS** – Micro WECS are WECS that have a name plate generating capacity of 2 kW or less and utilize support towers of one hundred (100) feet or less (measured at the hub).
- (122) **Mining** - The extraction of sand, gravel, rock, soil or other material from the land in the amount of one thousand cubic yards or more and the removing thereof from the site without processing shall be mining. This definition of mining does not include removal of materials associated with construction of a building, provided such removal is an approved item in the zoning permit, nor does it include the removal, placement, or re-grading of soil in the immediate area of and incidental to road construction.
- (123) **Minor Repair (of a septic system)** – The repair or replacement of an existing damaged or faulty component/part of a septic system that will return it to it's operable condition. The repair shall not alter the original area dimensions, designs, specifications, or concept of the SSTS.
- (124) **Modular Home** - A non-mobile housing unit that is basically fabricated at a central factory and transported to a building site where final installations are made, permanently affixing the module to the site.
- (125) **Motel (Tourist Court)** - 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.
- (126) **Multiple Residences (Apartment Buildings)** - Three or more dwelling units in one structure.
- (127) **Nursery** - A business growing and selling trees, flowering and decorative plants and shrubs and which may be conducted within a building or without.
- (128) **Nursing Home** - A building with facilities for the care of children, the aged, infirm, or place of rest for those suffering bodily disorder. Said nursing homes shall be licensed by the State Board of Health as provided for in Minnesota Statute, Section 144.50.
- (129) **Official Map** - The map established by the governing body, in accordance with the Minnesota County Planning Act, (MSA 394.361), showing streets, highways, parks, both existing and proposed.
- (130) **Off-Street Loading Space** - 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.
- (131) **Open Sales Lot (Exterior Storage)** - 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.
- (132) **Ordinary High Water Level** - The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.
- (133) **Parking Space** - A suitably surfaced and permanently maintained area on privately owned property either within or outside of a building of sufficient size to

- store one standard automobile.
- (134) **Passive Solar Energy System** - A solar energy system that uses natural and architectural components to collect and store solar energy without using any external mechanical power.
  - (135) **Pedestrian Way** - A public or private right-of-way across or within a block, to be used by pedestrians.
  - (136) **Planned Unit Development** - A development whereby buildings are grouped or clustered in and around common open space areas in accordance with a prearranged site plan and where the common open space is owned by the homeowners and usually maintained by a homeowners association.
  - (137) **Planning Commission** - The Planning Commission of Brown County except when otherwise designated.
  - (138) **Power Purchase Agreement (WECS)** – A legally enforceable agreement between two or more persons where one or more of the signatories agrees to provide electrical power and one or more of the signatories agrees to purchase the power.
  - (139) **Practical Difficulty** – as used in connection with granting a variance, means the property owner proposes to use the property in a reasonable manner not permitted by an official control; 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, all as more particularly defined in MN Statute 394.27 subd. 7.
  - (140) **Prefabricated Home** - A non-mobile housing unit, the walls, floors and ceilings of which are constructed at a central factory and transported to a building site where final construction is completed, permanently affixing the unit to the site.
  - (141) **Principal Structure or Use** - One which determines the predominant use as contrasted to accessory use or structure.
  - (142) **Property Line** – 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. The boundary line of the area over which the entity applying for a WECS permit has legal control for the purposes of installation of a WECS. This control may be attained through fee title ownership, easement, or other appropriate contractual relationship between the project developer and landowner.
  - (143) **Protective Covenant** - A contract entered into between private parties which constitute a restriction of the use of a particular parcel of property. (This is an item not enforced by the county.)
  - (144) **Public Conservation Lands** - Land owned in fee title by Brown County, State or Federal agencies and managed specifically for grassland conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, State Scientific and Natural Areas, federal Wildlife Refuges and Waterfowl Production Areas. For the purposes of this section public conservation lands will also include lands owned in fee title by non-profit conservation organizations. Public conservation lands do not include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.
  - (145) **Public Land** - Land owned or operated by municipal, school districts, county, state or other governmental units.
  - (146) **Public Waters** - Any waters as defined in Minnesota Statutes, section 103G.005, subdivision 14 and 15.
  - (147) **Qualified Employee (septic)** – An employee of the state or a local unit of government, who performs site evaluations or inspections of septic systems as part of the individual's employment duties and is registered with the Minnesota Pollution Control Agency.

- (148) **Reach** - A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.
- (149) **Recreation, Public** - Includes 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.
- (150) **Recreation, Commercial** - Includes all uses such as bowling alleys, driving ranges, and movie theaters that are privately owned and operated with the intention of earning a profit by providing entertainment for the public.
- (151) **Recreation Equipment** - Play apparatus such as swing sets and slides, sandboxes, poles for nets, unoccupied boats and trailers not exceeding twenty 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 square feet or floor area, or sheds utilized for storage of equipment.
- (152) **Registered Land Survey** - 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.*
- (153) **Regional Flood** - A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100 year recurrence interval.
- (154) **Regulatory Flood Protection Elevation** - A point not less than one foot above the water surface profile associated with the regional flood plus any increases in flood heights attributable to encroachments on the floodplain. It is the elevation to which uses regulated by this Ordinance are required to be elevated or flood proofed.
- (155) **Road**- 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.
- (156) **Rotor diameter (WECS)** - The diameter of the circle described by the moving rotor blades of a WECS.
- (157) **Seasonal Dwelling** - Limited use, low investment overnight shelter and lodging such as but not limited to a hunting shack or summer cabin.
- (158) **Seasonal Produce Stand** - For definition purposes, only those that involve structures that are not moved at the end of the day.
- (159) **Selective Cutting** - The removal of single scattered trees.
- (160) **Semipublic use** - The use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.
- (161) **Sensitive Resource Management** - The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.
- (162) **Setback** - The minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.

- (163) **Sewage** – Waste from toilets, bathing, laundry, or culinary activities or operations or floor drains associated with these sources, including household cleaners and other constituents in amounts normally used for domestic purposes.
- (164) **Sewer System** - Pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.
- (165) **Shore Impact Zone** - Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback.
- (166) **Shoreland Area** - Land located within the following distances from shoreland management waters. (1) 1,000 feet from the ordinary highwater level of a lake, pond or flowage; and (2) 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on such a river or stream, whichever is greater. The practical limits of shoreland may be less than the statutory limits whenever the waters involved are bounded by natural topographic divides which extend landward from the water for lesser distances and when approved by the Commissioner.
- (167) **Shoreland Management Waters** - All public waters and other waters in Brown County, as shown on the zoning map.
- (168) **Sign** - 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.
- (169) **Sign, Advertising-** A sign which directs attention to a business, commodity, service, activity or entertainment not necessarily conducted, sold or offered upon the premises where such sign is located; *a billboard*.
- (170) **Sign, Business** - 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.
- (171) **Sign, Flashing** - Any illuminated sign on which illumination is not kept stationary or constant in intensity and color at all times when such sign is in use.
- (172) **Sign, Illuminated** - Any sign which has characters, letters, figures, designs or outlines illuminated by electric lights or luminous tubes as a part of the sign.
- (173) **Sign, Name Plate** - Any sign which states the name or address or both of the business or occupant of the lot where the sign is placed.
- (174) **Sign, Pylon** - 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.
- (175) **Sign, Rotating** - A sign which revolves or rotates on its axis by mechanical means.
- (176) **Sign, Surface Area of** - 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.
- (177) **Sign, Temporary** – Any sign not including portable signs, banners, pennants, posters or advertising displays, which is intended to be displayed for a limited period of time and is not permanently affixed to the ground or a structure



- (178) **Significant Historic Site** - Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.
- (179) **Small Wind Energy Conservation System (SWECS)** – means any combination of WECS with a combined nameplate generating capacity less than 5,000 kW, but more than 2kW (see Minnesota Statute 216F.01).
- (180) **Solar Access Space** - That airspace above all lots within the district necessary to prevent any improvement, vegetation or tree located on said lots from casting a shadow upon any Solar Device located within said zone greater than the shadow cast by a hypothetical vertical wall ten (10) feet high located along the property lines of said lots between the hours of 9:30 a.m. and 2:30 p.m., Central Standard Time on December 21, PROVIDED, HOWEVER, this Ordinance shall not apply to any improvement or tree which casts a shadow upon a Solar Device at the time of installation of said device, or to vegetation existing at the time of installation of said Solar Device.
- (181) **Solar Collector** - A device, or combination of devices, structure, or part of a device or structure that transforms direct solar energy into thermal, chemical or electrical energy and that contributes significantly to a structure's energy supply.
- (182) **Solar Energy System** - A complete design or assembly consisting of a solar energy collector, an energy storage facility (where used), and components to the distribution of transformed energy (to the extent they cannot be used jointly with a conventional energy system).
- (183) **Solar Skyspace** - The space between a solar energy collector and the sun which must be free of obstructions that shade the collector to an extent which precludes its cost-effective operation.
- (184) **Solar Skyspace Easement** - A right, expressed as an easement, covenant, condition, or other property interest in any deed or other instrument executed by or on behalf of any landowner, which protects the solar skyspace of an actual, proposed, or designated solar energy collector at a described location by forbidding or limiting activities or land uses that interfere with access to solar energy. The solar skyspace must be described as the three-dimensional space in which obstruction is prohibited or limited, or as the times of day during which sunlight to the solar collector may not be obstructed, or as a combination of the two (2) methods.
- (185) **Solar Structure** - A structure designed to utilize solar energy as an alternate for, or supplement to, a conventional energy system.
- (186) **Steep Slope** - Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this ordinance. Where specific information is not available, steep slopes are lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, that are not bluffs.
- (187) **Street** - A public right-of-way which affords primary means of access to abutting property, and shall also include avenue, highway, road, or way.
- (188) **Street, Major or Thoroughfare** - A street which serves, or is designed to serve, heavy flows of traffic and which is used primarily as a route for traffic

- between communities and/or other heavy traffic generating areas.
- (189) **Street, Local** - A street intended to serve primarily as an access to abutting properties.
- (190) **Street, Pavement** - The wearing or exposed surface of the road way used by vehicular traffic.
- (191) **Street, Width** - The width of the right-of-way, measured at right angles to the centerline of the street.
- (192) **Story** - 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.
- (193) **Structure** - Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers/vehicles not meeting the exemption criteria specified in Section 722.4 of the ordinance and other similar items (travel trailers, travel vehicles).
- (194) **Structural Alteration** - 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.
- (195) **Subdivision** - A subdivision is the dividing of any parcel of land into two or more parcels.
- A) Platted Subdivision - if any resultant parcel is less than ten (10) acres in area and less than three hundred (300) feet in width and the subdividing was done for the purpose of transfer of ownership to effectuate building development if a new street or road is involved, regardless of the size of the parcel and/ or its width, subsequent parcels must be platted in accordance with the terms and procedure of the Brown County Subdivision Regulations.
- B) Un-platted subdivision - a division of any parcel of land into two or more parts wherein all parts are at least ten (10) acres and at least three hundred (300) feet in width and where no new road is involved. These do not require platting.
- (196). **Substantial Improvement** – within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:
- A) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
- B) Any alteration of an “historic structure,” provided that the alteration will not preclude the structure’s continued designation as an “historic structure.” For the purpose of this Ordinance, “historic structure” shall be as defined in 44 Code of Federal Regulations, Part 59.1.
- (197) **Substation(s) (WECS)** - Any electrical facility designed to convert electricity produced by wind turbines to a voltage greater than 35,000 KV for interconnection with high voltage transmission lines shall be located outside of the road right of way.
- (198) **Subsurface Sewage Treatment System (SSTS)** - A septic tank and soil absorption system as further defined in Minnesota Rules 7080.
- (199) **Toe of Bluff** - The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from gentler to steeper slope above. If no

- break in the slope is apparent, the toe of bluff shall be determined to be the lower end of a 50-foot segment, measured on the ground, with an average slope exceeding 18 percent.
- (200) **Top of Bluff** - The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler slope above. If no break in the slope is apparent, the top of bluff shall be determined to be the upper end of a 50-foot segment, measured on the ground, with an average slope exceeding 18 percent.
  - (201) **Total height (WECS)** - The highest point, above ground level, reached by a rotor tip or any other part of the WECS.
  - (202) **Total Name Plate Capacity (WECS)** – The total of the maximum rated output of the electrical power production equipment for a WECS project.
  - (203) **Tower** - Towers include vertical structures that support the electrical generator, rotor blades, or meteorological equipment.
  - (204) **Tower height** - The total height of the WECS exclusive of the rotor blades
  - (205) **Townhouse** - A single family building attached by party walls with other single family buildings, and oriented so that all exits open to the outside.
  - (206) **Transmission Line** - Those electrical power lines that carry voltages of at least 69,000 volts (69 KV) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers
  - (207) **Travel Trailer** - A vehicle without motor power used or adaptable for living, sleeping, business, or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses, or skirting, which does not meet building code requirements and has been or reasonably may be equipped with wheels or other devices for transporting the structure from place to place. The term "Trailer" shall include camp car, camp bus, camper and house car. A permanent foundation shall not change its character unless the entire structure is erected in accordance with the standards as found in the Minnesota Building Code. For the floodplain management provisions of this ordinance, a travel trailer/vehicle is further defined as a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this Ordinance, the term recreational vehicle shall be synonymous with the term travel trailer/travel vehicle.
  - (208) **Tree Removal** - See Logging.
  - (209) **Type I (Septic) System** – A sewage treatment system that follows a standard trench, bed, at-grade, or mound design in accordance with Minnesota Rules 7080.2200 through 7080.2240.
  - (210) **Type II (Septic) System** – A sewage treatment system with acceptable modifications or sewage containment system that may be permitted for use on a site not meeting the conditions acceptable for a standard Type I system. These include systems on lots with rapidly permeable soils (sand and gravel) or lots in floodplains and privies or holding tanks.
  - (211) **Type III (Septic) System** – Any sewage treatment system designed according to Minnesota Rules 7080.2300.
  - (212) **Type IV (Septic) System** – A sewage treatment system having an approved pretreatment device and incorporating pressure distribution and dosing.
  - (213) **Type V (Septic) System** – A sewage treatment system designed by a Professional Engineer that does not meet the prescriptive designs for

Type I-IV. Type V systems must meet the public health and safety standards of 7080.1500.

- (214) **Use** - 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.
- (215) **Use, Accessory** - A use subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.
- (216) **Use, Farm** – In relation to the A-1 Agricultural Zoning District, a use of a parcel (land, buildings, etc) principally for the production of crops, livestock or poultry farming. It may include a dwelling and accessory structures.
- (217) **Use, Non-Farm** – In relation to the A-1 Agricultural Protection District, a parcel of land that may be adjacent to agricultural fields or production ground, but is not used for agricultural purposes.
- (218) **Use, Non-Conforming** - Use of land, buildings or structures legally existing at the time of adoption of this Ordinance which does not comply with all the regulation of this Ordinance or any amendments hereto governing the zoning district in which such use is located.
- (219) **Use, Permitted** - A public or private use which of itself conforms with the purposes, objectives, requirements, regulations and performance standards of a particular district.
- (220) **Use, Principal** - The main use of land or buildings as distinguished from subordinate or accessory use. A principal use may be either permitted or conditional.
- (221) **Use, Conditional** - See Conditional Use.
- (222) **Variance** - A modification or variation of the provisions of this Ordinance where it is determined that by reason of special and unusual circumstances relating to a specific lot that there are “practical difficulties” in complying with the official control.
- (223) **Wetland** - Land(s) transitional between terrestrial and aquatic systems where the water table is usually at or near the surface, or the land is covered by shallow water. Wetlands must:
  - A) Have a predominance of hydric soil.
  - B) Be inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic (water-loving) vegetation typically adapted to life in saturated soil conditions.
  - C) Under “normal circumstances” as defined by Minnesota Rules 8420, support a predominance of hydrophytic (water-loving) vegetation.
- (224) **Wind Energy Conservation System (WECS)** – An electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations, and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on site or distributed into the electrical grid.

- (225) **Wind Easement (WECS)** – A right, whether or not stated in the form of a restriction, easement, covenant, or condition, in any deed, will, or other instrument executed by or on behalf of any owner of land or air space for the purpose of ensuring adequate exposure of a wind power system to the winds. Required contents of a Wind Easement are defined in Minnesota Statutes Section 500.30.
- (226) **Wind Turbine** - A wind turbine is any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy through the use of airfoils or similar devices to capture the wind.
- (227) **Yard** - A required open space on a lot which is unoccupied and unobstructed by a structure from its lowest level to the sky except as permitted in this Ordinance. The yard extends along the lot line at right angles to such lot line to a depth or width specified in the setback regulations for the zoning district in which such lot is located.
- (228) **Yard, Rear** - The portion of the yard on the same lot with the principal building located between the rear line of the building and the rear lot line and extending for the full width of the lot.
- (229) **Yard, Side** - The yard extending along the side lot line between the front and rear yards to a depth or width required by setback regulations for the zoning district in which such lot is located.
- (230) **Yard, Front** - A yard extending along the full width of the front lot line between side lot lines and extending from the abutting street right-of-way line to depth required in the setback regulations for the zoning district in which such lot is located.
- (231) **Zoning Amendment** - A change authorized by the County either in the allowed use within a district or in the boundaries of a district.
- (232) **Zoning District** - An area or areas within the limits of the County for which the regulations and requirements governing use are uniform.

## **SECTION 5. ZONING ADMINISTRATION**

### **501. Office of Zoning Administrator**

The Brown County Board of Commissioners hereby establishes the Office of Zoning Administration, for which the Board may appoint an Administrator and such other employees together with sufficient office personnel to discharge the duties of this department.

#### **501.1 Duties, Powers and Enforcement of the Zoning Administrator**

- (1) Enforce and administer this Ordinance;
- (2) Issue zoning permits and maintain records thereof;
- (3) Receive and forward to the Board of County Commissioners and the County Planning Commission all applications for Conditional Use Permits and Zoning Amendments;
- (4) Receive and forward all application for variances and petitions for other matters to come before the Board of Adjustment;
- (5) To report on a regular basis to the Brown County Board, the recommendations, findings and decisions of the commission, boards and committees for final action where necessary;
- (6) Inspect construction and development to insure that the standards of this Ordinance are being complied with;
- (7) Provide and maintain a public information bureau relative to matters arising out of this Ordinance;
- (8) Maintain the County Zoning Map;
- (9) In the Flood Plain District, prior to granting a zoning permit, Conditional Use Permit or Variance, the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal Permits.

#### **501.2 Enforcement of Zoning Ordinance**

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

## **502. Board of Adjustment**

### **502.1 Membership**

- (1) A Board of Adjustment (BOA) is hereby established and vested with such authority as is hereinafter provided and as provided under Minnesota Statute 394.27.
- (2) The Board of Adjustment shall consist of at least five (5) but not more than seven (7) members, including at least one member from the unincorporated area of the county. Members of the Board of Adjustment shall be appointed by the Board of Commissioners for a three-year term. No elected officer of the County, or any employee of the Board of Commissioners, shall serve as a member of the Board of Adjustment. One member of the Board of Adjustment shall also be a member of the Planning Commission. 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.
- (3) The County Board may remove any of the Board of Adjustment members for nonperformance of duty or misconduct in office and it may fill vacancies for any unexpired term. The members of such Board of Adjustment may be paid compensation in an amount determined by the County Board and may be paid their necessary expenses in attending meetings of the Board and in the conduct of the business of the Board.
- (4) The Board of Adjustment shall elect annually a chairman and vice chairman from among its members and shall appoint a secretary who may be an ex-officio (county staff) member. It shall adopt rules for the transaction of its business and shall keep a public record of its transactions, findings, and determinations.
- (5) The meetings of the Board of Adjustment shall be held at the call of its chairman and at such other times as the Board in its rules of procedure may specify.

### **502.2 Functions and Authority of the Board of Adjustment**

- (1) The Board of Adjustment shall have the authority to order the issuance of variances (see Section 503), hear and decide appeals from and review any order, requirement, decision, or determination made by any administrative official charged with enforcing this ordinance, 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 by any officer, department, board or bureau of a town, municipality, county, or state.
- (2) An appeal from any order, requirement, decision, or determination of any administrative official shall be taken in such time as shall be prescribed by the ordinance creating the Board of Adjustment by filing with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the appellant and the officer from whom the appeal is taken and to the public and decide the same within a reasonable time which shall be defined in the ordinance establishing the Board of Adjustment. An appeal stays all proceedings in furtherance of the action appealed from unless the Board of Adjustment to whom the appeal is taken certifies that by reason of the facts stated in the certificate a stay would cause imminent

peril to life or property. The Board of Adjustment may reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination appealed from and to that end shall have all the powers of the officer from whom the appeal was taken and may direct the issuance of a permit. The reasons for the Board's decision shall be stated in writing.

- (3) The Board of Adjustment shall have the exclusive power to order the issuance of variances from the terms of any official control under certain conditions as indicated in Section 503 including restrictions placed on nonconforming uses. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official control (Brown County Zoning Ordinance) and when the variances are consistent with the comprehensive land use plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the Brown County Zoning Ordinance. **No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located.** The Board may impose conditions and shall impose a time limit not to exceed one year in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest. No variance may be granted which would allow for a lesser degree of flood protection than required in this Ordinance.
- (4) A certified copy 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, shall be filed with the County Recorder. The order issued by the Board of Adjustment shall include the legal description of the property involved. A member of the Planning and Zoning Office staff will be responsible for developing the order and providing the document to the Recorder's office to be recorded on the property.
- (5) 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 of commission of the jurisdiction or of the state shall have the right to appeal within thirty (30) days, after receipt of notice of the decision, to the district court in the county in which the land is located on questions of law and fact.



## 503. Variances

### 503.1 Criteria for Granting Variances

A variance to the provision of the Zoning Ordinance may be issued to provide relief to the land owner in those zones where the ordinance imposes a practical difficulty to the property owner in the use of their land. **No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.** A determination that a practical difficulty exists is based on the following criteria:

- (1) The variance is in harmony with the intent of the comprehensive land use plan, the Brown County Zoning Ordinance and all other applicable state rules and statutes;
- (2) The landowner would be deprived of a reasonable use for the property;
- (3) The plight of the landowner is due to circumstances unique to the property that were not created by the landowner. Examples of this would include lot size or shape and topography to name a few; and
- (4) The variance, if granted, will not alter the essential character of the locality.

Other criteria assessed by the Board of Adjustment will include:

- (1) The variance requested is the minimum variance needed that would alleviate the practical difficulty.
- (2) Economic considerations alone do not constitute a practical difficulty.
- (3) No variance shall allow a lower degree of flood protection than the flood protection elevation.
- (4) Flood Insurance Notice and Record Keeping. The Zoning Administrator shall notify the applicant for a variance that:
  - A) 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
  - B) 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.
- (5) Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- (6) Variances shall only be issued by a community upon
  - A) A showing of good and sufficient cause,
  - B) A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
  - C) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (12) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

- (13) Variance requests to deviate from the design flow determination procedures in Minnesota Rules 7081.0110 if the deviation reduces the average daily estimated flow from greater than 10,000 gallons per day to less than 10,000 gallons per day, or to provisions in 7080.2150, Subp. 2 and 7081.0080 Subp. 2 through 5 regarding vertical separation required beneath the treatment and dispersal soil system and saturated soil or bedrock from the required three feet of unsaturated soil material (except as provided in 7082.1700, subp. 4D) must be approved by the Minnesota Pollution Control Agency (MPCA).
- (14) Variances to wells and water supply line setbacks for sewage treatment systems must be approved by the Minnesota Department of Health (MDH).

Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in section 216C.06, subdivision 14, when in harmony with official controls.

The Board of Adjustment may impose conditions in the granting of variances. A condition must be directly related to the variance requested and must bear a rough proportionality to the impact created by the variance.

### **503.2 Required Information and Exhibits**

- (1) The names and addresses of the applicant(s), and their signature(s) on the application. A variance application form will be provided and made available by the Brown County Planning and Zoning Office.
- (2) The names and addresses of the property owner(s), when different from the applicant, and their signature(s) on the application.
- (3) A legal description of the area for which the variance is requested and addresses of all owners of property lying five hundred (500) feet of such area, and a description of the property owned by each.
- (4) The proposed use of land for which the variance is requested.
- (5) A statement of the compatibility of the proposed variance with the comprehensive land use plan.
- (6) A detailed map of the property showing the locating of proposed buildings, and dimensional variances requested, and existing land uses and buildings of adjacent properties within five hundred (500) feet.

### 503.3 Procedure

- (1) The person applying for a variance shall fill out and submit to the Zoning Administrator a variance application form and variance worksheet.
- (2) The Zoning Administrator shall refer the application to the Board of Adjustment for review once it is deemed complete..
- (3) The Board of Adjustment shall hold a public hearing on the proposal. Notice of the public hearing shall be published in the official newspaper designated by the County Board at least ten (10) days prior to the hearing.

*In unincorporated areas of the County, property owners of record within five hundred (500) feet of the affected property shall be notified in writing of the public hearing on the request for a variance. In incorporated areas of the County, property owners of record within five hundred (500) feet of the property in question shall be notified in writing of the public hearing on the request for a variance.*

- (4) The Board of Adjustment must take action on the application within the time frame specified under MN Statute 15.99, also known as the 60 day rule. If the variance request is approved, the BOA may impose conditions it considers necessary to protect the public health, safety and welfare of the residents in the County. Such conditions may include a time limit for the use to exist or operate. If the request is denied, the reason(s) for denial shall be provided to the applicant(s) in writing according to the requirements of MN Statute 15.99.
- (5) No application for a variance shall be resubmitted for a period of one (1) year from the date that the request is denied, except if in the opinion of the BOA new evidence or a change in circumstances warrant it.
- (6) On application for a variance in a shoreland area, the Zoning Administrator or designee shall submit to the Commissioner of the DNR or their representative a copy of the application for variance where a hearing is to be held to consider such application. The Commissioner shall receive at least ten (10) days notice of such hearing. Such notice shall specify the time, place and subject matter of the hearing and shall be accompanied by such supporting information as is necessary to indicate the nature and effect of the proposed use. A copy of all decisions granting a variance permit to the provisions of the shoreland management ordinance shall be forwarded to the Commissioner within (10) days of such notice.

## **504. Planning Commission**

### **504.1 Membership**

- (1) The Brown County Board of Commissioners shall, through the passing of a resolution (as per Minnesota Statute 394.30), provide for the establishment of a Planning Commission and shall appoint the members for three year terms. The Planning Commission shall consist of five (5) members with one (1) member selected from each County Commissioner District
- (2) The County Board may designate any county officer or employee as an ex officio member of the planning commission.
- (3) The term of office and removal of any member for nonperformance of duty or misconduct in office as well as filling vacancies on the planning commission shall be done by the Brown County Board of Commissioners.
- (4) The members of the commission, other than members of the board of county commissioners, may be compensated in an amount determined by the county board. All commission members, including county board members, may be paid their necessary expenses in attending meetings of the commission and in conduct of the business of the commission. This does not prohibit the payment of a per diem to county commissioners pursuant to section 375.055, subdivision 1.
- (5) The commission shall elect annually a chairman and vice chairman from among its members and shall appoint a secretary which may be an ex-officio (county staff) member. It shall adopt rules for the transaction of its business and shall keep a public record of its transactions, findings, and determinations

### **504.2 Functions and Authority of the Planning Commission**

The Planning Commission shall provide assistance to the County Board and Zoning Administrator in the administration of this Ordinance and shall review, hold public hearings, and make recommendations to the County Board on all applications for zoning amendments and conditional use permits and plans for subdivisions of land. The criteria for granting zoning amendments and conditional use permits is found under sections 505 and 506 of this ordinance, while the Brown County Subdivision Regulations state the criteria for the subdivision of land located in the county.

## 505. Zoning Amendments

### 505.1 Criteria for Granting Zoning Amendments

The County Board may adopt amendments to the Zoning Ordinance and Zoning Map in relation both to land use(s) within a particular district or to the location of the district lines. Such amendments shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals and policies as reflected in the Comprehensive Land Use Plan or changes in conditions in the county.

### 505.2 Required Information and Exhibits

- (1) Applications to change wording of the ordinance
  - A) Stated reason for requested change.
  - B) Statement on compatibility to the Comprehensive Land Use Plan.
  - C) Text or portion of the existing ordinance to be amended.
  - D) Proposed amended text and statements outlining any other effects that the amendment may have on other areas of this Ordinance.
  - E) Additional information as may be requested by the Planning Commission or County Board.
- (2) Applications to change district boundaries or land use
  - A) The names and addresses of the petitioner or petitioners, and their signatures to the petition.
  - B) A specific description of the area proposed to be rezoned or amended and the names and addresses of all owners of property lying within five hundred (500) feet of such area, and a description of the property owned by each.
  - C) The present district classification of the area and the proposed district classification.
  - D) Proposed use of the land (a statement of the type, extent, area, etc.).
  - E) Compatibility with the Comprehensive Land Use Plan of Brown County (a statement of conditions warranting change in zoning district or uses).
  - F) A legal description of the property (ies) to be rezoned or amended.
  - G) Map, plot plan, or survey plot of property to be rezoned or amended (showing location, dimensions, zoning of adjacent properties, existing uses and buildings of adjacent properties within five hundred (500) feet in incorporated areas, and one-half (1/2) miles in unincorporated areas drawn to scale).

### 505.3 Procedure

- (1) An amendment to the text of the Ordinance or zoning map may be initiated by the County Board, the Planning Commission or by application of a property owner. Any amendment not initiated by the Planning Commission shall be referred to the Planning Commission for review and may not be acted upon by the Board until it has received the Planning Commission recommendations. Individuals wishing to initiate an amendment to the zoning ordinance shall fill out a zoning amendment application form and submit it to the Zoning Administrator.
- (2) Written notice for public hearings on the proposed amendment to the **ordinance** shall be published in the official newspaper designated by the County Board at least ten (10) days prior to the hearing.. The notice shall include the proposed wording change(s) along with the existing. If the change to the ordinance is in more than one (1) section, an outline may be

- provided in the legal notice with the draft posted on the county website.
- (3) Written notice for public hearings on the proposed **map** amendment shall be sent to the appropriate property owners. In unincorporated areas, property owners of record within one-half miles of the property in question shall be notified in writing of the proposed zoning amendment. In incorporated areas, property owners within 500 feet of the property in question shall be notified in writing of the proposed zoning amendment.
  - (4) The Planning Commission may require a review of the proposed zoning amendment, when appropriate, by the Brown County Soil and Water Conservation District and / or the County Highway Engineer.
  - (5) A public hearing on the application for amendment shall be held by the Planning Commission within time frame as permitted according to MN Statute 15.99, also known as the 60 day rule. Notice of said hearing shall be published in the official newspaper designated by the County Board at least ten (10) days prior to the hearing. The Planning Commission shall make its report to the County Board at a meeting of the Board following the public hearing recommending approval, disapproval or modified approval of the proposed amendment.
  - (6) The County Board shall take action on the proposed amendment within a time frame as permitted according to Minnesota Statute 15.99, also known as the sixty-day rule, following receipt of the recommendation by the Planning Commission. Said action for approval by the County Board shall be not less than a two-thirds (2/3) vote of its members present and voting. The person making application for the amendment shall be notified in writing of the Board's action.
  - (7) No application of a property owner for an amendment to the text of the Ordinance or the Zoning Map shall be considered by the Planning Commission within the one-year period following a denial of such request, except the Planning Commission may permit a new application, if in the opinion of the Planning Commission, new evidence or a change of circumstances would warrant it.
  - (8) Upon any application for zoning amendment in the Shoreland or Floodplain Zoning District(s), the Zoning Administrator or other officer designated by the County Board shall submit to the Commissioner a copy of the zoning amendment where a hearing is to be held to consider such amendment. The Commissioner shall receive at least ten (10) days notice of such hearing. Such notice shall specify the time, place and subject matter of the hearing and shall be accompanied by such supporting information as is necessary to indicate the nature and effect of the proposed amendment. A copy of all decisions granting a zoning amendment to the provisions of the shoreland management or floodplain ordinance shall be forwarded to the Commissioner within ten (10) days of such action.

## **506. Conditional Use Permits**

### **506.1 Criteria for Granting Conditional Use Permits**

In granting a conditional use permit, the Brown County Board shall consider the advice and recommendations of the Planning Commission and the effect of the proposed use upon the health, safety, and general welfare of occupants of surrounding lands, including land values. Among other things, the County Board shall make the following findings where applicable:

- (1) 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) The use will be sufficiently compatible or separated by distance or screening from adjacent agricultural or residentially 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.
- (3) The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties.
- (4) The use in the opinion of the County Board is reasonably related to the overall needs of the County and to the existing land use.
- (5) The use is consistent with the purposes of the zoning ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use.
- (6) The use is in conformance with the Comprehensive Land Use Plan of the County.
- (7) The use will not cause traffic hazard or congestion.
- (8) Existing land uses nearby will not be adversely affected because of curtailment of customer trade brought about by intrusion of odors, noise, glare or general unsightliness.

### **506.2 Additional Conditions**

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

- (1) Increasing the required lot size or yard dimension.
- (2) Limiting the height, size 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, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
- (8) Designating sites for open space.
- (9) Establishing a time limit for the conditional use.

**Any change involving structural alterations, 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.

### **506.3 Required Information and Exhibits**

#### **(1) Site Plan**

A site plan on which the conditional use would be located shall be furnished by the applicant and shall be presented by the applicant for review by the Planning Commission at a regularly scheduled Planning Commission meeting.

The site plan shall include, but not be limited to, soils information, neighboring land and water uses, existing and proposed structures, architectural plans, driveway locations, parking areas, highway access, traffic generation and circulation, drainage, waste disposal, sewage disposal systems, water supply systems, water shed protection and flood prevention, water quality, shoreland cover, natural beauty and wildlife habitat.

#### **(2) Conditions**

Review of conditions such as effects of the proposed use, landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, location, size and number of signs, higher performance standards, road and street dedication, certified survey maps, flood proofing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or additional parking, shall be required by the Planning Commission and/or the County Board and changes made in such conditions when they find such changes are necessary in order to comply with and fulfill the purposes and intent of this Ordinance.

#### **(3) Additional Information**

Review of additional information, as may be required by the Planning Commission, County Board, Zoning Administrator, or County Highway Engineer, such as ground surface elevation, basement and first floor elevations, utility elevations, historic and probable future floodwater elevations, areas subject to inundations by floodwaters, depths of inundation, flood proofing measures, soil type, slope and boundaries, and plans for proposed structures giving dimensions and elevations pertinent to the determination of the hydraulic capacity of the structure or its affects on flood flows. Other required information could include a copy of state and/or federal permits when needed.



#### 506.4 Procedures

- (1) The person applying for a conditional use permit shall fill out and submit to the Zoning Administrator an application form as provided by the Planning and Zoning Office and an accurate legal description for the location of the intended use.
- (2) The Zoning Administrator shall refer the application to the Planning Commission for review once it is deemed complete.
- (3) The Planning Commission shall hold a public hearing on the proposal. Notice of the public hearing shall be published in the official newspaper designated by the County Board at least ten (10) days prior to the hearing.

*In unincorporated areas of the county, property owners of record within one quarter mile of the affected property or the ten (10) properties nearest to the affected property, whichever is the greatest number of property owners, shall be notified in writing of the public hearing on the request for a conditional use permit. In incorporated areas of the County, property owners of record within five hundred (500) feet of the property in question shall be notified in writing of the public hearing on the request for a conditional use permit.*

- (4) The Planning Commission may require a review of the conditional use permit, when appropriate, by the Brown County Soil and Water Conservation District to determine the adequacy of the soils in the area for the proposed conditional use.
- (5) The report of the Planning Commission shall be placed on the agenda of the County Board at a regular meeting following referral from the Planning Commission, but not later than sixty (60) days after the applicant has submitted the application (and it has been deemed complete).
- (6) The County Board shall take action on the conditional use permit application within the timeframe required by Minnesota Statute 15.99 (the 60-day rule) following receipt of the findings and recommendations by the Planning Commission. If necessary a letter of extension of the application decision deadline will be sent to the applicant prior to the initial sixty (60) day decision period is over. In said letter, if applicable, it must state reasons for extension of the application and any additional information that may be requested. Said action for approval by the County Board shall be not less than a two-thirds (2/3) vote of its members present and voting. The person making application for the conditional use permit shall be notified in writing of the Board's action. If it grants the conditional use permit, the County Board may impose conditions (including time limits) 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.
- (7) An amended conditional use permit application shall be administered in a manner similar to that required for a new conditional permit. Amended conditional use permits shall include requests for changes in conditions, and as otherwise described in this Ordinance.
- (8) No application for a conditional use permit shall be resubmitted for a period of one (1) year from the date that the request is denied, except that the Planning Commission may allow a new application if in the opinion of the Commission new evidence or a change in circumstances warrant it.
- (9) An application for Conditional Use on Shoreland areas and Flood Plain, the Zoning Administrator or other officer designated by the County Board shall submit to the Commissioner a copy of the application for conditional use

where a hearing is to be held to consider such application. The Commissioner shall receive at least ten (10) days notice of such hearing. Such notice shall specify the time, place and subject matter of the hearing and shall be accompanied by such supporting information as is necessary to indicate the nature and effect of the proposed use. A copy of all decisions granting a conditional use permit to the provisions of the shoreland management ordinance shall be forwarded to the Commissioner within ten (10) days of such action.

**(10) An error in the published Notice of Public Hearing or failure to notify a specific property owner of the application for a Conditional Use Permit shall not be considered cause to declare the public hearing invalid.**

(11) Procedures to be followed by the Brown County Board of Commissioners in passing Conditional Use Permit Applications within all Flood Plain Districts.

A) Require the applicant to furnish such of the following information and additional information as deemed necessary by the Brown County Board of Commissioners for determining suitability of the particular site for the proposed use:

1. Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood-proofing measures, and the relationship of the above to the location of the stream channel.
2. Specifications for building construction and materials, flood-proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.

B) Transmit one copy of the information described in subsection (a) to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.

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

## 507. Zoning Permits

### 507.1 Zoning Permits

- (1) Hereafter, no person shall erect, alter, repair or move any building or part thereof, including decks, without first securing a zoning permit. **A permit shall not be required for an alteration costing less than two thousand five hundred dollars (\$2,500) if it doesn't change the footprint of a structure and isn't located in the Floodplain or Shoreland Zoning Districts.**
- (2) A zoning permit is required for all shoreland alterations that need to comply with the performance standards in Section 733.4 These include vegetation alterations, grading and/or filling, road and parking construction, stormwater structures and mining.
- (3) Application for a zoning permit will be made to the Zoning Administrator on blank form(s) to be furnished by the Planning and Zoning Office.
  - A) Each application for a permit to construct or alter a building shall be accompanied by a plan showing the dimensions of the lot to be built upon and the size and location of the building and necessary buildings to be erected.
  - B) Applications for any kind of zoning permit shall contain other information as may be deemed necessary for the proper enforcement of the Ordinance or any other.
  - C) The Zoning Administrator or their designee shall issue the zoning permit only after determining that the application is complete and complies with the terms of this Ordinance.
  - D) If the application requires approval of a conditional use permit and/or a variance request, said approval must be obtained before the Zoning Administrator can issue of a zoning permit.

**For a zoning permit application received prior to any approvals required are granted, such as a conditional use permit, the application will be deemed incomplete in accordance with MN Statute 15.99.**

- (3) No zoning permit shall be issued for a lot, plot or tract of land that does not have road access.
- (4) No zoning permit shall be issued to construct a building on a new plot of land that has not previously been a dwelling site and is less than ten (10) acres in size, unless the tract of land was removed from agricultural production for a period of not less than five (5) years from the date the plat was approved. (See the Brown County Subdivision Regulations for more information.)
- (5) All agricultural buildings may be required to certify that the structure does comply with the planning of future road construction which information shall be furnished by the County Highway Engineer.
- (6) A permit issued by the Zoning Administrator, or their designee, in conformity with the provisions of this Ordinance shall be secured prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the construction of a dam, fence, or on-site septic system; prior to the change or extension of a nonconforming use; prior to the repair of a structure that has

- been damaged by flood, fire, tornado, or any other source; and prior to the placement of full, excavation of materials, or the storage of materials or equipment within the flood plain.
- (7) A permit shall be required to install, alter, or extend any sewage disposal system. **No sewer system shall be covered over without first being inspected by a qualified employee or representative of Brown County.**
  - (8) State and Federal Permits. Prior to granting any permit or processing an application for a Conditional Use Permit or Variance in the Flood Plain Zoning District, the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal Permits.
  - (9) Construction and use to be as stated on all approved applications, plans, permits, variances, and Certificates of Compliance. Permits, Conditional Use Permits, or Variances 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, and punishable as provided by Section 8 of this Ordinance.
  - (10) 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 structure in the flood plain. The Zoning Administrator shall also maintain a record of the elevation to which structures and alterations or additions to structures are flood-proofed.

## **507.2 Application Procedure**

- (1) **Application for a zoning permit shall be made by the owner except if a General Contractor is employed.** They shall make the application to the Zoning Administrator on blank forms to be furnished by the Planning and Zoning Office. Each application for a permit to construct or alter a building or use shall be accompanied by a plan drawn to scale showing the dimensions of the lot to be built upon and the size and location of the building or use and accessory buildings to be erected. Applications for any kind of zoning permit shall contain such other information as may be deemed necessary for the proper enforcement of the Ordinance or any other information required by the County. The Zoning Administrator or their designee shall issue the zoning permit only after determining that the building and site plans, together with the application, comply with the terms of this Ordinance, except where such setback does not comply with the planning of future road construction, which information shall be furnished by the County Highway Engineer.
- (2) Each permit request shall be reviewed by the Zoning Administrator or their designee as to its suitability relative to site conditions that may restrict construction of the proposed structure(s) (i.e.: wetland areas, feedlot compliance, certificate of compliance for a septic system, setback requirements, etc).
- (3) A zoning permit issued under the terms of this Ordinance shall be valid for one (1) year from the date of issuance.
- (4) If construction has not been completed within one year after a permit has been issued, the permit may be extended by yearly intervals in instances where reasonably diligent construction could not complete the proposed structure, provided that no such extension shall exceed three (3) years.
- (5) In the cases of involuntary loss through a catastrophic event (such as fire, wind, etc.), no fee shall be charged for a permit to rebuild. Normal

construction requirements must still be met prior to the issuance of the zoning permit (setbacks, SSTS compliance inspections, feedlot inspections, etc); however, the Zoning Administrator may waive the SSTS inspection requirement for construction in Shoreland Areas.

### **507.3 Fees**

Zoning permit fees and other fees as may be established annually by resolution of the County Board and shall be collected by the Zoning Administrator or their designee for deposit with the County and credited to the appropriate fund.

### **507.4 Certificate of Compliance**

No vacant flood plain shall be occupied or used and no building hereafter erected, altered or moved shall be occupied until the applicant submits to the appropriate local official a certification by a registered professional engineer or architect that the finished fill or building elevations, flood proofing or other flood protection measures were accomplished in compliance with the provisions of this Ordinance. A registered land surveyor may certify fill and building elevations.

### **507.5 Accessibility**

Minnesota State Building Code Chapter 1341 contains detailed accessibility requirements for persons with disabilities in new buildings, additions to buildings and buildings undergoing alterations. It does not apply to residential dwellings having three or fewer dwelling units in a building. Examples of subjects regulated include, site access to buildings, accessible restroom features, accessibility between different floor levels, features for sight and hearing impaired persons, etc.

Local building officials and their inspectors enforce this chapter of the code in those jurisdictions that administer the State Building Code. In Brown County, the jurisdiction must employ or contract with a certified building official, certified building official limited, or certified building official accessibility specialist.

Brown County will employ or contract as needed with a certified building official, certified building official limited, or certified building official accessibility specialist to enforce the provisions of the code in new buildings or structures.

## **508. Violations, Penalties and Enforcement**

### **508.1 Violations and Penalties**

Any person, firm or corporation who shall violate or fail to comply with any of the provisions hereof or who shall make any false statement in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable as a misdemeanor offense. **Each day that a violation continues shall constitute a separate and equal offense.**

### **508.2 Enforcement**

- (1) This Ordinance shall be administered and enforced by the Zoning Administrator or their designee who is hereby designated the enforcing officer.
- (2) In the event of a violation of this Ordinance, the County Board or any member thereof, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations, and it shall be the duty of the County Attorney to institute such action.
- (3) Any taxpayer or taxpayers of the County may institute mandamus proceedings in the District Court to compel specific performance by the proper official or officials of any duty required by this Ordinance.
- (4) The County Attorney may at his discretion institute such action in a lesser court than the District Court.

## **SECTION 6. ZONING DISTRICTS, DISTRICT PROVISIONS & SHORELAND AREAS**

### **601. Zoning Districts**

The zoning districts in this ordinance are so designed as to carry out the Comprehensive Plan for Brown County and protect the public health, safety and welfare.

For purposes of this ordinance, Brown County is hereby divided into the following Zoning Districts:

<u>SYMBOL</u>	<u>NAME</u>
A-1	Agricultural/Shoreland Protection
R-1	General Residential
B-1	Highway Business
B-2	General Business
I-1	Limited Industrial District
I-2	General Industrial District
F-P	Flood Plain
P-R	Project Riverbend District

### **602. Zoning Map**

#### **602.1 General**

The location and boundaries of the districts and the shoreland management waters established by this Ordinance are set forth on the Zoning Map which is hereby incorporated as part of this ordinance. A copy of the official Zoning Map shall be kept in the Zoning Administrator's Office. It is the responsibility of the Zoning Administrator to continually maintain and update this map. Any amendments to the zoning map shall be recorded on such map within thirty (30) days after the official adoption of the zoning amendment by the Brown County Board.

The Flood Plain Districts are taken from the "Flood Insurance Study, Brown County, Minnesota And Incorporated Areas," the "Flood Insurance Rate Map Index numbered 27015CIND0A for Brown County, Minnesota and Incorporated Areas," and all Flood Insurance Rate Map Panels noted therein on the above-noted map index as being applicable to the unincorporated areas of Brown County, Minnesota, all of these documents being dated September 25<sup>th</sup>, 2009 and prepared by the Federal Emergency Management Agency. These materials are hereby adopted by reference and declared to be a part of the Official Zoning Map and this Ordinance. Where there is a difference between the flood plain delineation shown on the Official Zoning Map and the Flood Insurance Rate Map, the latter shall prevail. In accordance with the following criteria:

- (1) The floodway and flood fringe areas shall include those areas designated as floodway and flood fringe, respectively, on the Flood Insurance Rate Map (FIRM) panels adopted in Section 602.1 of this Ordinance.
- (2) For areas designated as Zone A or Zone AE without a floodway on the Flood Insurance Rate Map panels adopted in Section 602 (1) of this Ordinance, floodway and flood fringe boundaries shall be determined in accordance with procedures and criteria in Section 609.4 of this Ordinance
- (3) For the portion of Brown County that would have been located on Flood

Insurance Rate Map Panel 27015C0075D if said map panel had been printed (said land being located in the north one-half of the northeast one-quarter of the southeast one-quarter of Section 33, Township 111 North, Range 31West), this area shall be considered within the floodway.

### **602.3 District Boundaries**

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- (1) Boundaries indicated as approximately following the center lines of streets, highways or alleys shall be construed to follow such center lines.
- (2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- (3) Boundaries indicated as approximately following established municipal limits and county borders shall be construed as following such lines
- (4) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- (5) Boundaries indicated as approximately following sections, half sections, quarter sections, eighth sections and government lots shall be construed to follow such lines.
- (6) Where physical or cultural features, such as flood plains, are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by Subsections a through e, the Board of Adjustment shall interpret the district with the assistance of the County Surveyor. In making a determination of the flood plain district boundary, the Board of Adjustment shall base their decision on the flood plain delineation's and 100-year flood elevations and flood profiles contained in the materials adopted by reference in Section 602(1) above and the ground elevations that existed on the site at the time the Community adopted its initial floodplain ordinance or on the date of the first National Flood Insurance Program map, if earlier. In the absence of known 100-year flood elevations, the Board of Adjustment may use the best available technical data in making this determination.



## 603. A-1 Agricultural/Shoreland Protection District

### 603.1 Purpose

The intent of this district is to serve, promote, maintain and enhance the use of land for commercial agricultural purposes, to prevent scattered and leap-frog non-farm growth, to protect and preserve natural resource areas and to stabilize increases in public expenditures for such public service as roads and road maintenance, police and fire protection, and schools.

### 603.2 Permitted Uses

- Livestock feedlots under 300 animal units in size
- Agricultural Land Uses
- Farm Buildings and Dwellings and their accessory buildings on one farm provided the resident or residents of said dwelling or dwellings own, operates or is employed on said farm.
- Forestry and Nurseries
- Government Buildings
- Essential Services - Telephone, Telegraph, Power Transmission Lines under 35KV and necessary Appurtenant Structures
- Public Parks, Recreation and Wildlife Areas
- Historic Sites and Areas
- Micro WECS
- SWECS
- Solar energy systems and Solar Structures
- Single-family Non-farm Dwellings subject to the following conditions:
  - (1) No non-farm dwelling units shall be permitted on land outside of shoreland areas, the majority of which has been historically farmed (tilled) within five (5) years of the date of application for a zoning permit and as may be designated and determined by the Brown County Board of Commissioners. CRP (Conservation Reserve Program) land and limited RIM (Reinvest in Minnesota) land is considered farmed (tilled) land in this section.
  - (2) No dwelling units shall be permitted in areas classified wetlands, peat and muck areas and other areas of poor drainage as defined by Brown County Soil Survey Maps or as revised.
  - (3) No dwelling units shall be permitted on land which has a slope of twelve percent (12%) or greater, unless the application for a zoning permit is supported by an engineers report showing adequate footings, drainage and grading plans when required by County Board.
  - (4) No dwelling units shall be permitted which would require a new public dedicated street except as provided for in the Subdivision Regulations of Brown County.
  - (5) There shall be a maximum number of one (1) non-farm dwelling per parcel in the Agricultural/Shoreland Protection District for any piece of land platted **after March 6<sup>th</sup>, 2001**. There shall be a maximum number of three (3) newly constructed non-farm dwellings per 40 acres (described as a quarter/quarter section), without a Conditional Use Permit, in the A-1 Agricultural Protection District. (Shoreland Protection District excluded from the three (3) per 40 acre requirement as a conditional use permit may be required based on the number of proposed lots in accordance with MN Rule 6120.)
  - (6) All non-farm dwellings shall have a minimum width of twenty (20) feet

measured on its narrowest dimension and shall be affixed to a permanent foundation constructed of concrete block, poured cement, or wood.

- (7) Any proposed non-farm dwelling, which does not meet the above conditions, will not be permitted in the A-1 Agricultural Protection District.
- (8) A new non-farm dwelling shall not be located within one quarter (1/4) mile of an existing feedlot, unless the new dwelling is built to replace an existing residence.
- (9) Anyone who is buying, building, or remodeling a non-farm dwelling in the A-1 Agricultural/Shoreland Protection District is required to read and sign the County "Right to Farm" notice. (See *Section 603.8*) This document will be filed with all parcel data in the Zoning Office.

A temporary dwelling unit may be permitted in the Agricultural District if the Zoning Administrator finds the following conditions are satisfied:

- (1) The home will be utilized as a temporary dwelling unit by the present or potential occupant of a single-family residence during the construction, reconstruction or alteration of said residence by the present or potential occupant.
- (2) The home shall have a sanitary sewage treatment and disposal system in compliance with the Minnesota Pollution Control Agency and this Zoning Ordinance.
- (3) There shall be no minimum width requirement or permanent foundation requirement for homes used as temporary dwellings.
- (4) The zoning permit for the temporary home shall expire when construction is completed or within one year (1) year from the date of issuance, whichever is less. Renewal of such permit may be approved by the Zoning Administrator; provided however, that the home continues to meet the conditions of this section and provided that no more than three (3) one-year permits shall be allowed for any site.

Permitted Land Treatment of Petroleum Contaminated Soils and Agricultural Chemical Contaminated Soils, under the following conditions:

- (1) Land treatment must be in compliance with all state and federal regulations for land application of contaminated soil.
- (2) Contaminated soil must be generated within the boundaries of Brown County. Out-of-county contaminated soil is not permitted for treatment within Brown County.
- (3) Copies of all state and federal permits and correspondence must be provided to the Brown County Planning & Zoning Office for record.
- (4) Land application of petroleum and agricultural chemical contaminated soils shall not take place within shoreland areas.

### **603.3 Accessory Uses**

Any incidental machinery, structure, or buildings necessary to the conduct of agricultural operations or other permitted uses including signs, parking facilities, and fuel storage for farm use(s), etc.

#### **603.4 Conditional Uses**

- Livestock feedlots 300 animal units or more in size. (*Also see Section 725*)
- Construction of a new or expansion of an existing feedlot by 50 animal units or more which is 1/4 mile or less from an existing dwelling unit, church, or public park (*Also see Section 725*)
- Agricultural Products and Livestock Processing Plants
- New single family, non-farm dwelling 1/4 mile or less from an existing feedlot greater than 50 animal units.
- Any newly constructed non-farm dwelling exceeding the maximum number of three (3) newly constructed non-farm dwellings per 40 acres (described as a quarter, quarter section) (*See Section 603.2(5)*)
- Antiques Dealership
- Home Occupation
- Resorts and Seasonal Dwellings \*
- Churches and Cemeteries
- Nursery and Garden Supplies
- Dams, Power Plants, Switching Yards, Transmission Lines of over 35KV,
- Flowage Areas and Pipelines
- Public and Private Schools
- Commercial Recreation, including golf courses
- Mining and Extraction Operations (*see Section 730*)
- Seasonal Produce Stands
- Kennels
- Horse Stables
- Public and Private Campgrounds\*
- Demolition Landfills
- Airports
- Used Vehicle and Farm Machinery Dealership
- Bed & Breakfast Inn \*
- Radio and TV Transmission Tower
- Communication Towers
- LWECs
- Yard waste composting site (outside of Shoreland areas)
- Contractor Yard

Other uses of the same general character as the Conditional Uses above and found not to be detrimental to the general health and welfare of the county as determined by the Zoning Administrator or their designee.

\*In a shoreland area, these uses must also comply with all applicable standards contained in Minnesota Rules, Part 6120.3800, concerning planned unit development in the shoreland area.

#### **603.5 Prohibited Uses**

No new hog feedlot or expansion of an existing hog feedlot shall be permitted which involves construction of or expansion of an earthen basin or open topped pit.

## 603.6 Performance Standards

- (1) Height Regulations:
    - A) The maximum height of all buildings shall not exceed two and one-half (2 1/2) stories or thirty-five (35) feet.
    - B) This height limitation shall not apply to grain elevators, silos, windmills, elevator legs, cooling towers, water towers, chimneys and smokestacks, church spires, ethanol plants, communications towers (radio, cellular, etc), and wind towers/turbines.
    - C) The lowest floor including basement shall be at least 3 feet above the highest known water level or ordinary high water level, which ever is higher, or at established flood elevations if available.
  - (2) Front Yard Regulations:
    - A) Required Setback Distance

From Road Centerline	Road Classifications
150 ft.	State Highway
125 ft.	County Road
110 ft.	Township Road
    - B) 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 each corner lot. No accessory buildings shall project beyond the front yard of either road.
    - C) Hedges and shrubs shall have a minimum setback of 20 feet from the right-of-way.
    - D) In a farm site with structures existing closer to the road than the required setback(s), an additional structure or building addition may be allowed to be constructed closer to the road than the required setback provided:
      1. It is constructed so that it is no closer to the road than the existing structure(s).
      2. That the proposed structure or addition does not cross or go beyond an imaginary line drawn along the outermost edges of all existing farm site buildings.
      3. The Zoning Administrator or their designee determines that the proposed construction is consistent with the purposes of this Ordinance.
- In a farm site adjacent to a township road, the Zoning Administrator shall review the zoning permit application with the Township Board and shall determine if the zoning permit may be issued or if the Board of Adjustment must review the application as outlined in Section 506.
- (3) Side Yard Regulations
    - A) There shall be a side yard width of not less than ten (10) feet on each side of the building.
    - B) No side yards shall be required for farmsteads.
  - (4) Rear Yard Regulations
    - A) All principal structures shall have a minimum rear yard of forty (40) feet.
    - B) The minimum rear year for accessory structures shall be twenty (20) feet.
  - (5) Minimum Lot Area Regulations
    - A) For newly constructed non-farm dwellings or farmsteads use for non-farm purposes - 2 1/2 acres.
    - B) For all dwellings in shoreland areas - 2 1/2 acres

- (6) Minimum Lot Width and Depth Regulations: Every lot or plat of land on which a dwelling is constructed shall have a minimum width of not less than two hundred (200) feet and the lot depth of two hundred (200) feet.
- (7) Tree Planting Regulations

Tree plantings shall have a minimum setback of 40' from the county drainage system (this includes open ditches and tile lines).

- (8) Minimum setback from top of bluff: 30 feet.

In a farm site (located outside of the Shoreland Zoning District) with structures existing within the minimum setback from top of bluff, an additional structure(s) may be permitted within the minimum setback from top of bluff if the proposed structure or building addition is a further distance from the top of bluff or no closer to the top of bluff than the existing structure(s) and provided that the proposed structure or building addition does not cross or go beyond an imaginary line drawn along the outer most edges of all existing farm site buildings and provided that the Zoning Administrator determines that the proposed structure or building addition is consistent with the purposes of this ordinance.

Any excavation for a proposed walkout basement in the bluff impact zone must have an approved erosion control plan on file prior to issuance of a zoning permit.

- (9) Ethanol plants, grain elevators, silos, elevator legs, cooling towers, water towers, chimneys and smoke stacks, church spires must be setback from road right of way easements and property lines one and one-half (1 ½) times the height of the structure. The setback requirements for wind towers/turbines is established in Section 735 of this ordinance, while the setback requirements for communications towers is established in Section 736.

### **603.7 Additional Regulations**

Additional requirements for parking, signs, sewage systems, shoreland area development and other land uses are set forth in Section 7.

**603.8 "Right to Farm" Notice**

A-1 Agricultural/Shoreland Protection Zoning District

***"Right to Farm" Notice***

To those buying, building, or remodeling a home in unincorporated areas of Brown County:

If you are building a new home and this home will be within 1/4 mile of an existing feedlot, you will need to acquire a Conditional Use Permit before receiving a zoning permit for your home.

Please be aware that there will probably be noise from farm equipment or from livestock in the area.

Please be aware that there will probably be dust from the equipment in the fields or on the roads.

Please be aware that there will possibly be odors due to livestock in the area.

Please be aware that there are NO GUARANTEES that there will not be new livestock facilities built in your area in the future.

The majority of Brown County is zoned A-1 Agricultural/Shoreland Protection District for the established purpose of preserving, promoting, maintaining, and enhancing the use of land for commercial agricultural purposes, to prevent scattered and leap-frog non-farm growth, and to protect and preserve natural resource areas.

I have read the above and have talked these over with one or more staff from the Brown County Planning & Zoning Office.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

## **604. R-1 General Residential**

### **604.1 Purpose**

The purpose of this district is to allow a limited continuation of existing residential development in the small unincorporated urban communities of the county.

### **604.2 Permitted Uses**

- Single family detached residences
- Residential subdivisions
- Any agricultural land use already existing at the time of subdivision
- Golf Courses
- Churches
- Community Center
- Forestry
- Nurseries, excluding greenhouses
- Public Recreation
- Essential Services - Telephone, telegraph, power lines under 35KV and necessary appurtenant equipment and structures
- Erosion Control and Wildlife Developments

### **604.3 Accessory Uses**

- Open off-street parking space
- Garages
- Fences
- Decorative landscape features such as statues, rocks, reflecting ponds and benches

### **604.4 Conditional Uses**

- Multi-family units (outside of Shoreland Areas)
- Fire Station
- Police Station
- Home Occupations
- Cemeteries
- Any change in agricultural practice that marks an intensification of present agricultural use including feedlots
- Commercial recreation areas (excluding golf courses)
- Transmission lines of over 35KV
- Seasonal produce stands
- Planned Unit Developments \*
- Bed & Breakfast Inn \*

Other uses of the same general character as the Conditional Uses above and found not to be detrimental to the general health and welfare of the county.

\*In shoreland area, these uses must also comply with all applicable standards contained in Minnesota Rules, Part 6120.3800, concerning planned unit development in the shoreland area.

## 604.5 Prohibited Uses

- Micro WECS
- SWECS
- LWECS
- Communications Towers

## 604.6 Performance Standards

### (1) Height Regulations

No building hereafter erected shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height.

### (2) Front Yard Regulations

#### A) Required Setback Distance

From Road Centerline	Road Classification
150 ft.	State Highway
125 ft.	County Road
110 ft.	Township Road

*In Searles, Essig, Godahl, and Leavenworth, structures may be placed in line with and no closer to the public road or street than the existing building line of residential structures on that block.*

- B) 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 each corner lot. No accessory buildings shall project beyond the front yard of either road.

### (3) Side Yard Regulations

There shall be a minimum side yard of ten (10) feet.

### (4) Rear Yard Regulations

- A) All principal structures shall have a minimum rear yard of forty (40) feet.
- B) The minimum rear yard for accessory structures shall be twenty (20) feet.
- C) In *Searles and Essig*, accessory structures may be placed in line with and no closer to a platted alley than the existing building line of accessory structures on that block if less than 20 feet but no closer than 10 feet, whichever is greater.

### (5) Minimum Lot Area Regulations

- A) For dwelling units with private sewage treatment systems and water wells - 1 acre.
- B) For dwelling units with central sewage treatment and water systems - 6,000 square feet.



- (6) Minimum Lot Width and Depth Regulations
  - A) For dwelling units with private sewage treatment systems:
    - Lot Width - 150 feet
    - Lot Depth - 200 feet
  - B) For dwelling units with central sewer and water systems:
    - Lot Width - 50 feet
    - Lot Depth - 100 feet
- (7) Structures shall be so located on each lot that subdivision is possible when central sewer and water facilities become available.
- (8) There shall be a maximum number of one (1) dwelling per lot in the R-1 General Residential District.
- (9) All dwellings shall have a minimum width of twenty (20) feet measured on its narrowest dimension and shall be affixed to a permanent foundation constructed of concrete block, poured cement, or wood.
- (10) Any proposed dwelling which does not meet the above standards will not be permitted in the R-1 General Residential District.
- (11) Minimum setback from top of bluff: 30 feet.

**604.7 Additional Regulations**

Additional requirements for parking, signs, sewage systems, shoreland area management and other land uses are set forth in Section 7.

## **605. B-1 Highway Business District**

### **605.1 Purpose**

This district is intended to provide areas that will allow compact and convenient highway-oriented business, closely related to existing urban areas and major highways in the County and at standards that will not impair the traffic-carrying capabilities of abutting roads and highways.

### **605.2 Permitted Uses**

- Solar energy systems and solar structures
- General Agriculture
- Agricultural-oriented business
- Farm implement dealers
- Auto service stations
- Auto sales establishments
- Drive-in restaurants
- Drive-in retail stores and service uses
- Motels and tourist camps
- Recreational equipment sales including marine boats and sales
- Seasonal produce stands
- Food and beverage stands
- Garden and nursery supplies
- Clubs and Lodges
- Cafes, Restaurants and Supper Clubs
- Professional Offices
- Commercial Recreation
- Mini-storage buildings
- Essential Services - Telephone, telegraph and power distribution poles and lines under 35KV and necessary appurtenant equipment and structures.
- Micro WECS

### **605.3 Accessory Uses**

- Signs
- Parking Lots
- Any other incidental repair, processing and storage necessary to conduct a permitted principle use

### **605.4 Conditional Uses**

- Single and Multi-family residential dwellings
- Manufactured Home Parks
- Drive-in theater
- Adult Use Establishments (*as defined in Brown County Ordinance 2002-1*)
- Power lines of over 35KV
- On and Off-sale liquor establishments
- Radio & TV Transmission Tower
- Other highway-oriented business activities of the same general character as listed in permitted uses
- SWECS

## 605.5 Prohibited Uses

- LW ECS
- Communication Towers

## 605.6 Performance Standards

### (1) Service or Frontage Roads

To the extent possible, commercial uses adjacent to highways shall be provided with a service road between thoroughfare and the business establishment. No service roads shall have access to local residential streets nor shall highway business oriented traffic be routed on or directed to local residential streets. Frontage roads shall be subject to the following standards:

- A) Each service road shall have a minimum of thirty (30) feet of right-of-way, exclusive of adjoining thoroughfare right-of-way.
- B) Each service road shall be at least twenty-four (24) feet wide.
- C) Two-way traffic shall be allowed on service roads.
- D) Access from service roads shall be no more frequent than one access for each five hundred (500) feet of thoroughfare frontage.

### (2) Height Regulations

No building shall hereafter be erected or structurally altered to exceed two (2) stories or thirty-five (35) feet in height.

### (3) Front Yard Regulations

- A) Required Setbacks from  
Road Centerline                      Road Classification  
185 ft.                                      State Highway  
160 ft.                                      County Road  
145 ft.                                      Township Road

- B) Where a lot is located at the intersection of two (2) or more roads or highways there shall be a front yard setback on each road or highway side of each corner lot. No building shall project beyond the front yard line of either yard.

### (4) Side Yard Regulations

- A) There shall be a side yard having a width of not less than twenty (20) feet on each side of a building.
- B) No building shall be located within fifty (50) feet of any side lot line abutting a lot line in any Residential or Agricultural District.

### (5) Rear Yard Regulations

- A) There shall be a minimum rear yard of forty (40) feet.
- B) No building shall be located within fifty (50) feet of any rear lot line abutting a lot in any Residential or Agricultural District.

### (6) Lot Width Regulations

Every lot shall have a width of not less than one-hundred (100) feet abutting a public right-of-way.

(7) Lot Coverage

No more than thirty (30) percent of the lot shall be occupied by buildings.

(8) Lot Area Regulations

A) Commercial uses with private sewage treatment systems and water wells - 1 acre.

B) Commercial uses with central sewer and water systems - 15,000 square feet.

(9) All dwellings, except manufactured homes located in manufactured home parks, shall have a minimum width of twenty (20) feet measured on its narrowest dimension and shall be affixed to a permanent foundation constructed of concrete block, poured cement, or wood.

(10) Any proposed dwelling which does not meet the above standards will not be permitted in the B-1 Highway Business District.

(11) Minimum setback from top of bluff: 30 feet.

**605.7 Additional Regulations**

Requirements for signs, parking, shopping centers, shoreland development and other land uses are set forth in Section 7.

## **606. B-2 General Business District**

### **606.1 Purpose**

This district is intended to provide areas that will allow retail and general commercial uses in the small, unincorporated urban communities in the County and adjacent to other incorporated urban communities where such use is in keeping with their long-range plans for growth and expansion.

### **606.2 Permitted Uses**

- Solar energy systems and solar structures
- Banks
- Commercial Recreation
- Professional Offices
- Hotel and Motel
- Medical Buildings
- Retail Trade Establishments
- Government Buildings
- Wholesale Business
- Indoor recreation, such as movie theaters
- Restaurants, Cafes and Supper Clubs
- Clubs, Lodges
- Essential Services - Telephone, telegraph and power distribution poles and lines under 35KV and necessary appurtenant equipment and structures.
- Auto Service Stations
- Micro WECS

### **606.3 Accessory Uses**

- Signs
- Parking Facilities
- Fences
- Any incidental repair, processing and storage necessary to conduct a principle use.

### **606.4 Conditional Use**

- Drive-in Business
- Passenger and freight transportation - terminals
- On and off sale liquor establishment
- Freight transportation terminals
- Single and multi-family dwelling units
- Manufactured Home Parks
- Other business activities of the same general character as permitted uses.
- Power lines over 35KV
- SWECS

### **606.5 Prohibited Uses**

- LWECS
- Communication Towers

## 606.6 Performance Standards

### (1) Height Regulations

No building shall hereinafter be erected or structurally altered to exceed two and a half (2 1/2) stories or thirty-five (35) feet in height.

### (2) Front Yard Regulations

A) The front yard setback shall be ten (10) feet, except where adjacent structures have different setbacks from those required, the front yard setback shall be the average setback of such structures.

B) Where a lot is located at the intersection of two (2) or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. No building shall project beyond the front yard line of either road.

### (3) Side Yard Regulations

A) No minimum side yards shall be required.

B) No building shall be located within fifty (50) feet of any sided lot line abutting a lot in any Residential or Agricultural District except in *Searles and Essig* where a minimum five (5) foot setback shall be maintained.

### (4) Rear Yard Regulations

A) There shall be a minimum rear yard of forty (40) feet except in *Searles and Essig* where the minimum rear yard will be ten (10) feet.

B) No building shall be located within fifty (50) feet of any rear lot line abutting a lot in any Residential or Agricultural District except in *Searles and Essig* where a minimum ten (10) foot setback shall be maintained.

(5) All dwellings, except manufactured homes located in manufactured home parks, shall have a minimum width of twenty (20) feet measured on its narrowest dimension and shall be affixed to a permanent foundation constructed of concrete block, poured cement, or wood.

(6) Any proposed dwelling which does not meet the above standards will not be permitted in the B-2 General Business District.

## 606.7 Additional Regulations

Requirements for signs, parking, shoreland area development, and other regulations are set forth in Section 7.

## **607. Limited Industry (I-1)**

### **607.1 Purpose**

This District is intended to provide for compact, limited and highway oriented industries and industrial uses that may suitably be located in areas of relatively close proximity to non-industrial development. As such, industries that pose problems of air pollution, noise, vibrations, etc., will be restricted from this District.

### **607.2 Permitted Uses**

- Solar energy systems and solar structures
- Any production, processing, cleaning, servicing, testing, repair or storage materials, goods or products which are not stated as a conditional or prohibited use provided said industry can conform to prescribed performance standards and is not impervious or offensive to the occupants or adjacent premises.
- Transportation or freight terminal
- Wholesale Business
- Warehouse
- Public Utility Buildings
- Public Vehicle Garage
- Auto Repair Garage
- Essential Services - Telephone, telegraph and power distribution poles and lines under 35KV and necessary appurtenant structures.
- Dwelling units for security persons and their families located on the premises where they are employed.
- Micro WECS

### **607.3 Accessory Uses**

Any incidental repair, processing, limited retail trade associated with the principal use or storage necessary to conduct a permitted principle use.

### **607.4 Conditional Uses**

- Restaurants
- Retail Trade
- Mining and extraction
- Power lines over 35KV
- SWECS
- Communication Towers
- Other uses of the same general character as the Conditional Uses above and found not to be detrimental to the general health and welfare of the county

### **607.5 Prohibited Uses**

- Distillation of bone, coal, tar, petroleum, grain or wood.
- Manufacturing or bulk storage of explosives.
- Fertilizer manufacturing, compost or storage processing of garbage, offal, dead animals, refuse, or rancid fats.
- Livestock feeding yards or slaughter houses, or processing plants.
- Manufacturing, refining, or processing of chemicals.
- Junk yards

- LW ECS
- Any industry that creates an excessive odor, noise, or air environmental pollution problem.
- 

**607.6 Performance Standards**

(1) Height Regulations

No building shall hereafter be erected or structurally altered to exceed three (3) stories or forty (40) feet in height. This height regulation shall not apply to grain elevators, dryer, bins, silos, elevator legs, cooling towers, chimneys and smokestacks.

(2) Front Yard Regulations

A) Required Setbacks from	Road Centerline	Road Classifications
	185 ft.	State Highway
	135 ft.	County Road
	115 ft.	Township Road

B) Where a lot is located at the intersection of two (2) or more roads or highways there shall be a front yard setback on each road or highway side of each corner lot. No building shall project beyond the front yard line of either road.

(3) Side Yard Regulations

- A) There shall be a side yard having a width of not less than twenty (20) feet on each side of a building.
- B) No building shall be located within fifty (50) feet of any side lot line abutting a lot in any Residence or Agricultural District.

(4) Rear Yard Regulations

- A) There shall be a minimum rear yard of forty (40) feet.
- B) No building shall be located within fifty (50) feet of any rear lot line abutting a lot in any Residential or Agricultural District.

(5) Lot Width Regulations

Every lot shall have a width of not less than one-hundred (100) feet abutting a public right-of-way.

(6) Lot Area Regulations

The minimum lot size shall be 30,000 square feet.

(7) Lot Access Requirements

For newly platted lots that do not abut a public right-of-way, the access road right-of-way shall have a minimum width of 33 feet.



(8) Screening and Fencing

The county may require the screening or fencing of industrial uses, to prevent visual blight, especially on side yards which face residential or agricultural districts.

(9) Minimum setback from top of bluff: 30 feet.

**607.7 Additional Regulations**

Requirements for signs, parking, shoreland area development and other land uses are set forth in Section 7.

## **608. I-2 General Industry**

### **608.1 Permitted Uses**

- All industry permitted in I-1 subject to the performance standards set forth in this section
- Any productions, processing, cleaning, servicing, testing, repair or storage of materials, goods or products subject to the performance standards set forth in this section
- Motor freight terminals
- Highway Maintenance Shops and Yards
- Public Service Buildings
- Essential Services - Telephone, telegraph and power distribution poles and lines under 35KV and necessary appurtenant structures
- Sanitary Landfill
- Micro WECS

### **608.2 Accessory Uses**

Any incidental repair, processing, or storage necessary to conduct a permitted principle use.

### **608.3 Conditional Uses**

- Manufacturing, refining and processing of chemicals
- Junk Yards or salvage yards
- Extracting, processing and storage of sand, gravel, stone or other raw materials
- Distillation of bone, coal, tar, petroleum, grain or wood
- Fertilizer manufacturing, compact or storage processing of garbage
- Livestock slaughter houses as processing plants
- Power lines over 35KV
- SWECS
- Other uses of the same general character as the Conditional Uses above and found not to be detrimental to the general health and welfare of the county

### **608.4 Prohibited Uses**

- LWECS
- Communication Towers

### **608.5 Performance Standards**

#### **(1) Height Regulations**

No building shall hereafter be erected or structurally altered to exceed four (4) stories or forty-five (45) feet in height. This height limitation shall not apply to grain elevators, dryers, bins, silos, elevator legs, cooling towers, chimneys and smokestacks.

- (2) Front Yard Regulations
  - A) Required Setbacks from Road Centerline
 

185 ft.	Road Classification
135 ft.	State Highway
115 ft.	County Road
	Township Road
  - B) Where a lot is located at the intersection of two (2) or more roads or highways there shall be a front yard setback on each road or highway side of each corner lot. No building shall project beyond the front yard line of either road.
- (3) Side Yard Regulations
  - A) There shall be a side yard having a width of not less than thirty (30) feet on each side of a building.
  - B) No building shall be located within seventy-five (75) feet of any side lot line abutting a lot in any Residential or Agricultural District.
- (4) Rear Yard Regulations
  - A) There shall be a minimum rear yard of forty (40) feet.
  - B) No building shall be located within seventy-five (75) feet of any rear lot line abutting a lot in any Residential or Agricultural District.
- (5) Lot Width Regulations
 

Every lot shall have a width of not less than one-hundred (100) feet abutting a public right-of-way.
- (6) Lot Access Requirements
 

For newly platted lots that do not abut a public road right-of-way, the access road right-of-way shall have a minimum width of 33 feet.
- (7) Screening and Fencing
 

The county may require the screening or fencing of industrial uses, to prevent visual blight, especially on side yards which face residential or agricultural districts.
- (8) Minimum setback from top of bluff: 30 feet.

**608.6 Additional Regulations**

Other regulations relating to signs, parking, shoreland area development, etc. are set forth in Section 7 of this ordinance.

## **609. Floodplain District**

### **609.1 Purpose**

The Floodplain District is created for the purpose of protecting the public health and safety and to minimize property damage and pollution from flood waters. The standards contained in this District have been incorporated from the model floodplain ordinance developed by the Department of Natural Resources (DNR) in conformance with the Floodplain Zoning Act.

This Ordinance is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59-78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

### **609.2 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 Brown County or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made there under.

### **609.3 Permitted Uses**

The following uses have a low flood damage potential and do not obstruct flood flows. These uses shall be permitted uses with the Flood Plain District to the extent they are not prohibited by any other ordinance and provided they do not require structures, fill or storage of materials or equipment or increase flood elevations.

- (1) Solar energy systems and solar structures that do not obstruct flood flows and are not subject to flood damage.
- (2) General agricultural uses such as: farming, pasture, grazing, outdoor nurseries, horticulture, truck farming, forestry, sod farming, crop harvesting and such like uses.
- (3) Industrial-commercial uses such as loading and parking areas and other open area uses.
- (4) Public and private residential uses such as: Parks, swimming areas, golf courses, driving ranges, picnic grounds, wildlife and nature areas, game farms, fish hatcheries, target, trap and skeet ranges, provided that no permanent or temporary structure shall be required.
- (5) Utilities to serve permitted use.

#### **609.4 Regulations**

- (1) **Public Utilities:** All public utilities and facilities such as gas, electrical, sewer and water supply systems to be located in the Flood Plain District shall be designed and constructed in a manner to minimize or eliminate flood damage. Sewer and water supply systems shall be designed to minimize infiltration by flood waters.
- (2) **Record of first floor elevations:** In the Flood Plain District the Zoning Administrator shall maintain a record of the elevation of the first floor (including basement) of all new structures or additions to existing structures. The Zoning Administrator shall also maintain a record of the elevations to which structures or additions to structures are flood-proofed.

#### **609.5 Conditional Use**

The Floodplain District is divided into a floodway area and a flood fringe area. The County shall determine whether the proposed use would be located in either the floodway or the flood fringe in accordance with the following criteria: 1) the floodway and flood fringe shall include those areas designated as floodway and flood fringe, respectively, on the Flood Insurance Rate Map adopted in Section 602.1 of this Ordinance; 2) for areas designated as Zone A of Zone AE without a floodway on the Flood Insurance Rate Map adopted in Section 602.1 of this Ordinance, floodway and flood fringe boundaries shall be determined in accordance with procedures and criteria in Section 609.4 of this Ordinance; and 3) for the portion of Brown County that would have been located on Flood Insurance Rate Map Panel 27015C0075D if said map panel had been printed (said land being located in the north one-half of the northeast one-quarter of the southeast one-quarter of Section 33, Township 111 North, Range 31 West), this area shall be considered within the floodway. If the site location of the proposed use is to be situated within the floodway areas, the provisions of 609.5 apply. If the proposed use is located in the flood fringe areas, the provisions of 609.6 shall apply. All uses shall be subject to the provisions of this Ordinance.

**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 Section 609 shall be prohibited. In addition, a caution is provided here that:

- (1) 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 722;
- (2) Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing non-conforming structures and non-conforming uses of structures or land are regulated by the general provisions of this Ordinance and specifically Section 306; and
- (3) 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 5 of this Ordinance.

## 609.6 Information Required by Applicant

Upon receiving an application for a conditional use permit involving the use of fill, construction of structures, or storage of materials, the County Planning Commission shall, prior to making a recommendation thereon:

- (1) Require the applicant to furnish such of the following information as is deemed necessary by the Planning Commission for determining the regulatory flood protection elevation, whether the proposed use is located in the floodway or flood fringe, and other factors necessary to render a decision on the suitability of the particular site for the proposed use. Where floodway and fringe boundaries are already shown on the maps adopted in Section 602(1) these floodway and flood fringe boundaries shall apply.
  - A) Plans drawn to scale showing the nature, location, dimensions, and elevation of the lots, existing or proposed structures, fill, storage of materials, flood proofing measures, and the relationship of the above to the location of the channel.
  - B) 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.
  - C) 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 elevation of streets, water supply, sanitary facilities, photographs showing existing land uses and vegetation upstream and downstream, soil types, and other pertinent information.
  - D) 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.
  - E) Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
- (2) 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, 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:

- A) Estimate the peak discharge of the regional flood.
- B) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
- C) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than .5 shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.

- (3) 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 609 of this Ordinance.

#### **609.7 Conditional Uses Permitted in the Floodway Area**

- (1) Other uses are allowed only as Conditional Uses within the floodway provided they comply with the provisions of this Section, other standards established in this Ordinance, and any conditions attached by the Planning Commission to the issuance of the Conditional Use Permit. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other use shall be permitted which acting alone or in combination with existing or reasonably anticipated uses affects the efficiency or the capacity of the floodway or increases flood heights or increases flood damages. Consideration of the effects of a proposed use shall be based on a reasonable assumption that there will be an equal degree of encroachment extending for a significant reach on both sides of the stream.
- (2) Conditional Uses include:
  - A) Uses or structures accessory to open space uses listed in Section 609.3.
  - B) Road side stands, signs and billboards.
  - C) Marinas, boat rentals, docks, piers, wharves, and water control structures.
  - D) Railroads, streets and bridges.
  - E) Storage yards for equipment, machinery and materials.
  - F) Other uses similar in nature to uses described in 609.3 of this Section which are consistent with the provisions set forth in this Ordinance.
  - G) 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 standards contained in Section 609.7(2) of this Ordinance or elevated to above the Regulatory Flood Protection Elevation.
- (3) Fill
  - A) Any fill or materials proposed to be deposited in the floodway will be allowed only upon issuance of a Conditional Use Permit. The fill or materials must be shown to have some beneficial purpose and the amount thereof not greater than is necessary to achieve that purpose and demonstrated by a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials.
  - B) Such fill or other materials shall be protected against erosion by rip-rap, vegetative cover, or bulkheading.
  - C) 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.

- (4) Structures (temporary or permanent) Accessory to Conditional Uses Listed in 609.5
  - A) Structures shall not be designed for human habitation.
  - B) Structures shall have a low flood damage potential.
  - C) The structure or 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.
    - 1. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and
    - 2. So far as practicable, structures shall be placed approximately on the same flood flow lines as those adjoining structures.
  - D) Structures shall be firmly anchored to prevent flotation which may result in damage to other structures, restriction of bridge openings and other narrow sections of the stream or river.
  - E) Service facilities such as electrical and heating equipment shall be placed at or above the regulatory flood protection elevation for the particular area or adequately floodproofed.
  - F) 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 minimal investment, does not exceed 500 square feet in size, and for a detached garage must be used solely for parking of vehicles and limited storage.
  - G) To allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.
- (5) The storage of materials that in time of flooding are buoyant, flammable, explosive or could be injurious to human, animal or plant life is prohibited. Storage of other material or equipment may be allowed upon issuance of Conditional Use Permits if not subject to major damage by floods and firmly anchored to prevent flotation or readily removable from the area within the time available after flood warning and in accordance with a plan approved by the Governing Body.
- (6) Garbage and Solid Waste Disposal: No Conditional Use Permits for garbage and waste disposal sites or feedlots shall be issued for floodway areas.



(7) Structural Works for Flood Control

Structural works for flood control such as dams, levees, dikes, and floodwalls shall not be allowed within the floodway except upon issuance of a Conditional Use Permit. In addition, any proposed structural work in the beds of public waters as defined in Minnesota Statutes 1969, c. 105, which will change the course, current or cross-section of the waters shall be subject to the provisions of Minnesota Statutes 1969, c. 105, and other applicable statutes. Community-wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the floodway. 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.

**609.8 Conditional Uses Permitted in the Flood Fringe Area**

- (1) Structural or other uses shall be permitted within the flood fringe as Conditional Uses to the extent they are not prohibited by other standards found in other sections of this zoning ordinance and they meet the following applicable standards:

The cumulative placement of fill where at any one time in excess of one-thousand (1,000) cubic yards of fill is located on the parcel shall be allowable only as a Conditional Use, unless said fill is specifically intended to elevate a structure in accordance with the provisions of this Ordinance.

The storage of any materials or equipment shall be elevated on fill to the Regulatory Flood Protection Elevation.

When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state approved shoreland management ordinance. In the absence of a state approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the Governing Body. The plan may incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.

- A) Residential and Non-residential Uses. Structures shall be constructed on fill with the lowest floor, including the basement floor, at least at the regulatory flood protection elevation. The finished fill elevation shall be no more than one foot below the regulatory flood protection elevation for the particular area and shall extend at such elevation at least fifteen (15) feet beyond the limits of any structure or building erected thereon. 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 garages must be designed to internally flood and the design plans must stipulate:

a) A minimum area of openings in the walls where internal flooding is to be used as a flood proofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one-foot above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention; and

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 Non-Residential Structures. Commercial, manufacturing, and industrial structures shall ordinarily be elevated on fill so that their lowest floor (including basement) is at or above the Regulatory Flood Protection Elevation but may in special circumstances be flood-proofed in accordance with the provisions of this Ordinance. Structures that are not elevated on fill to at or above the Regulatory Flood Protection Elevation shall be flood-proofed to FP-1 or FP-2 classification in accordance with the standards contained in Section 609.7(2) of this Ordinance. Structures flood-proofed to FP-3 or FP-4 classification shall not be permitted.

- C) Additional Standards for Non-Residential Uses. Accessory land uses, such as yards, railroad tracks and parking lots, may be at a lower elevation. However, a permit for such facilities to be used by the general public shall not be granted, in the absence of a flood warning system, if the area is inundated to a depth and velocity such that when multiplying the depth (in feet) times the velocity (in feet per second) the product number exceeds 4 (four).
- D) Waste Treatment and Waste Disposal
  - 1. There shall be no disposal of garbage or solid waste materials within flood way areas.
  - 2. Individual Sewage Treatment Systems. Individual sewage treatment systems will be permitted within a floodplain area only at locations where connection with a public sewer system is not possible or feasible. Such facilities shall conform to the current standards of the Minnesota Pollution Control Agency relating to individual sewage treatment systems.
  - 3. 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.
- E) Residential Basements. Residential basements must be at or above the regulatory flood protection elevation.
- F) Manufacturing and Industrial Uses - measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in Section 609.6(1) (c) above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.
- G) As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet for the outside dimension at ground level may be internally flood proofed in accordance with Section 609.5(3).

### **609.9 Conditional Use Permits**

Any use listed in 609.5 and 609.6 requiring a Conditional Use Permit may be allowed only upon application to the Zoning Administrator and the issuance of a Conditional Use Permit by the County Board.

- (1) Factors for Consideration in the Issuance of a Conditional Use Permit.
  - A) The danger of life and property due to increased flood heights or velocities caused by encroachments.
  - B) The danger that materials may be swept onto other lands or downstream to the injury of others.
  - C) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
  - D) The susceptibility of the proposed facility and its content to flood damage and the effect of such damage on the individual owner.
  - E) The requirements of the facility for a waterfront location.
  - F) The availability of alternative locations not subject to flooding for the purposed use.
  - G) The compatibility of the proposed use with existing development and

- development anticipated in the foreseeable future.
- H) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
  - I) The safety of access to the property in times of flood for ordinary and emergency vehicles.
  - J) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.
- (2) Conditions attached to Conditional Use Permits
- Upon consideration of the factors listed above and the purposes of this Ordinance, the County Board may attach such conditions to the granting of Conditional Use Permits as it deems necessary to further the purposes of this Ordinance. Among such conditions without limitation because of specific enumeration may be included:
- A) Modification of waste disposal and water supply facilities.
  - B) Limitations of period use and operation.
  - C) Imposition of operational controls, sureties, and deed restrictions.
  - D) Requirements for construction of channel modifications, dikes, levees and other protective measures.
  - E) Flood-proofing measures in accordance with Sections 209 through 1406 of the 1972 Edition of "Flood Proofing Regulations" (FPR), as developed by the Office of the Chief of Engineers, U.S. Army, Washington D.C., a copy of which is hereby incorporated by reference and declared to be a part of this Ordinance. Where definition of terms as set forth in Section 301 of FPR conflict in meaning with the definition of terms set forth in this Ordinance, the latter shall apply. The applicant shall be required to 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.
  - F) As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet for the outside dimension at ground level may be internally flood proofed in accordance with Section 609.5(3).

#### **609.10 Removal of Lands From a Flood Plain District**

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

### **609.11 Performance Standards**

The height, front-yard, side yard and minimum lot sizes shall be the same as that of the underlying zoning district.

### **609.12 Standards for All Flood Fringe Uses**

- (1) 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.
- (2) 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.
- (3) 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.
- (4) 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.

### **609.13 Standards for all Floodplain Uses.**

- (1) Public Utilities. Railroad tracks, roads and bridges to be located within the flood plain shall comply with Section 609 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.
- (2) No new construction, addition, or modification to existing waste treatment facilities shall be permitted within the floodplain unless emergency plans and procedures for action to be taken in the event of flooding are prepared, filed with, and approved by the Minnesota Pollution Control Agency. The emergency plans and procedures must provide for measures to prevent introduction of any pollutant or toxic material into the flood waters. New waste treatment facilities shall conform to the waste control section of this Zoning Ordinance.
- (3) 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 standards contained in Section

609.7(2) of this Ordinance or elevated to above the Regulatory Flood Protection Elevation.

- (4) On-site Sewage Treatment and Water Supply Systems: Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and 2) New or replacement on-site sewage treatment/systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters 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.

#### **609.14 General Regulations**

(1) Notification of Variances and Conditional Uses

The Zoning Administrator shall submit to the Commissioner of Natural Resources a copy of an application for a variance or conditional use permit pertaining to the floodplain district where a hearing is to be held to consider such application. The Commissioner of the DNR and the Corps of Engineers shall receive a copy of the application at least ten (10) days in advance of the hearing. Such notice shall specify the time, place and subject matter of the hearing and shall be accompanied by such supporting information necessary to indicate the nature and effect of the proposed use.

A copy of all decisions granting a variance or a conditional use to the provisions of the Floodplain District shall be forwarded by the Zoning Administrator to the Commissioner of Natural Resources within ten (10) days of such action.

(2) Notification for Watercourse Alterations

The Zoning Administrator shall notify, in riverine situations, adjacent Communities and the Commissioner of the Department of Natural Resources prior to the community authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minnesota Statute, Chapter 103G, this shall suffice as adequate notice to the Commissioner of Natural Resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

(3) Notification to FEMA When Physical Changes Increase or Decrease the 100 year Flood Elevation

As soon as practical, but not later than six (6) months after the date such supporting information becomes available, the Zoning Administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.

**610. Project Riverbend District**

Project Riverbend, June '81 Draft or as amended, is hereby adopted by reference in its entirety.

**611. Shoreland Areas**

The shoreland areas are not a separate zoning district but additional standards apply for land uses in the shoreland areas. (*Section 733*)

The following lake basins are regulated as shoreland management waters:

<b>Lake Identification Number</b>	<b>Lake Name</b>
8-4	Linden
8-10	Omsrud
8-11	Clear
8-13	-----
8-14	School
8-16	Juni
8-26	Hanska
8-27	Zanders
8-29	Bachelor
8-35	Gilman
8-45	Sleepy Eye
8-54	Altermatt
8-73	Lone Tree
8-96	Boise
8-97	-----
8-111	-----
83-49	Mulligan Marsh
83-60	Wood

The following streams, rivers and drainage ditches are regulated as shoreland management waters:

**Rivers**

Coal Mine Creek  
Cottonwood River  
Eight Mile Creek  
Huelskamp Creek  
Little Cottonwood River  
Little Rock Creek  
Minnesota River  
Mound Creek  
Sleepy Eye Creek  
Spring Creek

**Drainage Ditch**

County Ditch 1  
County Ditch 10  
County Ditch 28 Improvement  
County Ditch 3  
County Ditch 68  
Judicial Ditch 29  
Judicial Ditch 36

Other unnamed streams, creeks and rivers that are regulated as shoreland management waters are shown on the zoning map along with those waters listed above.



## **612. Brown County Zoning Map and Shoreland Management Waters**

## **SECTION 7 PERFORMANCE STANDARDS**

### **701. Purpose**

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

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

### **702. Solar Energy Systems and Solar Structures**

- (1) Solar energy systems and solar structures shall be a permitted accessory use in all districts provided the system is in compliance with minimum lot requirements and setbacks.
- (2) Solar energy systems and solar structures may be exempted from setback, height, and lot coverage restrictions in all districts by variance.
- (3) In a residential, zone no owner, occupier, or person in control of property shall allow vegetation or structures to be placed or grow so as to cast a shadow on a solar energy system which is greater than the shadow cast by a hypothetical wall ten (10) feet high located along the boundary line of said property between the hours of 9:30 a.m. and 2:30 p.m. Central Standard Time on December 21 provided, however, this standard shall not apply to vegetation or structures which casts a shadow upon the solar energy system at the time of installation of said solar energy system or to vegetation existing at the time of installation of said solar energy system.
- (4) As a means of evidencing existing conditions, the owner of a solar energy system may file notarized photographs of the effected area with the County prior to installation of said system.

Violation of this standard shall constitute a private nuisance, and any owner or occupant whose solar energy system is shaded because of such violation, so that performance of the system is impaired, may have in tort for the damages sustained thereby and may have such nuisance abated.

**703. Exterior Storage**

In residential districts, all materials and equipment shall be stored within a building or be fully screened so as not to be visible from adjoining properties, except for the following in good order: laundry drying and recreational equipment, construction and landscaping materials and equipment currently being used on the premises, agricultural equipment and materials, if these are used or intended for use on the premises, off-street parking of passenger automobiles and pickup trucks and firewood. Boats and unoccupied trailers, less than twenty (20) feet in length, are permissible. Existing uses shall comply with this provision within six (6) months following enactment of this Ordinance. In all districts, the County may require a conditional use permit for any exterior storage if it's demonstrated that such storage is a hazard to the public health and safety or has a depreciating effect upon nearby property values, or impairs scenic views, or constitutes a nuisance.

**704. 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. Existing uses shall comply with this provision within six months following enactment of this Ordinance.

Passenger vehicles and trucks in an inoperative state shall not be parked in residential districts for a period exceeding seven (7) days. Inoperative shall mean incapable of movement under their own power and in need of repairs or junkyard.

All exterior storage not included as a permitted accessory use, a permitted use, or included as part of a special use permit, or otherwise permitted by provisions of this Ordinance, shall be considered as refuse.

**705. Glare**

In all districts, any lighting used to illuminate an off-street parking area, sign, or other structure, shall be arranged so as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion or welding, shall not be directed into any adjoining property. The source of lights shall be hooded or controlled in some manner so as not to light adjacent property.

Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way. Any light or combination of lights which cast light on a public street shall not exceed one (1) foot candle (meter reading) as measured from the centerline of said street. Any light or combination of lights which cast light on residential property shall not exceed 0.4 candles (meter reading) as measured from said property.

**706. Nuisances**

**706.1 Nuisance Characteristics**

No noise, odors, vibration, smoke, air pollution, liquid or solid wastes, heat, glare, dust, or other such adverse influences shall be permitted in any district that will in any way have an objectionable effect upon adjacent or nearby property. All wastes in all districts shall be disposed of in a manner that is not dangerous to public health and safety nor will damage public waste transmission or disposal facilities. The following standards apply to non-industrial districts.

**706.2 Noise**

- (1) Noise Prohibited. It shall be unlawful to make, continue or cause to be made or continued, any noise in excess of the noise levels set forth unless such noise be reasonably necessary to the preservation of life, health, safety or property.
- (2) Measurement of Noise. Any activity not expressly exempted by this section which creates or produces sound regardless of frequency exceeding the ambient noise levels at the property line of any property by more than six (6) decibels above the ambient noise levels as designated in the following table at the time and place and for the duration then mentioned, shall be deemed to be a violation of the Ordinance, but any enumeration herein shall not be deemed to be exclusive.

	I	II	III
		6:00 PM - 10:00 PM (residential districts) and	
Duration of Sound	7:00 AM - 6:00 PM (all districts)	6:00 PM - 10:00 PM (all other districts)	10:00 PM - 7:00 PM (residential districts)
Less than 10 minutes	70db	65db	55db
Between 10 minutes & 2 hours	60db	55db	45db
In excess of 2 hours	50 db	45db	40db

In determining whether a particular sound exceeds the maximum permissible sound level in the above table: (1) sounds in excess of the residential district limitations as measured in a residential district are in violation of this section whether the sound originates in a residential district or any other district; (2) during all hours of Sundays and State and Federal holidays, the maximum allowable decibel levels for residential districts are set forth in Column III of the table.

Sounds emanating from the operation of (1) motor vehicles on a public highway; (2) aircraft; (3) outdoor implements such as power lawn mowers, snowblowers, power hedge clippers, and power saws; and (4) pile drivers or jackhammers and other construction equipment are exempt from the provisions of this section except during the hours of 10:00 P.M. to 7:00 A.M. Sounds emanating from lawful and proper activities on farms or at school grounds, playgrounds, parks or places wherein athletic contests take place are exempt from the provisions of this Ordinance.

### **706.3 Vibration**

The following vibrations are prohibited:

- (1) Any vibration discernible (beyond property line) to the human sense of feeling for three (3) minutes or more duration in any one (1) hour.
- (2) Any vibration resulting in any combination of amplitudes and frequencies beyond the "safe" range of most current standards of the United States Bureau of Mines on any structure.

### **706.4 Toxic or Noxious Matter**

Any use shall be so operated so as not to discharge across the boundaries of any lot or through percolation into the atmosphere or the subsoil beyond the boundaries of the lot wherein such use is located, toxic or noxious matter in such concentration as to be detrimental to or endanger the public health, safety, comfort, or welfare or cause injury or damage to property or business.

### **706.5 Air Pollution**

Any use shall be so operated as to control the emission of smoke or particulate matter to the degree that it is not detrimental to or shall endanger the public health, safety, comfort, or general welfare of the public. For the purpose of this Ordinance, the regulations and standards adopted by the Minnesota Pollution Control Agency shall be employed.

### **706.6 Miscellaneous Nuisances**

- (1) No person may store or keep any vehicle of a type requiring a license to operate on the public highway; but, without a current license attached hereto, whether such vehicle be dismantled or not, outside of an enclosed building in the residential or agricultural districts.
- (2) No person may create or maintain a junkyard or vehicle dismantling yard except as provided herein.
- (3) The following are declared to be nuisances affecting public health or safety:
  - A) The effluence from any cesspool, septic tank, drainfield or human sewage disposal system discharging upon the surface of the ground, or dumping the contents thereof at any place except as authorized.
  - B) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances.
  - C) The ownership, possession or control of any unused refrigerator or other container, with doors which fasten automatically when closed, of sufficient size to retain any person, to be exposed and accessible to the public without removing the doors, lids, hinges, or latches or providing locks to prevent access by the public.

## **707. Screening**

- (1) Screening shall be required in residential zones where; (a) any off-street parking area contains more than four (4) parking spaces and is within thirty (30) feet of an adjoining residential zone; and (b) where the driveway to a parking area of more than six (6) parking spaces is within fifteen (15) feet of an adjoining residential use or zone.
- (2) Where any business or industrial use (structure, parking or storage) is adjacent to property zoned for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business, parking lot or industry is located across the street from a residential zone, but not on the front of the building.
- (3) All exterior storage shall be screened. The exceptions are (1) merchandise being displayed for sale; (2) materials and equipment currently being used for construction on the premises; and (3) merchandise located on service station pump islands.
- (4) The screening required in this section shall consist of earth mounds, berms or ground forms; fences and walls; landscaping (plant materials) or landscaped fixtures (such as timbers) used in combination or singularly so as to block direct visual access to an object.

## **708. Landscaping**

- (1) Landscaping on a lot shall consist of a finish grade and a soil retention cover such as sod, seed and mulch, plantings or as may be required by the Zoning Administrator to protect the soil and aesthetic values on the lot and adjacent property.
- (2) In all districts, all developed uses shall provide landscaping from the urban curb and gutter to the road right-of-way lines. This landscaped yard shall be kept clear of all structures, exterior storage and off-street parking.
- (3) Landscaping shall be provided and maintained on all required front and side yards in all developed districts except where pavement or crushed stone is used for walkways or driveways.

## **709. Land Reclamation/Landfill/Demolition Landfill**

Land reclamation may be permitted by conditional use permit in all districts. The permit shall include as a condition thereof, a finished grade plan which will not adversely affect the adjacent land. The permit shall state the type of fill allowed. The permits shall include a plan for fire control and general maintenance of the site and plan for controls of vehicle ingress and egress. In addition, the permit shall include provisions that will be taken to minimize erosion and excessive dust conditions.

## **710. Platting**

All buildings hereafter erected upon unplatted land shall be so placed that they will not obstruct proper street extensions or other features or proper subdivision and land planning.

**711. Permitted Encroachments**

The following shall be considered as permitted encroachments on setback and height requirements except as hereinafter provided:

In any yard: Posts, off-street open parking spaces, flues, sills, pilasters, lintels, cornices, eaves, gutters, awnings, open terraces, service station pump islands, open canopies, steps, chimneys, flag poles, ornamental features, open fire escapes, sidewalks, and fences, and all other similar devices incidental and appurtenant to the principal structure except as hereinafter amended.

## **712. Accessory Building and Structures**

### **712.1 In Residential Districts**

- (1) No accessory building shall be located nearer the front lot line than the principal building on the lot.
- (2) No accessory building shall exceed the height of the principal building.
- (3) On lots less than 1.5 acres in size, without a central sewer, no private garage used or intended for the storage of passenger automobiles shall exceed seven hundred (700) square feet of gross area nor shall any access door or other opening exceed the height of ten (10) feet. On lots connected to a central sewer the maximum size of a private garage is nine hundred (900) square feet, nor shall any access door or other opening exceed the height of ten (10) feet. On lots 1.5 acres in size or greater, no private garage used or intended for the storage of passenger automobiles shall exceed one thousand (1,000) square feet of gross area nor shall any access door or other opening exceed the height of ten (10) feet.
- (4) When a private garage is oriented so as to face onto a public street, it shall not be less than twenty (20) feet from the front line.

### **712.2 In Commercial and Industrial Districts**

No accessory building shall exceed the height of the principal building except by conditional use permit.

### **712.3 In All Districts**

- (1) No accessory building or use shall be constructed or developed on a lot prior to construction of the principal building.
- (2) An accessory building shall be considered as an integral part of the principal building if it is located less than six (6) feet from the principal building.
- (3) Accessory structures located on lake or stream frontage lots may be located between the public road and the principal structure provided it is clearly demonstrated that physical conditions require such a location. In no event, however, shall the structure be located closer than the minimum setback to the public road right-of-way.
- (4) In the A-1 Agricultural/Shoreland District no accessory building or use shall be constructed or developed on a lot prior to construction of the principal building unless a site plan which complies with all aspects of Brown County Zoning Ordinance standards, including a septic system plan on residential lots, is submitted and approved by the Zoning Administrator, prior to obtaining a zoning permit.



**713. Dwelling Units Prohibited**

No garage, tent, trailer, basement, or accessory building shall at any time be used as a permanent residence. The basement portion of a finished home or apartment may be used for normal eating and sleeping purposes, provided it is properly damp-proofed, has suitable fire protection and exits, and is otherwise approved by the Zoning Administrator.

## **714. Relocating Structures**

### **714.1 Permits Required**

Every licensed house mover shall in each and every instance, before raising, holding up or moving any building; obtain a moving permit thereafter from the County Engineer. An application for such moving permit shall designate the origin and destination of such building, the route over which it is to be moved and shall state the time in which the moving of such building shall be issued. A zoning permit shall also be required from the Planning and Zoning Office for the location on the lot that which the structure is to be located. The dimensions of the lot and the proposed location of the structure on the lot along with setback distances will be required as part of the zoning permit application (see Section 507 of this ordinance for more information regarding zoning permits). **A permit to move a structure shall not be issued unless and until the following conditions are fully complied with and approved by the Zoning Administrator or their designee:**

- (1) The building to be moved must comply in all respects with the standards of the Brown County Zoning Ordinance.
- (2) The lot on which the building is to be located must meet all the minimum dimensional requirements of the zoning district in which it is located.
- (3) The building must be placed on the lot so as to meet all the front, side and rear yard requirements as set forth in the zoning ordinance.

### **714.2 Electrical Correction Requirements**

In every case in which a permit shall be issued as herein provided, for the removal required or the displacement of any overhead electrical or other wires, it shall be the duty of the person, association, or corporation owning, operating or controlling such wires to remove or displace the same, so far as the same may be necessary to effect the removal thereof, shall be authorized by such permit.

The person to whom said permit shall have been issued shall notify the person, association, or corporation owning, operating, or controlling said wire to remove or displace the same to facilitate the removal of said building, and shall at the same time exhibit to said person, association, or corporation the properly issued permit authorizing the removal of said wires sufficiently to allow the passage of said building along the street over which said wires are suspended.

Any expenses incurred or to be incurred in the moving, removing or displacing of such wire shall be paid for by the person who makes application for said permit.

## **715. Soil Erosion and Sedimentation Control**

### **715.1 General Standards**

- (1) All development shall conform to the natural limitations presented by the topography and soil as to create the best potential for preventing soil erosion.
- (2) Slope over thirty percent in grade shall not be developed.
- (3) Development on slopes with a grade between twelve to thirty percent shall be carefully reviewed to insure adequate measures have been taken to prevent erosion, sedimentation, and structural damage.
- (4) Erosion and siltation control measures shall be coordinated with the different stages of development. Appropriate control measures shall be installed prior to development when necessary to control erosion.
- (5) Land shall be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time.
- (6) The drainage system shall be constructed and operational as quickly as possible during construction.
- (7) Whenever possible, natural vegetation shall be retained and protected.
- (8) Where the topsoil is removed, sufficient arable soil shall be set aside for respreading over the developed area. The soil shall be restored to a depth of four (4) inches and shall be of quality at least equal to the soil quality prior to development.
- (9) When soil is exposed, the exposure shall be for the shortest feasible period of time. No exposure shall be planned to exceed 60 days. Said time period may be extended only if the Planning Commission is satisfied that adequate measures have been established and will remain in place.
- (10) The natural drainage system shall be used as far as is feasible for storage and flow or runoff. Stormwater drainage shall be discharged to marshlands, swamps, retention basins or other treatment facilities. Diversion of stormwater to marshlands or swamps shall be considered for existing or planned surface drainage. Marshlands and swamps used for stormwater shall provide for natural or artificial water level control. Temporary storage areas or retention basins scattered throughout developed areas shall be encouraged to reduce peak flow, erosion damage, and construction cost.

### **715.2 Exposed Slopes**

The following control measures shall be taken to control erosion during construction:

- (1) No exposed slopes should be steeper in grade than three (3) feet horizontal to one (1) foot vertical.
- (2) Exposed slopes steeper in grade than ten (10) feet horizontal to one (1) foot vertical should be contour plowed to minimize direct runoff of water.
- (3) At the foot of each exposed slope, a channel and berm should be constructed to control runoff. The channelized water should be diverted to a sedimentation basin (debris basin, silt basin or silt trap) before being allowed to enter the natural drainage system.

- (4) Along the top of each exposed slope, a berm should be constructed to prevent runoff from flowing over the edge of the slope. Where runoff collecting behind said berm cannot be diverted elsewhere and must be directed down the slope, appropriate measures shall be taken to prevent erosion. Such measures should consist of either an asphalt paved flow apron and drop chute laid down the slope or a flexible slope drain. At the base of the slope drain or flow apron a gravel energy dissipater should be installed to prevent erosion at the discharge end.
- (5) Exposed slopes shall be protected by whatever means will effectively prevent erosion considering the degree of slope, soils material, and expected length of exposure. Slope protection shall consist of mulch, sheets of plastic, burlap or jute netting, sod blankets, fast growing grasses or temporary seedings of annual grasses. Mulch consists of hay, straw, wood chips, corn stalks, bark or other protective material. Mulch should be anchored to slopes with liquid asphalt, stakes, and netting, or should be worked into the soil to provide additional slope stability.
- (6) Control Measures, other than those specifically stated above, may be used in place of the above measures if it can be demonstrated that they will as effectively protect exposed slopes.

## **716. Preservation of Natural Drainageways**

### **716.1 Waterways**

- (1) The use of storm sewers is not an acceptable alternative to the use of the natural above-ground drainage system to dispose of runoff. Storm sewers may only be used where it can be demonstrated that the use of the above-ground natural drainage system will inadequately dispose of runoff. Above ground runoff disposal waterways may be constructed to augment the natural drainage system. The natural and constructed waterways may be coordinated with an open space trail system. The trail system shall be confined to the edges and not the bottom of the waterway.
- (2) The widths of a constructed waterway shall be sufficiently large to adequately channel runoff from a ten (10) year storm. Adequacy shall be determined by the expected runoff when full development of the drainage area is reached.
- (3) No fences or structures shall be constructed across the waterway that will reduce or restrict the flow of water.
- (4) The banks of the waterway shall be protected with a permanent turf vegetation.
- (5) The banks of the waterway should not exceed five (5) feet horizontal to one (1) foot vertical in gradient.
- (6) The gradient of the waterway bed should not exceed a grade that will result in a velocity that will cause erosion of the banks of the waterway.
- (7) The bed of the waterway should be protected with turf, sod, or concrete. If turf or sod will not function properly, rip rap may be used. Rip rap shall consist of quarried limestone, field stone (if random rip rap is used) or construction materials provided said construction materials are limited to asphalt, cement and concrete. The rip rap shall be no smaller than two (2) inches square nor larger than two (2) feet square. Construction materials shall be used only in those areas where the waterway is not used as part of a recreation trail system.
- (8) If the flow velocity in the waterway is such that erosion of the turf sidewall will occur and said velocity cannot be decreased via velocity control structures, then other materials may replace turf on the side walls. Either gravel or rip rap would be allowed to prevent erosion at these points.

### **716.2 Waterway Velocity**

- (1) The flow velocity of runoff waterways shall be controlled to a velocity that will not cause erosion of the waterway.
- (2) Flow velocity should be controlled through the installation of diversions, berms, slope drains, and other similarly effective velocity control structures.

### **716.3 Sediment Control**

- (1) To prevent sedimentation of waterways, pervious and impervious sediment traps and other sediment control structures shall be incorporated throughout the contributing watershed.
- (2) Temporary pervious sediment traps could consist of a construction of bales of hay with a low spillway embankment section of sand and gravel that permits a slow movement of water while filtering sediment. Such structures would serve as temporary sediment control features during the construction state of development. Development of housing and other structures shall

be restricted from the area on either side of the waterway required to channel a twenty-five (25) year storm.

- (3) Permanent impervious sediment control structures consist of sediment basins (debris basins, desilting basins, or silt traps) and shall be utilized to remove sediment from runoff prior to its disposal in any permanent body of water.

#### **716.4 Maintenance of Erosion Control Systems**

- (1) The erosion and velocity control structures shall be maintained in a condition that will insure continuous functioning according to the provisions of this Ordinance.
- (2) Sediment basins shall be maintained as the need occurs to insure continuous de-silting action.
- (3) The areas utilized for runoff waterways and sediment basins shall not be allowed to exist in an unsightly condition. The banks of the sediment basins and waterways shall be landscaped.
- (4) Prior to the approval of any plat for development, the developer shall make provisions for continued maintenance on the erosion and sediment control system.

#### **717. Tree and Woodland Preservation in Residential Development**

The following restrictions shall apply to all residential development occurring in wooded areas:

- (1) Structures shall be located in such a manner that the maximum number of trees shall be preserved.
- (2) Forestation, reforestation or landscaping shall utilize a variety of tree species and shall not utilize any species presently under disease epidemic. Species planted shall be hardy under local conditions and compatible with the local landscape.
- (3) Notwithstanding the above, the removal of trees seriously damaged by storms or other acts of God, or diseased trees shall not be prohibited.

## **718. Wetland Preservation**

### **718.1 General Provisions**

Brown County adopts Minnesota Rules 8420, the Wetland Conservation Act, by reference and any changes or revisions made to the rule by the state legislature. This rule states that no wetland(s) shall be drained, excavated or filled unless approval has been granted. This approval must be on file with the Brown County Planning and Zoning Office and reviewed by the Wetland Administrator or another staff member trained in wetland delineation prior to any work being performed on a piece of property in Brown County. Also, a Contractor Liability and Landowner Statement Form must be received by the Brown County Planning and Zoning Office and reviewed by the Wetland Administrator or another staff member trained in wetland delineation at least five working days prior to any drainage, fill or excavation work done, performed in, or adjacent to a wetland. **The submittal of this form does not count as an approval to perform the proposed work.**

### **718.2 Filling**

A minimum amount of filling may be allowed when necessary, but in no case shall the filling occur without receiving all needed approvals from the County, State, and Federal Agencies as required.

### **718.3 Excavation**

Excavation may be allowed only when it will not have a substantial or significantly adverse effect upon the ecological and hydrologic characteristics of the wetland as approved by the Brown County Wetland Administrator. Excavation when allowed shall be limited as follows:

- (1) It shall not significantly change the water flow characteristics.
- (2) The size of the excavated area shall be limited to the absolute minimum.
- (3) Disposal of the excavated material shall not be placed back in the wetland.
- (4) Work in the wetland will not be performed during the breeding seasons of water fowl or fish spawning season and at time to minimize the impact of the excavation to the wetland(s).
- (5) All applicable county, state and federal permits shall be obtained by the applicant prior to any work being done.

### **718.4 Discharges and Setbacks**

- (1) Organic waste which would normally be disposed of at a solid waste disposal site or which would normally be discharged into a sewage treatment system or sewer shall not be directly or indirectly discharged into a wetland(s).
- (2) Anyone wishing to discharge storm sewer runoff to a wetland(s) must contact the Brown County Planning and Zoning Office and speak to a trained wetland specialist to obtain approval prior to doing so.
- (3) No manure shall be applied or stockpiled adjacent to or in a wetland that does not meet an exemption according to Minnesota Rule 8420 and as stated in Minnesota Rule 7020.2125 and 7020.2225.

## **718.5 Drainage**

Drainage may be allowed only when it will not have an adverse impact to the wetland(s) regarding the ecological and hydrological conditions of the wetland(s) as approved by the Brown County Wetland Administrator or other trained staff in wetland(s) ecology. Also, performing maintenance on current drainage systems does not have an automatic exemption from Minnesota Rule 8420 as stated in 8420.0420 subp 1. If maintenance needs to be done on an existing drainage system, the landowner or a representative of the landowner must first speak with the Brown County Wetland Administrator (or other authorized planning and zoning staff) and the Natural Resources Conservation Service (NRCS) to be sure that the maintenance being performed is exempted from both state and federal wetland rules.



**719. Traffic Control**

The traffic generated by any use shall be channelized and controlled in a manner that will avoid: (a) congestion on the public streets, (b) traffic hazards, and (c) excessive traffic through residential areas, particularly truck traffic. Internal traffic shall be so regulated as to ensure its safe and orderly flow. Traffic into and out of business areas shall in all cases be forwarded moving with no backing onto streets. On corner lots, (including rural areas) nothing shall be placed or allowed to grow with the exception of seasonal crops in such a manner as materially to impede vision between a height of two and one-half (2 1/2) and ten (10) feet above the centerline grades of the intersecting streets to a distance such that a clear line of vision is possible of the intersecting street from a distance of fifty (50) feet from the intersection of the right-of-way lines.

**720. Access Drives and Access**

- (1) Access drives may not be placed closer than five (5) feet to any side or rear lot line. No access drive shall be closer than three (3) feet to any single or two family residence, no closer than five (5) feet to any multiple family building or commercial building. The number and types of access drives onto major streets may be controlled and limited in the interests of public safety and efficient traffic flow.
- (2) Access drives onto any public roads shall require a review by the County Engineer. The County Engineer shall determine the approximate location, size, and design of such access drives and may limit the number of access drives in the interest of public safety and efficient traffic flow.
- (3) Access drives to principal structures which traverse wooded, steep, or open failed areas shall be constructed and maintained to a width and base material depth sufficient to support access by emergency vehicles. The Zoning Administrator shall review all access drives (driveways) for compliance with accepted community access drive standards. All driveways shall have a minimum width of fifteen (15) feet with a pavement strength capable of supporting emergency and fire vehicles.
- (4) All lots or parcels shall have direct adequate physical access for emergency vehicles along the frontage of the lot or parcel from either an existing dedicated public roadway, or an existing private roadway approved by the County Board.

## **721. Sewage Disposal Standards (Minnesota Rules Chapters 7080 and 7081)**

### **721.1 Purpose and Intent**

The purpose of these sewage disposal provisions shall be to provide minimum standards for and regulation of Individual Sewage Treatment Systems (ISTS) and Mid-sized Sewage Treatment Systems (MSTS), collectively referred to as Subsurface Sewage Treatment Systems (SSTS), septage disposal, including the proper location, design, construction, operation, maintenance and repair to protect surface and ground waters from contamination by human sewage and waterborne household and commercial waste' to protect the public's health and safety, the general welfare of natural resources, and to eliminate or prevent the development of public nuisances pursuant to the authority granted under Minnesota Statutes 115 and 145A and Minnesota Rules 7080 – 7082 as amended that may pertain to sewage and wastewater treatment.

This Ordinance regulates the siting, design, installation, alterations, operation, maintenance, monitoring and management of all SSTS within Brown County's applicable jurisdiction including, but not limited to ISTS, MSTS and LSTS. All sewage generated in un-sewered areas of the County shall be treated and dispersed by an approved SSTS that is in accordance with the provisions of this ordinance or by a system that has been permitted by MPCA.

### **721.2 Authority**

This ordinance is adopted pursuant to Minnesota Statute Section 115.55; Minnesota Statute Sections 145A.01 through 145A.08; Minnesota Statute Section 375.51; or successor statues and Minnesota Rules 7080 – 7082 or successor rules.

Brown County hereby adopts by reference Minnesota Rules 7080 and 7081 in their entirety as now constituted and from time to time amended. This adoption does not supersede the County's right or ability to adopt local standards that are in compliance with Minnesota Statute 115.55.

### **721.3 Jurisdiction**

The jurisdiction of this ordinance shall include all lands of the County except for incorporated areas that administer a SSTS program by ordinance within their incorporated jurisdiction, which is at least as strict as this ordinance and which has been through the Planning and Zoning Office which administers this ordinance and been approved by the Brown County Board of Commissioners.

### **721.4 General Provisions**

- (1) License Requirements. No person shall engage in the evaluation, inspection, design, installation, construction, alteration, extension, repair, maintenance or pumping of a SSTS without first obtaining a license to perform such tasks from the MPCA, except as provided under part 7083.0700. However, an individual that wishes to construct their own SSTS using the exemption in 7083.0700 B shall attend SSTS construction training and sign an agreement indemnifying the County against claims due to the failure of the owner to comply with the provisions of this ordinance. The County shall have qualified employees to carry out the duties of this

ordinance.

- (2) Additional Soil Treatment Area Requirements. All new lots created after January 23, 1996 shall be designed to accommodate two (2) soil treatment areas which can support trenches, seepage or pressure beds, mounds, and at-grade systems as described in Minnesota Rules 7080.2200 through 7080.2230 and 7080.2260; or site conditions described in 7081.0270, subp 3 through 7.
- (3) Shoreland Management Waters Minimum Setbacks from the Ordinary High Water Level

Setback from Lakes.....150 Feet  
Setback from Rivers.....75 Feet

*\*Excepting Cottonwood River east of Section 4, Township 109N, Range 31W, which shall have a 100' setback.*

- (4) Floodplains. A SSTS shall not be located in a floodway and wherever possible, location within any part of a floodplain shall be avoided. If no option exists to locate a SSTS outside a floodplain, location within the flood fringe is allowed if the requirements in Minnesota Rules 7080.2270 and all relevant local requirements are met.
- (5) Class V Injection Wells. All owners of new or replacement SSTS that are considered to be Class V Injection Wells, as defined in the Code of Federal Regulations, title 40, part 144, are required by the Federal Government to submit SSTS inventory information to the EPA as described in CFR40 Part 144. Further, owners are required to identify all Class V Injection Wells in property transfer disclosures.
- (6) Maintenance. Any owner of an ISTS or the owner's agent shall regularly, but in no case less frequently than every three years assess their septic system to see if it needs to be maintained in accordance with the provisions in Minnesota Rule 7080.2450.

## **721.5 Prohibitions**

- (1) Occupancy or Use of a Building without a Compliant SSTS. It is unlawful for any person to maintain, occupy or use any building intended for habitation that is not provided with a wastewater treatment system that disposes of wastewater in a manner that does not comply with the provisions of this Ordinance.
- (2) Sewage Discharge to Ground Surface or Surface Water. It is unlawful for any person to construct, maintain, or use any SSTS regulated under this Ordinance that results in raw or partially treated wastewater seeping to the ground surface or flowing into any surface water. The Brown County Planning and Zoning Office staff may work with MPCA and the County Attorney to enforce the Straight-Pipe Act of 2006 as stated in Minnesota Statute 115.55 Subdivision 11. Any surface discharging system must be permitted under the National Pollutant Discharge Elimination System program that is regulated by MPCA.
- (3) Sewage Discharge to a Well or Boring. It is unlawful for any person to discharge raw or treated wastewater into any well or boring as described by Minnesota Rules 4725.2050, or any other excavation in the ground that is not in compliance with this Ordinance.
- (4) Discharge of Hazardous or Deleterious Materials. It is unlawful for any person to discharge into any SSTS regulated under this ordinance any

hazardous or deleterious material that adversely affects the treatment or dispersal performance of the system or groundwater quality.

#### **721.6 Amendments to the adopted standards.**

- (1) The use of concrete risers for newly constructed septic systems to provide access to maintenance holes in sewage tanks is forbidden in Brown County.
- (2) Holding tanks may be allowed for the following applications: as replacements for failing SSTS, SSTS that pose an imminent threat to public health or safety, or for new construction on lots existing as of the date this ordinance was approved by the Brown County Board of Commissioners and only where it can be shown conclusively that a SSTS permitted under this ordinance can not be feasibly installed. Holding tanks shall not be allowed for all other wastewater applications except for the exempted uses listed below:
  - A) Seasonal dwellings with an approved Conditional Use Permit
  - B) Businesses and farm shops that have a low daily flow rate
  - C) Restrooms or outhouses for public Parks

Any system authorized to use a holding tank shall provide a copy of a signed maintenance plan and service agreement with a licensed and approved business.

- (3) Table IX entitled “Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas Using Detail Soil Descriptions” and Table IXa entitled “Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas Using Percolation Tests” from Minnesota Rules, Chapter 7080.2150, Subp. 3(E) and herein adopted by reference shall both be used to size SSTS infiltration areas using the larger sizing factor of the two for SSTS design.
- (4) For any ISTS built after March 31, 1996, or in a Shoreland or Wellhead Protection Zone as defined in Minnesota Rule 7080.1100 subp 84, shall have a three-foot vertical separation between the bottom of the soil treatment area (rock bed) and the soil saturation level. However, a 15 percent reduction in the vertical separation distance to account for the settling of sand or soil, normal variation of measurements, and interpretations of the limiting layer conditions is allowed as described under Minnesota Rule 7082.0100 Subp 3 R.

#### **721.7 Public Education and Outreach**

Educational programs shall be provided by the Brown County Planning and Zoning Office and/or other licensed septic professionals to increase public awareness and knowledge of SSTS. These programs may include distribution of educational materials and SSTS workshops focusing on maintenance and management of a SSTS.

#### **721.8 SSTS Compliance and Inspection Program**

A SSTS shall require a compliance inspection when any of the following

conditions occur:

- (1) Any time a zoning permit is applied for in Shoreland areas on a parcel serviced by a SSTS.
- (2) When a permit is required in any zoning district for the addition of a bedroom on the property serviced by an SSTS:
  - A) A compliance inspection must be performed prior the issuance of the permit for the additional bedroom.
  - B) If the SSTS is found to be non-compliant with the SSTS standards as stated in MN Rule 7080.1500, then an approved design must be on file at the Brown County Planning and Zoning Office prior to the issue of the construction permit.
  - C) If a Notice of Non-Compliance is issued on the SSTS and it fails due to anything other than an imminent threat to public health and safety, the owner of the property has one (1) year from the date of the compliance inspection to replace the SSTS onsite.
  - D) If a Notice of Non-Compliance is issued on the SSTS and the reason for failure is an imminent threat to public health and safety the SSTS must be replaced within ten (10) months from the date of the compliance inspection.
- (3) Upon the sale or transfer of property where a Certificate of Real Estate Value is issued:
  - A) A Certificate of Compliance or Notice of Non-Compliance shall be provided by the seller to the buyer at or before closing.
  - B) The Certificate of Compliance or Notice of Non-Compliance shall be completed by a SSTS certified inspector licensed by the State of Minnesota and shall indicate that said SSTS is in compliance or non-compliance with Minnesota Rules Chapter 7080 or 7081.
    1. If the SSTS is found to be non-compliant and the reason for failure is an imminent threat to public health and safety, the SSTS must be replaced within ten (10) months from the date of the compliance inspection.
    2. If the SSTS is found to be non-compliant and the reason is failure to protect groundwater, then the SSTS must be replaced within one (1) year from the date of the compliance inspection..
  - C) A copy of the Certificate of Compliance or Notice of Non-Compliance shall also be filed with the Brown County Planning & Zoning Office by the inspector within fifteen (15) days of the inspection of the system.
  - D) If a property transfer occurs during the period from November 1 through April 1, and a compliance inspection can not be performed due to weather conditions, then the compliance inspection must be done by the following June 1 and submitted to the Brown County Planning and Zoning Office no later than the following June 15.
  - E) If a compliance inspection is not provided by the seller or the new property owner to the Brown County Planning and Zoning Office within six (6) months of the date of transfer, a qualified employee from the Planning and Zoning Office will perform the compliance inspection and charge a rate as determined annually in the fee schedule which will be assessed to the property owner's taxes.
  - F) Exempt Transactions: The compliance inspection need not be completed if the sale or transfer involves the following circumstances:
    1. The tract of land is without buildings or contains no dwellings or other buildings with plumbing fixtures.
    2. No certificate of Real Estate Value need be filed with the

County Recorder, as per Minnesota Statutes, Chapter 272.115.

3. 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.
4. Any dwellings or other buildings with running water are connected to a municipal wastewater treatment system.
- (4) When the Planning & Zoning Office deems appropriate by virtue of suspected system failure or public health risk.
- (5) Anytime a new or replacement SSTS is installed in Brown County a qualified employee from the Planning and Zoning Office will perform the compliance inspection.
- (6) Anytime there is a change in the use of the building being served by an existing SSTS which may impact the performance of the system (i.e.: the owners decide to have a home business which is a beauty salon, or run a bed and breakfast, have a photo studio or a dark room in their basement, a floral shop, etc.)
- (7) A Certificate of Compliance for an existing SSTS is valid for a period of three (3) years from the date of the inspection.
- (8) A Certificate of Compliance for a new or replacement SSTS is valid for a period of five (5) years from the date of the inspection.

The compliance inspection form provided by MPCA shall be used on all existing SSTS compliance inspections.

Brown County Planning and Zoning staff shall be given access onto an individual's property at any time within reason to inspect and/or monitor the SSTS. Staff shall notify the owner of their intent to inspect the SSTS at least two (2) calendar days in advance of the intended compliance inspection. This notification may be waived if the staff member has reason to believe that the SSTS poses a public health risk. No person shall hinder or otherwise interfere with the County's employees in the performance of their duties and responsibilities pursuant to this ordinance. Refusal to allow reasonable access to the property by Planning and Zoning Staff shall be deemed a separate and distinct offense of this ordinance.

## **721.9 New Construction, SSTS Replacement and Permitting**

It is unlawful for any person to construct, install, modify, replace, or operate a SSTS without the appropriate permit from the Brown County Planning and Zoning Office. The issuing of any permit, variance, or conditional use under the provisions of this ordinance shall not absolve the applicant of their responsibility to obtain any other required permits.

- (1) A permit shall be obtained by the property owner or their agent from the Planning and Zoning Office prior to the installation, construction, repair, modification or alteration of any SSTS in Brown County. The purpose of this permit is to ensure that the proposed activity is performed in accordance with the provisions of this ordinance and Minnesota Rules 7080 or 7081 and is done by an appropriately certified and licensed professional. Failure to comply with this section may result in fines and fees that shall include the doubling of any applicable permit fees. A permit is not required when a certified and licensed maintainer empties the contents of the septic tank.
- (2) An approved SSTS Design or valid Certificate of Compliance must be on file

at the Brown County Planning and Zoning Office before a permit may be issued for the construction of a new or replacement home, facility, or as otherwise stated in section 721.8 in this ordinance.

(3) In order to obtain a permit for the construction or replacement of a SSTS these procedures will need to be followed:

A) A soil observation/verification and site evaluation will take place with a qualified employee from the Brown County Planning and Zoning Office and a certified, licensed SSTS designer. The designer shall notify the Planning and Zoning Office of a time and date for the soil observation/verification at least two (2) business days prior to the site visit.

If there is a dispute regarding soil observations, then a qualified employee from the County and anyone disputing the soil verification will meet on the site jointly to review soils. If an agreement can not be made on soil verification by opening a pit with a backhoe, the limiting layer will be determined by a consensus by two of the three meeting onsite. If there is a difference of opinion between a designer and a qualified employee from the Planning and Zoning Office, another qualified employee (from Brown County) will be brought onsite to review the soil with those having the dispute and determine the limiting layer. If in either case a determination is still difficult to make, then assistance will be obtained from a soil scientist.

B) A certified and licensed Designer will submit a SSTS design and maintenance plan to the Brown County Planning and Zoning Office for approval.

MN Rule 7080.1100 subp 9 defines a bedroom as either a room designed for sleeping or a room or area of a dwelling that has a minimum floor area of 70 square feet with access gained from the living area or living area hallway. For the purposes of this ordinance, an area or living space that meets the following criteria will be considered a bedroom and count toward the flow rate for the septic design:

1. It is shown as a bedroom on the house plans, or is listed as a bedroom by the county assessor's office.
2. It is at least 70 square feet in size and has a closet; it can be listed by a realtor as a bedroom. (For example an office or play room on the building plans can be listed by a realtor as a bedroom.)
3. An unfinished basement with either a walkout basement or egress window(s).

C) A qualified employee shall review the design and maintenance plan to ensure that it is in compliance with Minnesota Rules 7080 or 7081 and inform the designer if any changes need to be made to the submittal within five (5) business days.

D) Once a design has been approved by a qualified employee from the Brown County Planning and Zoning Office, a permit for construction may be obtained by the landowner or their agent. In the event that the landowner or their agent makes a significant change to the approved design, the designer must file an amended SSTS design to the Planning and Zoning Office detailing the changed conditions for approval prior to initiating or continuing construction, modification, or operation for

approval. A qualified employee from the County shall complete the review of the amended design within fifteen (15) business days from the receipt of the changed design.

- (4) All SSTS designs and site evaluations shall include the landowner name, mailing address, property address if different from landowner's address, property location description that includes section, township and range, a site evaluation report as described in Minnesota Rules 7080.1730 or a soil and site report as described in Minnesota Rules 7081.0200, a design report as described in Minnesota Rules 7080.2430 or 7081.0270 and a management plan as described in Minnesota Rules 7082.0600.
- (5) Once a permit has been obtained from the Planning and Zoning Office, the installer shall give notice to the Brown County Planning and Zoning Office within two (2) working days for an inspection of the new or replacement SSTS.
- (6) The construction permit obtained from the Planning and Zoning Office is valid for a period of one (1) year from the date of issuance. If the applicant on the permit needs to extend the length of the permit, they must contact the Brown County Planning and Zoning Office prior to the expiration of the permit. A permit's expiration may only be extended for a period of no more than six (6) months.
- (7) A SSTS construction permit shall not be transferred to a new owner if the property changes ownership after one has been issued. It will be the responsibility of the new owner to obtain the SSTS permit from the Planning and Zoning Office.
- (8) Any SSTS installed in Brown County will need to have an as-built and tank abandonment form submitted by the installer before a Certificate of Compliance can be issued by the County's qualified employee.

#### **721.10 SSTS Requiring an Operation Permit**

- (1) An Operation Permit shall be required of all owners of any MSTs, a Type IV or Type V Septic System.
- (2) Operation Permit Application Requirements:
  - A) Owner name, mailing address, and phone number(s)
  - B) Construction Permit number and date of issuance
  - C) As-built drawing provided by the installer
  - D) Owners of a holding tank must submit a copy of a current service agreement/contract with a licensed SSTS business (maintainer). This contract or agreement shall guarantee the removal of the holding tank contents in a timely manner that prevents an illegal discharge in accordance with Minnesota Rules 7082.0100 subp 3G. The owner shall have a contract/agreement with a licensed SSTS maintenance business at all times until the holding tank is either abandoned or the property is sold. This requirement is waived if the owner is a farmer who is exempt from licensing under Minnesota Statutes 115.56, subdivision 2, paragraph (b), clause (3).

A qualified employee from the Brown County Planning and Zoning Office shall review the as-built drawing(s), management plan, service contract and any other pertinent documents as appropriate. If any deficiencies are identified, the operation permit shall be denied until the deficiencies are corrected to the satisfaction of the Planning and Zoning Office. If the submitted documents fulfill the requirements, the Brown County Planning and



Zoning Office shall issue an operation permit within thirty (30) business days of determining the application to be complete.

- (3) The operation permit issued by the Planning and Zoning Office shall include:
  - A) System performance requirements
  - B) System operation requirements
  - C) Monitoring locations, procedures and recording requirements
  - D) Compliance limits and boundaries
  - E) Reporting requirements
  - F) Notification requirements for non-compliant conditions
  - G) Current contract/agreement between a licensed SSTS business
  - H) Disclosure, location and condition of acceptable soil treatment and dispersal system
  - I) Description(s) of acceptable and prohibited discharges
  - J) Expiration Date of the permit
- (4) Operation permits are valid for a period of three (3) year(s), except for holding tanks, and must be renewed prior to their expiration date. If the permit is not renewed within ninety (90) calendar days from the date of expiration, then the County may require that the system be abandoned in accordance with section 721.13 of this ordinance.
- (5) Operation permits for holding tanks will not expire while the holding tank is in use or until the property is transferred.
- (6) The County shall notify the permit holder at least ninety (90) calendar days prior to the permit expiration. The owner of the permit must apply for a permit renewal within thirty (30) calendar days before the permit expiration.
- (7) The owner of the operation permit shall fill out an application form provided by the Brown County Planning and Zoning Office. This form shall include:
  - A) Applicant name, mailing address and phone number(s)
  - B) Current operation permit number
  - C) Any compliance monitoring reports
  - D) Certified treatment system inspection signed by a certified designer, maintenance contractor, or operator.
  - E) Application review fee
- (8) An existing operation permit may not be amended by the Planning and Zoning Office until the permit is renewed unless an amendment is necessary to eliminate an imminent threat to public health and safety.
- (9) The operation permit may not be transferred. A new owner shall apply for an operating permit in accordance with section 721.10 (2) of this ordinance. The Planning and Zoning Office shall not terminate the current permit until sixty (60) calendar days after the date of transfer unless an imminent threat to public health and safety exists. To consider the new owner's application, the County may require an inspection of the SSTS by a licensed inspector or qualified employee of the County. See section 721.8 (3) for more information regarding property transfers.

#### **721.11 SSTS Performance Monitoring (SSTS with Operation Permits Only)**

Performance monitoring of a SSTS shall be done by a licensed inspection business or service provider hired by the holder of the operation permit in accordance with the monitoring frequency and parameters stipulated in the permit and is required for any SSTS that has an operation permit.

A monitoring report shall be submitted to the Brown County Planning and Zoning

Office on a form provided by the County on or before the compliance reporting date stipulated in the operation permit. The report shall contain a description of all maintenance and servicing activities performed since the last compliance monitoring report as described below:

- A) Owner name, address and phone number(s)
- B) Operation permit number
- C) Average daily flow since last compliance monitoring report
- D) Description of type of maintenance and date performed
- E) Description of samples taken (if required), analytical laboratory used, and results of analysis
- F) Problems noted with the system and actions proposed or taken to correct them
- G) Name, signature, license and license number of the professional who performed the work.

### **721.12 SSTS Management Plan**

The purpose of a management plan is to describe how a particular SSTS is intended to be operated and maintained to sustain the performance required of the system. Management plans are required for all new or replacement SSTS.

Management plans shall include:

- A) Operating requirements that describe the tasks that the owner(s) can perform and tasks that a licensed service provider or maintainer shall perform.
- B) Monitoring requirements (if applicable)
- C) Maintenance requirements including maintenance procedures and a schedule for routine maintenance.
- D) A statement that the owner is required to notify the County when the management plan requirements are not being met.
- E) Disclosure of the location and condition of the additional soil treatment and dispersal area on the owner's property (secondary site).
- F) Other requirements as determined necessary by the County

### **721.13 SSTS Abandonment**

Whenever the use of a SSTS is discontinued as the result of a system replacement or decommissioning following connection to a municipal or private sanitary sewer, or condemnation or demolition of a building served by the system, further use of the system or any system component for any purpose under this ordinance shall be prohibited.

Written approval from the Brown County Planning and Zoning Office must be obtained prior to the continued use of an existing septic tank or soil treatment system as in integral part of a replacement system.

An owner of an existing SSTS shall retain a licensed installation business to abandon all components of the SSTS within thirty (30) calendar days of replacement or written notification to the Planning and Zoning Office. If the notification is received at the Planning and Zoning Office between November 1 and April 1, the abandonment of the SSTS must occur by the following June 1.

Abandonment shall be completed in accordance with Minnesota Rule 7080.2500.

Any SSTS that has been abandoned, wholly or partially, shall have a Certificate of Abandonment Form (provided by Brown County) submitted to the Brown County Planning and Zoning Office within fifteen (15) days of abandonment.

## **722. Manufactured Home Parks**

### **722.1 Intent**

The intent and purpose of this Section is to assure quality development equal to that found in other types of residential areas throughout the County. Excellence of design, development, and maintenance is the desired objective.

### **722.2 Application**

The applicant for a permit, in addition to other requirements, shall include the name and address of the developer and a general description of the construction schedule and construction cost. The application for a permit shall be accompanied by two (2) copies of plans which indicate the following:

- (1) Location and size of the manufactured home park.
- (2) Location, size, and character of all manufactured home lots, manufactured home stands, storage areas, recreation areas, laundry drying areas, central refuse disposal, roadways, parking spaces and sites, and all setback dimensions.
- (3) Detailed landscaping plans and specifications.
- (4) Location and width of sidewalks.
- (5) Plans for sanitary sewage disposal, surface drainage, water systems, electrical service, telephone service, and gas service.
- (6) Plans for overhead street lighting system shall be submitted for approval by the community engineer.
- (7) The method of disposing of garbage and refuse.
- (8) Location and size of all streets abutting the manufactured home park and all driveways from such streets to the park.
- (9) Plans and specifications for all road construction either within the park or directly related to park operations.
- (10) Floor plans of all service buildings to be constructed within the manufactured home park.
- (11) Such other information as may be required or requested by the community.
- (12) Detailed description of maintenance procedures and grounds supervision.
- (13) Plans for tornado shelter.

### **722.3 New manufactured home parks and expansion to existing manufactured home parks shall be subject to the Brown County Subdivision Regulations.**

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 609 of this Ordinance. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with Section 609.85, then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the Governing Body.

### **722.4 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 722.27 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 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.

**722.5 Areas Exempted For Placement of Travel/Recreational Vehicles:**

- (1) Individual lots or parcels of record.
- (2) Existing commercial recreational vehicle parks or campgrounds.
- (3) Existing condominium type associations.

**722.6 Loss of Exemption(s) for Travel Trailers and Travel Vehicles**

Travel trailers and travel vehicles exempted in Section 722.26 lose this exemption when development occurs on the parcel exceeding \$1,000 dollars 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 structure 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 Section 609 of this Ordinance.

There shall be no development or improvement on the parcel or attachment to the travel trailer that hinders the removal of the travel trailer to a flood free location should flooding occur.

**722.7 Commercial Travel Trailer/Travel Vehicle Parks or Campgrounds**

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 609.10(1) 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 (a) above may, as an alternative, be allowed as a Conditional Use if in accordance with the following provisions and the provisions of Sections 506 and 609 of this Ordinance. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100 year flood. Said plan shall be prepared by a registered engineer or other qualified individual 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 contaminated during times of flooding in accordance with Section 609.11(4) of this Ordinance.

## 722.8 Performance Standards of Manufactured Home Parks

- (1) All manufactured homes shall be properly connected to a central water supply and a central sanitary sewer system. All water and sewer systems shall be constructed in accordance with plans and specifications approved by the County Engineer. Where a public water supply is available to the manufactured home park or at the boundary of the park, a connection to said public water supply shall be provided for each manufactured home.
- (2) Each manufactured home park shall maintain an off-street overload parking lot for guests of occupants in the amount of one (1) space for each three (3) coach sites and located within three hundred (300) feet of the unit to be served.
- (3) All utilities, such as sewer, water, fuel, electric, telephone and television antenna lead-ins, shall be buried to a depth specified by the County Engineer, and there shall be no overhead wires or support poles except those essential for street or other lighting purposes. Plans for the disposal surface stormwater shall be approved by the County Engineer.
- (4) A properly landscaped area shall be adequately maintained around such manufactured home park. All manufactured home parks adjacent to industrial, commercial or residential land uses shall be provided with screening, such as fences or natural growth, along the property boundary lines separating the park from such adjacent uses.
- (5) Every structure in the manufactured home park shall be developed and maintained in a safe, approved, and substantial manner. The exterior of every structure shall be kept in good repair. All of said structures must be constructed to meet existing county codes. Portable fire extinguishers rated for electrical and liquid fires shall be kept in all service buildings and other locations conveniently and readily accessible for use by all occupants.
- (6) The area beneath all manufactured homes shall be enclosed with material that shall be generally uniform through the entire manufactured home parks, except that such an enclosure must be so constructed that it is subject to reasonable inspection. No obstruction shall be permitted that impedes the inspection of plumbing, electrical facilities, and related manufactured home equipment.
- (7) All manufactured home parks shall have an area or areas set aside for dead storage. Boats, boat trailers, hauling trailers, and all other equipment not generally stored within the manufactured home or within the utility enclosure, that may be provided, shall be stored in a separate place provided by the park owner. This storage place shall be screened. Such equipment shall not be stored upon a manufactured home lot which is occupied by a manufactured home nor upon the streets within the manufactured home park.
- (8) No land shall be shall be developed into a manufactured home park which is held unsuitable by the Planning and Zoning Commission or the Board of County Commissioners for reason of flooding, inadequate drainage or inadequate water supply or sewage treatment facilities. All building sites contained within the Flood Plain District shall be at or above the flood protection elevation. All subdivisions manufactured home parks shall have access and water and sewage disposal facilities that comply with the provisions of this Ordinance.
- (9) Signs shall be limited to one (1) nameplate or identification sign not to exceed twenty-five (25) square feet, with lighting, height and location as approved by the Zoning Administrator and have a fifteen (15) foot setback from the front line.

- (10) Each manufactured home park shall have one (1) or more central community buildings with central heating to serve as a storm shelter and which must be maintained in a safe, clean, and sanitary condition. Said buildings shall be adequately lighted during all hours of darkness and shall contain laundry washers, dryers and drying areas, public telephones, and public mail boxes, in addition to public toilets and lavatory. For each one hundred (100) manufactured home lots or fractional part thereof, there shall be one (1) flush toilet and one (1) lavatory for each sex.
- (11) All structures being placed in the park shall require a permit.

#### **722.9 Manufactured Home Park Lots**

- (1) Each manufactured home site shall contain at least five thousand (5,000) square feet of land area for the exclusive use of the occupant and shall be at least fifty (50) feet wide.
- (2) Manufactured homes shall be placed upon manufactured home lots so that there shall be at least a twenty (20) foot clearance between manufactured homes and twenty (20) feet between the front of the manufactured home and the front lot line and twenty-five (25) feet between the rear of the manufactured home and the rear lot lines.
- (3) The area occupied by a manufactured home shall not exceed fifty percent (50%) of the total area of a manufactured home site; land may be occupied by a manufactured home, a vehicle, a building, a cabana, a ramada, a carport, an awning, storage closet or cupboard, or any structure.
- (4) The yards shall be landscaped except for necessary driveway and sidewalk needs which shall not exceed one-half (1/2) of the width of the site.
- (5) Each manufactured home lot shall have off-street parking space for at least two (2) automobiles. Each space shall be ten (10) feet by twenty (20) feet minimum.
- (6) The corners of each manufactured home lot shall be clearly marked and each site shall be numbered.

#### **722.10 Manufactured Home Stands**

The area of the manufactured home stand shall be improved to provide adequate support for the placement and tie-down of the manufactured home, thereby securing the superstructure against uplift, sliding, rotation, and overturning.

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.

- (1) The manufactured home stands shall not heave, shift, or settle unevenly under the weight of the manufactured home, due to the frost action, inadequate drainage, vibration, or other forces acting upon the structure.
- (2) The manufactured home stand shall be provided with anchors and tie-downs, such as cast-in-place concrete foundations or runways, screw augers, arrowhead anchors or other devices providing for stability of the manufactured home.
- (3) Anchors and tie-downs shall be placed at least at each corner of the manufactured home stand and each anchor shall be able to sustain a minimum tensile strength of two thousand eight hundred (2,800) pounds or as

approved by the current Minnesota State Uniform Manufactured Home Standards Code, whichever is more restrictive.

**723. Agricultural Operations**

All farms in existence upon the effective date of this Ordinance shall be a permitted use where the operator can conduct a farming operation. However, all regulations contained in these performance standards shall apply to all changes of the farming operation, which will cause all, or part of the area to become more intensively (increase of 50 animal units or more) used. Setback and other regulations shall apply to farming operations just as they do to residential developments. *(Refer to 603.2 & 603.4)* Any structure exceeding one thousand dollars (\$1,000) in value to be erected on a farm shall require a zoning permit.

**724. Irrigation System Permits**

All proposed irrigation systems serving 10 acres or more may require a conditional use permit from the County Board as well as a permit from the Department of Natural Resources (DNR). The County Soil and Water Conservation District shall also review any proposed irrigation system. As part of the application for a conditional use permit from the County, the application shall submit a permit from the DNR.



## **725. Livestock Feedlots**

### **725.1 Purpose and Intent**

The purpose of these feedlot provisions shall be to provide minimum standards for the regulation of Livestock Feedlots to protect surface and ground waters from contamination of manure and to protect the public's health and safety, the general welfare of natural resources, and to eliminate or prevent the development of public nuisances pursuant to the authority granted under Minnesota Statutes 116.0711, Minnesota Statute 116.0713 and Minnesota Rule 7020.

This Ordinance regulates the siting, design, installation, operation and management of all Feedlots within Brown County's applicable jurisdiction.

### **725.2 Authority**

This ordinance is adopted pursuant to Minnesota Statute Section 116.0711; Minnesota State Statute Section 116.0713; Minnesota Statute Sections 145A.01 through 145A.08; Minnesota Statute Section 375.51; or successor statutes and Minnesota Rule 7020 or successor rules.

Brown County hereby adopts by reference Minnesota Rule 7020 in its entirety as now constituted and from time to time amended. This adoption does not supersede the County's right or ability to adopt local standards that are in compliance with Minnesota Statute 116.0711 and/or Minnesota Statute 116.0713.

### **725.3 Registration**

For the purposes of this section, "new animal feedlots" means an animal feedlot or manure storage area:

- A) Constructed, established or operated at a site where no animal feedlot or manure storage area existed previously; or
- B) That existed previously and has been unused for five years or more.

Mn Rule 7020 requires that all feedlots must be registered if they are fifty (50) animal units (AU) or more in size outside of the shoreland zoning district. Any existing feedlots located within the shoreland zoning district must register when they have ten (10) AU or more onsite.

There shall be no new feedlots located in the shoreland or floodplain zoning district as required by Minnesota Rule 7020.2005. Also, all existing feedlots must re-register every four (4) years. Registration forms can be obtained through the Planning and Zoning Office or on the MPCA's website.

Animal Unit multipliers based on animal type (figure numbers based on max. capacity)

	Animal Type	Animal Unit Factor
Dairy Cattle	Mature Dairy Cow (whether milked or dry) 1over 1,000 lbs	1.4
	Mature Dairy Cow (whether milked or dry) under 1,000 lbs	1.0
	Heifer	0.7
	Calf	0.2
Beef Cattle	Slaughter Steer/Stock Cow	1.0
	Feeder/stocker or backgrounding/heifer	0.7
	Cow and calf pair	1.2
	Calf	0.2
Swine	Over 300 lbs	0.4
	Between 55 lbs and 300 lbs	0.3
	Under 55 lbs (and separated from sow)	0.05
Horses	Horse	1.0
Chicken	Laying hen or broiler if using liquid manure system	0.03
	Chicken over 5 lbs if using dry manure system	0.005
	Chicken under 5 lbs if using dry manure system	0.003
Turkey	Over 5 lbs	0.018
	Under 5 lbs	0.005
Ducks	Duck	0.005
Sheep	Sheep or Lamb	0.1

#### 725.4 Permitting and Construction

When proposing to construct either a new feedlot or animal feeding operation or to expand an existing one, an inspection must be done by a County Feedlot Officer (CFO) to determine if a feedlot construction permit is required. More information regarding the inspection process is listed found in Section 725.8 (pg. 114) of this ordinance.

A feedlot permit will be required when the proposed construction will leave the feedlot with a maximum capacity over one hundred (100) AU. The type of permit issued will be based on the outcome of the inspection.

There are two (2) types of feedlot permits issued by Brown County. The first is called a construction short form (CSF) permit and is issued when a proposed

feedlot (or feedlot expansion) will be 100 AU or more in size. The other is called an interim (INT) permit and is issued when a feedlot is found to be out of compliance (regardless of the size). If an INT permit is issued, it will stipulate a compliance schedule. All items and time frames will be agreed upon by both the CFO and the feedlot owner. All fixes required in said permit, must be completed before any new construction or expansion can be done.

All applications for either permit must be submitted on a form provided by the CFO and can be found on the MPCA website.

- (1) There shall be no newly constructed feedlots in the shoreland zoning district, but feedlots in existence may expand; however, they can't expand to more than 999 AU (maximum capacity).
- (2) No feedlot construction or expansion shall take place in the floodplain zoning district as required by Minnesota Rule 7020.2005.
- (3) All applications shall be submitted on a form provided by the CFO and which can be obtained through either the Planning and Zoning Office or the MPCA website.
- (4) Attachments that are required as part of the application process include:
  - A) Aerial photo indicating dimensions of the feedlot, to include any expansions or proposed buildings, open lots, manure storage areas, etc.
  - B) Soil survey map of the site
  - C) Drawing of the site
- (5) Attachments that may be required include:
  - A) Manure management plan
  - B) Design and schematic diagrams for the proposed construction to include soil boring logs and must be signed by a licensed, professional engineer
  - C) Manure application agreement(s)
  - D) Notification of the proposed project to neighboring property owners
  - E) Verification of a public hearing
- (6) A run-off collection system (concrete or earthen) proposed to remedy a feedlot run-off pollution hazard at an existing or expanding feedlot facility is encouraged to provide twelve months storage capacity, and shall provide a minimum of six months storage capacity. A feedlot run-off collection system (concrete or earthen) proposed for a new feedlot operation shall provide twelve months storage capacity.

Note: A conditional use permit will be required for construction of a new or expansion of an existing feedlot by 50 animal units or more which is ¼ mile or less from an existing dwelling unit, church, or public park. (See Section 603.4 for more information.)

## **725.5 Feedlots of Over 300 Animal Units in Size**

- (1) Before a feedlot expands to over 300 AU, a conditional use permit (CUP) must be obtained. If a site was in existence **prior to** December 21<sup>st</sup>, 1981, is over 300 AU in size and has not obtained a CUP; one may be required if a violation or complaint has been received by the Planning and Zoning Office.
- (2) All conditional use permits for feedlots shall be for a period of ten (10) years unless otherwise stipulated in the conditions for the permit.
- (3) A Manure Management Plan shall be required.

- A) The plan must address manure storage and application.
  - B) The plan must be developed considering soils, type of animal waste(s), crop nutrient values, rotation, etc.
  - C) The manure management acres must be kept current with the Planning & Zoning Office.
  - D) The plan may be developed by any individual following MPCA guidelines for manure management plans.
  - E) The plan shall be updated annually in accordance with MN Rule 7020 requirements.
- (4) All new construction or expansion of existing concrete animal waste holding pits and earthen animal waste holding basins shall have 12 months of storage capacity.
- (5) If a proposed livestock feedlot is required to obtain an NPDES or SDS permit as outlined in MN Rule 7020, a copy of the state permit must be filed with the Planning and Zoning Office before the county will issue a zoning permit for construction of a livestock facility.

*NOTE: A conditional use permit is still required, even if a facility obtains a NPDES or SDS feedlot permit. (See Section 603.4 of this ordinance for information.)*

Animal Number – Animal Unit Equivalents (based on max. capacity)

Animal Type	Number of Animals Equivalent to 1,000 AU (state)	Large CAFO Threshold Animal Numbers (Federal)
Mature Dairy Cows	714	700
Beef Cattle	1,000	1,000
Swine >55 pounds	3,333	2,500
Turkeys >5 pounds	55,555	55,000
Broiler Chickens >5 pounds	200,000	125,000

*\*\*For a complete list of Animal Unit Factors please see Section 725.3 of this ordinance.*

## **725.6 Liquid Manure Storage Area Requirements**

- (1) The manure from all confinement manure storage pits or holding areas when removed shall be disposed of in a reasonable manner taking into account the time of year, wind direction, closeness of neighboring dwellings.
- (2) A registered professional engineer, or the NRCS District Conservationist when cost sharing is provided, must certify that the earthen waste storage basin was constructed in accordance with the engineered plans, as approved by the MPCA. A copy of the construction certification by the registered professional engineer (or the NRCS District Conservationist when cost sharing is provided) must be on file in the Brown County Planning & Zoning Office prior to use of the basin for waste storage.
- (3) Concrete block liquid manure storage areas are not permissible for construction. Any that have been in place or are under construction will be allowed unless an expansion is proposed or a release (or other applicable violation under MN Rule 7020 or MN Rule 7050) occurs.

- (4) An earthen waste holding basin shall be enclosed with a fence to keep out livestock and discourage trespassing, especially by children.
- (5) Earthen animal waste holding basins must not exceed 125' in top width, measured from the inside top of dike. The 125' maximum top width does not apply to earthen basins used as the second stage of a two-stage manure management system in which the second stage contains waste water and the first stage primarily contains manure solids. The 125' maximum top width does not apply to earthen basins used primarily as feedlot run-off collection basins.
- (6) Earthen animal waste holding basin perimeter tile must be installed horizontally and so located as to be no further from the basin than vertically in line with the toe of the dike. Perimeter tile must be no smaller than 5" diameter.
- (7) Agitation pads in earthen animal waste holding basins must be concrete and sized according to NRCS standards, with a minimum size of 20' X 20'.
- (8) Water testing: Concerning the tile line surrounding the earthen animal waste holding basin, the feedlot operator must:
  - A) Perform tile water analysis twice per year (between May 1-15, and between October 1-15); Provide copy of water analysis to Planning & Zoning Office for attachment to Conditional Use Permit record.
  - B) Operator must retain certified lab at his expense to obtain water sample and to perform analysis as required.
  - C) Analyze tile water for:
    1. Ammonia nitrogen
    2. Total Kjeldahl Nitrogen (TKN)
    3. Nitrates
    4. Chlorides
  - D) Perform background tile water analysis prior to basin being used for waste storage.
  - E) Take tile water sample from tile line access port between basin and connection to other tile lines.**
- (9) All earthen animal waste storage basins, including run-off collection basins, shall have a minimum two (2) foot thick compacted clay liner.

## 725.7 Setback Requirements

The following setback requirements shall be used on all feedlots.

- (1) Feedlots or any animal holding/housing facility shall have a minimum setback of 100 feet from a well unless a variance is granted by the County, Minnesota Department of Health and/or MPCA.
- (2) Any newly constructed feedlot in excess of ten (10) animal units or expansion of an existing feedlot built after April 16, 1996, shall be setback a minimum of 300 feet from the centerline of a township, county, or state road.
- (3) Manure stockpiles shall meet the following setbacks as stated in MN Rule 7020.2125:
  - A) Shall maintain a setback of at least 300 feet flow distance and 50 feet horizontal distance to waters of the state. This includes open tile intakes, and any uncultivated wetlands which are seeded to annual farm crops or in a crop rotation involving perennial grasses or forbes.
  - B) Shall maintain a setback of at least 300 feet of flow distance to any road ditch that flows into waters of the state or 50 horizontal distances to any road ditch that doesn't flow to waters of the state.
- (4) Manure application setbacks as stated in MN Rule 7020.2225 include:

- A) Manure must not be applied to frozen or snow covered soils in special protection areas.
- B) No application of manure within 25 feet of a protected water, protected wetland, intermittent stream or drainage ditch in a special protection area unless there is a vegetated buffer area that is either 100 feet wide along lakes and perennial streams or 50 feet wide in other special protection areas.
- C) All manure and process wastewater applied within 300 feet of an open tile intake must be injected or incorporated within 24 hours of application.

## **725.8 Inspections**

There are three (3) different types of inspections that can occur and multiple reasons for them being performed. An onsite inspection is probably the most well known of the three (3) types of inspections performed by the CFO, while the other two deal with manure application and manure management plan reviews.

Brown County is required to perform a minimum of 7% onsite inspections of the feedlots that are required to be registered each year. The total number of inspections performed each year are reported to MPCA annually.

- (1) Things that will trigger an onsite inspection include:
  - A) Proposed construction of a new feedlot or expansion of an existing lot. (Multiple onsite visits will occur during the construction process.)
  - B) An increase in the number and/or type of animals at that location.
  - C) Renewal of a conditional use permit.
  - D) A complaint was received at the Planning and Zoning Office.
  - E) A violation was found previously and a follow-up inspection is required.
  - F) The feedlot is located in a priority area as identified in the current feedlot program work plan.
  - G) Closure of the feedlot or a manure storage area.
- (2) The Brown County Feedlot Officer will use the approved MPCA inspection form for any type of inspection performed throughout the county.
- (3) Results of the inspection will be sent to the feedlot owner along with any other contacts listed for that facility within thirty (30) days of the inspection date.

The Brown County Feedlot Officer (CFO), or any other authorized Planning and Zoning Staff shall be given access onto an individual's property at any time within reason to inspect and/or monitor the feedlot. The CFO shall notify the owner of their intent to inspect the feedlot at last two (2) calendar days in advance of the intended inspection. This notification may be waived if the CFO has reason to believe that the feedlot poses an environmental or public health risk. No person shall hinder or otherwise interfere with the County's employees in the performance of their duties and responsibilities pursuant to this ordinance. Refusal to allow reasonable access to the property by Planning and Zoning staff shall be deemed a separate and distinct offense of this ordinance.

## **726. Parking**

### **726.1 Location**

All accessory off-street parking facilities required herein shall be located as follows:

- (1) Spaces accessory to one and two-family dwellings on the same lot as the principal use served.
- (2) Spaces accessory to the multiple-family dwellings on the same lot as the principal use served or within two hundred (200) feet of the main entrance to the principal building served.
- (3) Spaces accessory to uses located in a business, within eight hundred (800) feet of a main entrance to the principal building served.
- (4) There shall be no off-street parking space within five (5) feet of any street right-of-way.
- (5) No off-street open parking area containing more than four (4) parking spaces shall be located closer than five (5) feet from an adjacent lot zoned or used for residential purposes.

### **726.2 General Provisions**

- (1) Access drives may be placed adjacent to property lines except that drives consisting of crushed rock or other non-finished surfacing shall be no closer than one (1) foot to any side or rear lot line.
- (2) Parking spaces. Each parking space shall not be less than nine (9) feet wide and twenty (20) feet in length exclusive of an adequately designed system of access drives.
- (3) Control of off-street parking facilities. When required, accessory off-street parking facilities are provided elsewhere on the lot in which the principal use served is located, they shall be in the same ownership or control, either by deed or long term lease, as the property occupied by such principal use, and the owner of the principal use shall file a recordable document with the County Board requiring the owner and his or her heirs and assigns to maintain the required number of off-street spaces during the existence of said principal use.
- (4) Use of parking area. Required off-street parking space in any District shall not be utilized for open storage or goods or for the storage of vehicles which are inoperable or for sale or rent.

### **726.3 Design and Maintenance of Off-Street Parking Areas**

- (1) Parking areas shall be designed so as to provide adequate means of access to a public alley or street. Such driveway access shall not exceed twenty-two (22) feet in width and shall be so located as to cause the least interference with traffic movement.
- (2) Signs. No signs shall be located in any parking area except as necessary for orderly operation of traffic movement and such signs shall not be a part of the permitted advertising space.
- (3) Curbing and Landscaping. All off-street parking areas designed to have head-in parking along the property line shall provide a bumper curb not less than three (3) feet from the side property line or a guard of normal bumper height not less than one (1) foot from the side property line. When said area is for six (6) spaces or more, a curb or fence not over five (5) feet in height

shall be erected along the front yard setback line and grass or planting shall occupy the space between the sidewalk and curb or fence.

- (4) Parking space for four (4) or more cars. When a required off-street parking space for four (4) or more is located adjacent to a Residential District, a fence of adequate design, not over five (5) feet in height or less than four (4) feet in height shall be erected along the Residential District property line.
- (5) Maintenance of off-street parking space. It shall be the joint responsibilities of the operator and owner of the principal use, uses and/or building to maintain, in a neat and adequate manner, the parking space, access ways, landscaping and required fences.
- (6) Determination of areas. A parking space shall not be less than three hundred (300) square feet per vehicle of standing and maneuvering area.

#### **726.4 Truck Parking in Residential Areas**

No motor vehicle over one (1) ton capacity bearing a commercial license and no commercially licensed trailer shall be parked or stored in a platted residential district or a public street except when loading, unloading, or rendering a service. Pickups are not restricted by the terms of this provision.

#### **726.5 Other Parking in Residential Areas**

Parking in residential areas (off-street and on-street) shall be limited to motor vehicles for the use of the residents of those homes. Except for short-term parking (six (6) hours or less) and guest parking, the number of vehicles parking on or in front of a residential lot shall not exceed double the number or persons residing on the premises and having automobile driver's licenses.



**726.6 Off-Street Spaces Required (One space equals 300 square feet)**

(1)	One and Two family residences	Two (2) spaces per dwelling unit
(2)	Multiple Dwellings	Two (2) spaces per dwelling unit
(3)	Churches, Theaters, Auditoriums, and other places of assembly	One (1) space for each three (3) seats or for each five (5) feet of pew length, based upon maximum design capacity.
(4)	Business & Professional Offices	One (1) space for each 400 square feet of gross floor space
(5)	Medical and Dental Clinics	Five (5) spaces per doctor or dentist, plus one (1) space for each employee.
(6)	Hotel, or Motel	One (1) space per rental unit plus one (1) space per employee.
(7)	Schools a. Elementary & Junior High b. High School through College	Three (3) spaces for each classroom. One (1) space for each four (4) students based upon design capacity plus three (3) additional spaces for each classroom.
(8)	Hospital	At least one (1) parking space for each three (3) hospital beds, plus one (1) space for each four (4) employees, other than doctors, plus one (1) parking space for each resident and regular staff doctor.
(9)	Drive-In Food Establishment	One (1) space for each fifteen square feet of gross floor space in the building allocation to drive-in operation.
(10)	Bowling Alley	At least five (5) parking spaces for each alley, plus additional spaces as may be required herein for related uses such as restaurant, plus one (1) additional space for each employee.
(11)	Automobile Service Station	At least two (2) off-street parking spaces plus four (4) off-street parking spaces for each service stall.
(12)	Retail Store	At least one (1) off-street parking space for each one hundred fifty (150) square feet of gross floor area.
(13)	Restaurants, Cafes, Bars, Taverns, Night Clubs	At least one (1) space for each three (3) seats based on capacity design.
(14)	Funeral Homes	Sufficient off-street parking shall be required to accommodate the maximum number of guests expected to be in attendance at a funeral home at any given time. The number of required spaces shall be determined by the local governing body after due consideration is given to the expected parking needs of the funeral home.
(15)	Industrial, Warehouse, Storage, Handling of Bulk Goods	At least one space for each employee on maximum shift or one space for each two thousand square feet of gross floor area, whichever is larger.
(16)	Uses Not Specifically Noted	As determined by the County Board following review by the Planning Commission.

## **726.7 Off-Street Loading and Unloading Areas**

- (1) Location. All required loading berths shall be off-street and shall be located on the same lot as the building or use to be served. A loading berth shall be located at least twenty-five (25) feet from the intersection of two (2) street right-of-ways and at least fifty (50) feet from a residential district unless within a building. Loading berths shall not occupy the required front yard space.
- (2) Size. Unless otherwise specified in this Ordinance, a required loading berth shall not be less than twelve (12) feet in width, fifty (50) feet in length and fifteen (15) feet in height, exclusive of aisle and maneuvering space.
- (3) Required Loading Spaces. Determined by the County Board following review by the Planning Commission.
- (4) Access. Each required loading berth shall be located with appropriate means of vehicular access to a street or public alley in a manner which will least interfere with traffic.
- (5) Surfacing. All loading berths and access ways shall be improved with a durable material to control the dust and drainage.
- (6) Accessory Use. Any space allocated as a loading berth or maneuvering area so as to comply with the terms of this Ordinance shall not be used for the storage of goods, or inoperable vehicles or be included as a part of the space requirements necessary to meet the off-street parking area.
- (7) Off-Street Loading. In connection with any structure which is to be erected or substantially altered, and which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles, there shall be provided off-street loading space.
- (8) Noise. Where noise from loading or unloading activity is audible in a residential district, the activity shall terminate between the hours of 10:00 P.M. and 7:00 A.M.

## **727. Sign Regulations**

The purpose of this section is to protect, ensure, maintain and retain the natural and scenic beauty and attractiveness of the roadside throughout Brown County. By the construction of public roads, the public has created views to which the public retains the 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 zoning districts subject to the regulations of this ordinance.

### **727.1 Sign Permit Requirements**

No sign shall be erected, re-erected or altered unless a permit has been obtained, unless a permit is not required under Section 727.3 of this Ordinance. The application for such permit must be made in writing on form(s) furnished by the Planning and Zoning Office.

No separate land use/zoning permit shall be required. Information that will be needed as part of the permit application shall include:

- (1) Applicant name(s), address, phone number(s) and email.
- (2) Land owner(s) name
- (3) Longitude and latitude of the proposed sign location. (GPS coordinates and coordinate system used)
- (4) Schematic of the sign that includes materials, size (dimensions), height, etc.
- (5) Air photo depicting the proposed location of the sign and distance to property line(s), road right of way(s), centerline of the road, distance to any other signs within 1,320 feet from the proposed location.
- (6) Zoning district for the proposed sign location.
- (7) Copies of any other permits that may have been obtained (MN DOT, railroad, etc) as needed.

### **727.2 Exempted Signs (no permit required)**

The following signs do not require a sign permit, however, they shall conform to all other requirements of this section:

- (1) Signs for a dwelling that identifies the occupant(s) or street address, provided that such signs are less than one (1) square foot in size.
- (2) Public signs, street signs, warning signs, railroad crossing signs, or signs of public service companies for the purpose of public safety.
- (3) Signs denoting the contractor, engineer, architect or owner(s) when placed upon a work site. Such signs shall be removed within ten (10) days of the work completion.
- (4) Signs designating candidates seeking public political office provided that such election sign shall not exceed eight (8) square feet in size. Such signs shall be located on private property, shall not be located on any intersection so as to obstruct vehicular lines of sight.
- (5) Emergency signs required by any governmental agency.
- (6) Temporary real estate signs pertaining only to the sale, rental or development of the lot upon which it is displayed. Such signs shall not exceed six (6) square feet for residential property or twenty four (24) square feet for other property. One sign shall be permitted for each lot and must be removed within ten (10) days following the sale, lease, or development.

### 727.3 Prohibited Signs

The following signs are prohibited in Brown County:

- (1) Signs other than traffic control or warning signs posted by public utilities within the public right of way or easements.
- (2) No sign shall be placed that resembles any official marker erected by a governmental agency or shall display such words as “stop” or “danger.”
- (3) Flashing or rotating signs resembling emergency vehicles shall not be permitted.
- (4) Signs that by any reason of position, shape or color, would interfere with the proper function of a traffic sign or signal or be misleading to vehicular traffic.
- (5) Signs attached to trees or utility poles.
- (6) Signs advertising by letters, words or figures painted upon any road within the county.
- (7) Signs with rotating beam or flashing illumination.

### 727.4 General Requirements

The following regulations shall apply to all signs hereinafter permitted in all zoning districts:

- (1) The owner, leasee or manager of any ground sign shall keep grass, weeds and/or other growth cut along with having all debris and rubbish cleaned up and removed from the lot on which the sign is located.
- (2) Signs painted on a building shall be governed by the square footage limitations specified in the appropriate zoning district(s) in which it is located.
- (3) All signs shall be maintained by the owner in a safe condition. A sign shall be repainted whenever its paint begins to fade, chip or discolor.
- (4) On premises signs shall be removed from a building and property by the owner of such property within thirty (30) days after termination of the use for which it was intended.
- (5) No sign shall be permitted to obstruct any window, door, fire escape, stairway or opening intended to provide light, air, ingress or egress for any building or structure.
- (6) Where a sign is illuminated, the source of light shall be directed so as not to shine upon any part of a residence or into any portion of the R-1 Residential Zoning District.
- (7) The Minnesota State Laws (Chapters 828 and 862) regulating advertising devices along State Highways shall take precedence in such case where they are more restrictive than the regulations of this Ordinance. When a permit from the Minnesota Department of Transportation is required, it shall be obtained prior to issuance of a sign permit being issued in the county and a copy shall be attached to the application for a sign permit.

### 727.5 Permitted Signs in the F-P Floodplain, A-1 Agricultural/Shoreland, R-1 Residential Zoning District(s).

- (1) Type: Nameplate, Real Estate, Political, Warning and Construction. Business signs may be allowed provided a conditional use permit has been issued for the business located on said property. **All signs other than regulatory or warning signs shall be prohibited in the F-P Floodplain Zoning District.**

- (2) Surfaces: No sign shall be constructed to have more than two (2) surfaces.
- (3) Number per lot frontage: One (1) of each of the permitted type signs except political signs where one (1) for each candidate will be permitted.
- (4) Size: The size requirement for a sign varies and is based on the type. Size requirements are:
  - A) Name Plate: the surface area shall not exceed two (2) square feet. Such sign may be illuminated.
  - B) Real Estate: the surface area shall not exceed twelve (12) square feet in surface area and shall not be illuminated.
  - C) An identification sign (only 1) may be allowed and shall not exceed thirty-five (35) square feet in area for the following uses: church, school, hospital, parks and recreation areas or other similar uses. Such sign(s) shall be solely for the purpose of displaying the name of the use and its activities and services. It may be illuminated, but not flashing.
  - D) Business: A business may have either one (1) freestanding or pylon sign of not more than thirty-five (35) square feet in area and not more than twenty (20) feet in height above the final grade **OR** may have one (1) flat wall sign, which shall not exceed thirty-five (35) square feet in surface area.
- (5) **Advertisement sign(s) are NOT permitted in these zoning districts unless a permit has been obtained through the Minnesota Department of Highway and Transportation.**
- (6) No advertising signs and billboards, except agricultural crop demonstration information signs, shall be permitted within six hundred sixty (660) feet of the center line of any routes designated as scenic routes or parkways on the adopted Brown County Highway Plan.
- (7) Advertising signs and billboards, subject to the following provisions:
  - A) Advertising structures shall be limited to no more than two (2) signs per facing, a total of no more than four (4) signs per structure.
  - B) Advertising structures shall be limited to not more than fifty-five (55) feet in total length.
  - C) No advertising sign shall project higher than twenty (20) feet above average grade.
  - D) No advertising sign structure shall be located within a radius of six hundred sixty (660) feet of any existing advertising sign or advertising structure.
  - E) No advertising sign structure shall be located within one hundred (100) feet of a dwelling, at grade intersection of two (2) or more roads, or at grade intersection of any road and a railroad.
  - F) No advertising sign shall be permitted within ten (10) feet of road or highway right-of-way, or within one hundred ten (110) feet of the ROW intersection.

**727.6 Permitted Signs in the B-1 Highway Business, B-2 General Business, I-1 Limited Industry and I-2 General Industry Zoning Districts**

- (1) Type: Business, Nameplate, Advertising, Billboards, Political, Construction, Real Estate, Shopping Center where there are three (3) or more businesses, and Warning.
- (2) Number per lot frontage: One (1) sign is allowed for each type of sign: real estate, nameplate, political sign (for each candidate), business, construction or shopping center. Advertisement signs and billboards shall be limited to

- not more than one (1) on a lot of one hundred (100) feet of frontage or less OR only one (1) for each additional one hundred (100) feet of frontage on lots with more than one hundred (100) feet of frontage. (For example, a lot that has five hundred feet of frontage may have up to five advertisement signs provided they are separated by one hundred feet of distance.)
- (3) Size: The size requirement for a sign varies and is based on the type. Size requirements are:
- A) Each name plate, real estate, temporary (construction), and political sign shall not exceed thirty-five (35) square feet in area.
  - B) Advertisement and Billboards: shall be limited to no more than fifty-five (55) in total length and shall not exceed twenty (20) feet in height above grade. All advertisement structures are limited to no more than two (2) signs per facing for a total of not more than four (4) signs per structure.
  - C) Business: there shall be no more than one (1) free standing or pylon sign of not more than thirty-five (35) square feet in surface area. The total surface area of business signs on a lot shall not exceed the sum of three (3) square feet per lineal foot of lot frontage OR twenty (20) percent of the front of the face area (building front) OR three hundred (300) square feet in area, whichever is greater. No business sign, other than a free standing sign, shall project above the height of the building.
- (4) Setbacks: Advertisement and Billboards: shall not be erected within fifty (50) feet of the R-1 Residential Zoning District. No advertising sign shall be permitted within ten (10) feet of any road or highway right-of-way or within 110 feet at an intersection right-of-way.

#### **727.7 License and Permit Fees**

- (1) From and after the effective date of this Ordinance, the owner or other person having control of any sign except residential professional and institutional name plate signs, church signs and warning signs, shall file an application for a permit to maintain such sign subject to an inspection of such sign. Application for such permits shall be accompanied by detailed plans and such other necessary information as to determine the location and compliance with all application regulations, and a permit may be issued upon payment of the required permit fee.
- (2) The permit and inspection fee for advertising signs shall be established by resolution of the Board of County Commissioners.
- (3) Permits are valid until the ownership of the property or sign is transferred, a lease agreement changes, or a sign is removed. At such time, the new owner or leasee shall submit a new permit application form to the Planning and Zoning Office.

## **728. Auto Service Station Standards**

### **728.1 Lot Size**

A service station site shall be a minimum of 20,000 square feet.

### **728.2 Setbacks**

The building or buildings shall be set back at least thirty-five (35) feet from the street right-of-way. Near residential districts, the service station buildings, signs, and pumps shall be a minimum of twenty-five (25) feet from adjoining property. In commercial areas, the structures shall be set back at least ten (10) feet from adjoining property.

### **728.3 Curbs and Gutters**

Curbs and gutters shall be installed on all streets giving access to the station. There shall be a six-inch curb along all interior driveways.

### **728.4 Fencing and Screening**

When adjacent or near to residential property, there shall be a screening fence. When adjacent to commercial property, there shall be a bumper-type fence about eighteen inches high between the station and the adjacent commercial property.

### **728.5 Vehicles**

No vehicles shall be parked on the premises other than those utilized by employees or awaiting service. No vehicle shall be parked or be waiting service longer than fifteen (15) days. Existing service stations shall comply with this requirement within forty-five (45) days of the effective date of this Ordinance.

### **728.6 Exterior Storage**

Exterior storage besides vehicles shall be limited to service equipment and items offered for sale on pump islands; exterior storage of items offered for sale shall be within yard setback requirements and shall be located in containers such as the racks, metal trays, and similar structures designed to display merchandise. Existing service stations shall comply with this requirement within three (3) months of the effective date of this Ordinance.

### **728.7 Screening**

All areas utilized for the storage, disposal, debris, discarded parts, and similar items shall be fully screened. All structures and grounds shall be maintained in an orderly, clean, and safe manner. Existing service stations shall comply with this requirement within nine (9) months of the effective date of this Ordinance.

### **728.8 Architecture**

If possible, the station should be of a type that is a reasonably compatible with the surroundings. Most national oil companies have a variety of building types which could be viewed for selection of the most suitable.

### **728.9 Outdoor Displays**

The storage of used tires, batteries, and other such items for sale outside the building should be controlled; such items should be displayed in specially designed containers and be limited to one or two areas well back from the street right-of-way line. Junk cars, empty cans, and other unsightly materials shall not be permitted in an area subject to public view.

### **728.10 Other Business Activities**

Business activities not listed in the definition of service stations in this Ordinance are not permitted on the premises of a service station unless a conditional use permit is obtained specifically for such business. Such activities include but are not limited to the following: (a) automatic car and truck wash; (b) rental of vehicles, equipment, or trailers; and (c) general retail sales.



## **729. Drive-In Business Development Standards**

### **729.1 All Districts**

The following standards shall apply to drive-in businesses in all districts.

- (1) The entire area of any drive-in business shall have a drainage system approved by the county engineer.
- (2) The entire area other than that occupied by structures or planting shall be surfaced with a hard surface material which will control dust and drainage.
- (3) A fence or screen of acceptable design not over six (6) feet in height or less than four (4) feet shall be constructed along the property line abutting a residential district and such fence or screen shall be adequately maintained. The fence shall not be required in front of the setback line.

### **729.2 General**

- (1) Any drive-in business serving food or beverages may also provide, in addition to vehicular service areas, indoor food and beverage service seating area.
- (2) The hours of operation shall be set forth as a condition of any zoning permit for drive-in business.
- (3) Each drive-in business serving food may have approved outside seating.
- (4) Each food or beverage drive-in business shall place refuse receptacles at all exits as well as one (1) refuse receptacle per ten (10) vehicle parking spaces within the parking area.

### **729.3 Locations**

- (1) No drive-in business shall be located within four hundred (400) feet of a public or parochial school, church, public recreation area, or any residential district.
- (2) No drive-in business shall be located such that it may increase traffic volumes on nearby residential streets.
- (3) No drive-in shall be located on any street other than one designated as a thoroughfare or business service road in the Comprehensive Plan or Transportation Plan for the County.

### **729.4 Site Plan**

- (1) The site plan shall clearly indicate suitable storage containers for all waste material. All commercial refuse containers shall be screened.
- (2) A landscaping plan shall be included and shall set forth complete specifications for plant materials and other features.
- (3) Adequate area shall be designated for snow storage such that clear visibility shall be maintained from the property to any public street.
- (4) The design of any structure shall be compatible with other structures in the surrounding area.
- (5) Electronic devices such as loudspeakers, automobile service order devices, drive-in theater car speakers and similar instruments shall not be located within four hundred (400) feet of any residentially zoned or used property, nor within two hundred (200) feet of any adjacent lot regardless of use or zoning district.
- (6) No service shall be rendered, deliveries made, or sales conducted within the

required front yard; customers served in vehicles shall be parked to the sides and/or rear of the principal structure.

- (7) No permanent or temporary signs visible from the public street shall be erected without specific approval in the permit.
- (8) No plan shall be approved which will in any way constitute a hazard to vehicular or pedestrian circulation. No access drive shall be within fifty (50) feet of intersecting street curb lines.

**729.5 Fence Requirement(s)**

In the case of a drive-in theater, a solid fence not less than eight (8) feet in height and extending at least to within two (2) feet of the ground shall be constructed around the property.

**729.6 Lighting**

The lighting shall be designed so as to have no direct source of light visible from the public right-of-way or adjacent land in residential use.

## **730. Mining and Extraction**

### **730.1 Purpose**

To minimize land use conflicts and potential nuisance caused by mining operations.

### **730.2 Conditional Use Permit**

A Conditional Use Permit shall be required for all commercial mining operations. Said permit shall be valid for a three (3) year period; after which a renewal shall be required. The County Board may also require a performance bond from the landowner.

### **730.3 Information Required**

All applications for mining and extraction shall include the following information and shall be provided by the person requesting the permit:

- (1) Name and address of person requesting the mining permit.
- (2) The exact legal property description and acreage of area to be mined.
- (3) The following maps of the entire site and to include all areas within five hundred (500) feet of the site. All maps shall be drawn at a scale of one (1) inch to one hundred (100) feet unless otherwise stated below:

Map A - Existing conditions to include:

- Contour lines at five (5) foot intervals
- Existing vegetation
- Existing drainage and permanent water areas
- Existing structures
- Existing wells

Map B - Proposed operations to include:

- Structures to be erected
- Location of sites to be mined showing depth of proposed excavation
- Location of tailings deposits showing maximum height of deposits
- Location of machinery to be used in the mining operation
- Location of storage of mined materials, showing heights of storage deposits
- Location of vehicle parking
- Location of storage of explosives
- Erosion and sediment control structures

Map C - End use plan to include:

- Final grade of proposed site showing elevations and contour lines at five (5) foot intervals
- Location and species of vegetation to be replanted
- 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 mining operation.

- (7) Reclamation plan for all proposed mine operations (not required for renewals unless the plan has changed from when originally submitted).
- (8) Any other information requested by the Planning Commission or governing body.

#### **730.4 Renewal of Mining Permits**

All property owners and residents within one thousand (1,000) feet of the mining operation shall be notified of a mining permit renewal request.

A public hearing shall be conducted for renewal permit approval if seventy-five (75) percent of the property owners or residents of voting age within one thousand (1,000) feet of the mining operations request such a hearing in writing.

#### **730.5 Use Restrictions**

The crushing, washing, refining or processing other than the initial removal of material shall be considered a Conditional Use.

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 shall be considered a Conditional Use.

The manufacture of concrete building blocks or other similar blocks, the production or manufacturer of lime products, the production of ready-mixed concrete and any similar production or manufacturing processes which might be related to the mining operation shall be considered as a Conditional Use.

The governing body may impose additional performance standards as part of the Conditional Use Permit.

#### **730.6 Performance Standards**

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

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.

No sand and gravel operation shall 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 sand and gravel producer.

All equipment used for mining operations shall be constructed, 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**

The mining operation shall not be allowed to interfere with surface water drainage beyond the boundaries of the mining operation.

The mining operation shall not adversely affect the quality of surface or subsurface water resources.

Surface water originating outside and passing through the mining district shall, at its point of departure from the mining site, be of equal quality to the water at the point where it enters the mining site. The mining operator shall perform any water treatment necessary to comply with this provision.

(3) Safety Fencing

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

- A) Where collections of water occur that are one and one half (1 1/2) 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 such as a snow fence of at least four (4) feet in height.
- B) 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 slopes shall be barred by a fence or some similarly effective barrier such as a snow fence 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.

(5) Screening

To minimize problems of dust and noise and to shield mining operations from public view, a screening barrier may be maintained between the mining site and adjacent residential and commercial properties. A screening barrier shall also 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.

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 Requirements

Processing of minerals shall not be conducted closer than one hundred (100) feet to the property line nor closer than five hundred (500) feet to any residential or commercial structures located prior to commencement of processing operations without the written consent of all owners and

residents of said structures.

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 line, unless the written consent of the owner in fee of such adjoining property is first secured in writing.

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

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) Hours of Operation

**All mining operations shall be conducted between the hours of 7:00 A.M. and 7:00 P.M.** Any operations not conducted between the hours of 7:00 A.M. and 7:00 P.M. shall require a Conditional Use Permit. Such permits shall be granted for public or private emergency or whenever any reasonable or necessary repairs to equipment are required to be made.

(9) Dust and Dirt

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.

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.

These limitations above shall not apply to any mining operation in any industrial zone, unless such operations are closer than one hundred fifty (150) yards to a zone other than an industrial zone.

### **730.7 Land Rehabilitation**

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

- (1) Within a period of three (3) months after the termination of a mining operation, or within three (3) months after abandonment of such operation for a period of six (6) months, or within three (3) months after expiration of a mining permit, 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. A temporary variance may be granted 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) 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 due to rainfall. No finished slope shall exceed twenty-five (25) percent in grade.
- (3) Reclaimed areas shall be sodded or surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding, and to a depth of at least three (3) inches.

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 shall adequately retard soil erosion.

Excavations completed to a water producing depth need not be backfilled if the water depth is at least ten (10) feet and if banks shall be sloped to the water-line at a slope no greater than four (4) feet horizontal to one (1) foot vertical.

The finished grade shall be such that it will not adversely affect the surrounding land or future development of the site upon which mining operations have been conducted. The finished plan shall restore the mining site to a condition whereby it can be utilized for the type of land use proposed to occupy the site after mining operations cease.

## **731. Home Occupations**

**731.1** Home occupations shall be allowed as a Conditional Use in all agricultural and residential districts subject to the following standards:

- (1) Not more than twenty-five percent (25%) of the gross floor area of the residence is used for this purpose.
- (2) Only articles made or originating on the premises shall be sold on the premises, unless such articles are incidental to a permitted commercial service.
- (3) No articles for sale shall be displayed so as to be visible from any street in residential districts.
- (4) No person is employed other than a member of the household residing on the premises.
- (5) No mechanical or electrical equipment is used if the operation of such equipment interferes unreasonably with the desired quiet residential environment of the neighborhood or TV and radio reception and the health and safety of the residents is not endangered.
- (6) No outside storage of material shall be allowed.
- (7) Conducting of the home occupation shall result in no change of outside appearance of the building.
- (8) Signs must conform to Section 729 Sign Regulations. One (1) sign attached to the residence is allowed and shall be limited to two (2) square feet in area. Such sign may be illuminated. One (1) business sign as set forth in Section 729.2(9)a. is also allowed on the property provided, however, that no sign larger than two (2) square feet in area shall be permitted nearer than 1,000 feet from any building not owned by the landowner erecting or posting the sign. No sign greater than two (2) square feet in area shall be illuminated.
- (9) The home occupations shall conform to the standards in the State Building Code and State Fire Code.
- (10) A home occupation may operate in an accessory building at the discretion of the County Board of Commissioners.

**731.2** Home occupations allowing retail sales or employment of persons other than the members of the household residing on the premises may be permitted if the following conditions are met:

- (1) No articles for sale shall be displayed so as to be visible from any street.
- (2) No mechanical or electrical equipment is used if the operation of such equipment interferes unreasonably with the desired quiet residential environment of the neighborhood.
- (3) Such occupation does not generate more than two (2) vehicles at any one time.
- (4) Such occupation must provide off-street parking.



## **732. Bed & Breakfast Inns**

### **General Provisions**

- (1) The facility shall be limited to no more than four (4) guest rooms.
- (2) The facility shall be an owner-occupied single family dwelling. The owner must reside on the premises and be the operator of the facility.
- (3) Off-street parking shall be provided in accordance with the parking regulations of Section 728. A minimum of one (1) off-street parking space per guest room shall be provided in addition to the parking requirements for the zoning district in which the facility is located.
- (4) Signs must conform to Section 729 Sign Regulations. One (1) sign attached to the residence is allowed and shall be limited to two (2) square feet in area. Such sign may be illuminated. One (1) business sign as set forth in Section 729.2(9)a. is also allowed on the property provided, however, that no sign larger than two (2) square feet in area shall be permitted nearer than 1,000 feet from any building not owned by the landowner erecting or posting the sign. No sign greater than two (2) square feet in area shall be illuminated.
- (5) No guest shall be permitted to rent accommodations or remain in occupancy for a period in excess of fourteen (14) days during any consecutive ninety (90) day period.
- (6) All facilities shall comply with the applicable state and county ordinances regulating Food and Lodging Establishments as administered by the County Health Officer.
- (7) A Conditional Use Permit shall be effective for a period of five (5) years from the date of issuance, unless otherwise specified by the County Board.
- (8) The Conditional Use Permit shall be terminated upon occurrence of any of the following:
  - A) Non-compliance with the provisions of this Subdivision,
  - B) Transfer of ownership of said property from the owner/ operator, or
  - C) The creation of a condition which adversely affects the health, safety, or general welfare of the County or its agents.

### **733. Shoreland Areas**

Brown County adopts Minnesota Rule 6120 in its entirety as now constituted and from time to time amended.

#### **733.1 Non Conforming Septic Systems**

- (1) All septic systems not in conformity with this ordinance and MPCA Chapter 7080 shall be brought into conformity prior to issuance of any permit or variance related to the site.
- (2) All septic systems not in conformity with this ordinance and MPCA Chapter 7080 shall be upgraded within five (5) years of the passage of this ordinance to conform to the provision hereof and MPCA Chapter 7080.
- (3) Publicly-owned sewer systems must be used where available.

#### **733.2 Dimensional Standards**

- (1) Minimum lot size - 2 1/2 acres
- (2) Minimum lot width at building line and at the OHW - 300 feet
- (3) Minimum setback from ordinary high water level - 150 feet (*See exception for water oriented accessory*)
- (4) Minimum setback from unplatted cemeteries - 50 feet
- (5) Minimum setback from top of bluff - 30 feet and no structures except stairways and landings shall be permitted in the bluff impact zone.

#### **733.3 Other Shoreland Standards**

- (1) Water-oriented Accessory Structures. Each lot may have one water-oriented accessory structure not meeting the normal structure setback in this ordinance if this water-oriented accessory structure complies with the following provisions:
  - A) The structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight feet above grade at any point.
  - B) The setback of the structure or facility from the ordinary high water level must be at least ten feet;
  - C) 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;
  - D) The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;
  - E) The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and
  - F) As an alternative for general development and recreational development waterbodies, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline.
- (2) Stairways, Lifts, and Landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:

- A) Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments;
  - B) Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public open-space recreational properties, and planned unit developments;
  - C) Canopies or roofs are not allowed on stairways, lifts, or landings;
  - D) Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
  - E) Stairways, lifts, and landings 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
  - F) Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of subitems 1 to 5 are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.
- (3) 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.

(4) Steep Slopes.

The county 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 issue 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.

(5) Height of Structures.

All structures in residential districts, except churches and nonresidential agricultural structures must not exceed 25 feet in height.

**733.4 Shoreland Alterations**

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

(1) Vegetation Alterations

- A) Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by Section 733.5 of this ordinance are exempt from the vegetation alteration standards that follow.
- B) Removal or alteration of vegetation, except for agricultural and forest

management uses as regulated in Section 733.7 and 733.8 is allowed subject to the following standards:

1. Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed.
2. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.
3. In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, 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.

(2) Topographic Alterations/Grading and Filling

- A) 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.
- B) Public roads and parking areas are regulated by 733.5 of this ordinance.
- C) 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 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.
- D) 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:
  1. Grading or filling in any type 2,3,4,5,6,7 or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland\*:
    - a. sediment and pollutant trapping and retention;
    - b. storage of surface runoff to prevent or reduce flood damage;
    - c. fish and wildlife habitat;
    - d. recreational use;
    - e. shoreland or bank stabilization; and
    - f. noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

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

2. 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;
  3. 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;
  4. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;
  5. 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;
  6. Fill or excavated material must not be placed in a manner that creates an unstable slope;
  7. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater;
  8. Fill or excavated material must not be placed in bluff impact zones. Any excavation for a proposed walkout basement in the bluff impact zone must have an approved erosion control plan on file prior to issuance of a zoning permit;
  9. Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under Minnesota Statutes section 103G.245;
  10. 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
  11. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three feet.
- D) Connections to public waters. Excavations where the intended purpose is connection to 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.

### **733.5 Placement & Design of Roads, Driveways, & Parking Areas**

- (1) 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.
- (2) Roads, driveways, and parking areas must meet structure setback and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.
  - (3) 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 733.4 (2) of this ordinance must be met.

### **733.6 Stormwater Management**

The following general and specific standards shall apply:

- (1) General Standards:
  - A) When possible, existing natural drainageways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.
  - B) Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.
  - C) 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 of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.
- (2) Specific Standards:
  - A) Impervious surface coverage of lots must not exceed 25 percent of the lot area.
  - B) When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.
  - C) New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

### **733.7 Agricultural 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 50 feet from the ordinary high water level.
- (2) Animal feedlots must meet the following standards (see Minnesota Rule 7020.2005 for more information):
  - A) New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of 300 feet from the ordinary high water level of all public waters basins; and
  - B) Modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high water level or 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) Expansion of an existing feedlot located in the Shoreland Zoning District to 500 AU or more will require an Environmental Assessment Worksheet to be done prior to the issuance of any permits.

### **733.8 Forest Management Standards:**

The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Non-Point Source Pollution Assessment - Forestry and the provisions of Water Quality in Forest Management "Best Management Practices in Minnesota."

### **733.9 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.

### **733.10 Standards for Commercial, Industrial, Public, and Semi-Public Use**

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.

Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be

substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions. Those with water-oriented needs must meet the following standards:

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

### **733.11 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 considered a permitted use provided the provisions of said statutes are met.

### **733.12 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 with shoreland areas:

- (1) Evaluation criteria. A thorough evaluation of the waterbody and the topographic, vegetation, and soils conditions on the site must be made to ensure:
  - A) the prevention of soil erosion or other possible pollution of public waters, both during and after construction;
  - B) the visibility of structures and other facilities as viewed from public waters is limited;
  - C) the 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.
- (2) Conditions attached to conditional use permits. The county, 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:
- A) increased setbacks from the ordinary high water level;
  - B) limitations on the natural vegetation to be removed or the requirements that additional vegetation be planted; and
  - C) Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

### **733.13 Water Supply and Sewage Treatment**

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.

### **733.14 Subdivision/Platting Provisions in Shoreland Areas**

- (1) Land suitability. Each lot created through subdivision, authorized under 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 development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.
- (2) Consistency with other controls. 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 this ordinance and MPCA Chapter 7080 can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of Section 733.2, including at least a minimum contiguous lawn area that is free of limiting factors sufficient for the construction of two standard soil treatment systems. Lots that would require use of holding tanks must not be approved.
- (3) Information requirements in Shoreland Areas. Subdivision controls must require submission of adequate information to make a determination of land suitability under 733.14 (1). The information shall include at least the following:
  - A) Topographic contours at ten-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; and
  - E) Location of 100-year flood plain areas from existing map or data.
  - F) Any other requirements noted in the Brown County Subdivision Regulations.

## **734. Seasonal Dwelling**

### **734.1 Density Standards**

- (1) One seasonal dwelling per lot of record if the general standards in this section can be met.
- (2) One seasonal dwelling per new lot if the new lot is 10 acres or more and the general standards in this section are met.
- (3) One seasonal dwelling per 2.5 acres (existing lots of record) with a minimum of 1.75 acres left in the natural state, if the general standards can be met.

### **734.2 General Standards**

- (1) A County conditional use permit must be obtained prior to the construction and/or placement of any seasonal dwelling.
- (2) Septic systems must meet state code MN Chapter 7080. Pit toilets are allowed if they meet the above mentioned state code. A county septic permit must be obtained prior to construction of any seasonal dwelling.
- (3) Wells and running water systems must meet MN Department of Health standards.
- (4) Floor area must not be over 700 square feet.
- (5) A setback from the ordinary high water mark as stipulated under MN Rule 6120 (Shoreland Rule) and Section 733 of this ordinance must be adhered to on all structures.
- (6) There must be 300' of shoreline for each seasonal dwelling, if applicable.
- (7) Each lot must have access to a public road or a recorded easement to allow access to the lot.
- (8) The seasonal dwelling must be removed by the landowner of record if found in a dilapidated and/or abandoned condition.
- (9) A land survey by a registered land surveyor may be required.
- (10) Consideration shall be given to granting a variance to rebuild, if a seasonal dwelling existing on the date of the adoption of this standard, March 6, 2001, which is not conforming to the density, is destroyed by natural disaster, such as fire or wind, through no fault of the owner of the seasonal dwelling.
- (11) A seasonal dwelling may have a maximum of one (1) accessory structure in addition to any outhouse the total square footage of which may not exceed three hundred fifty (350) square feet. The maximum height of a seasonal dwelling accessory building may not exceed twelve (12) feet.
- (12) Any manufactured home used for a seasonal dwelling shall conform to standards as listed in Section 603.2(6) of this ordinance.

### **734.3 Application Guidelines**

- (1) The conditional use permit application must be accompanied by maps showing the topography, ordinary high water levels, existing structures, land ownership, elevations, roads, vegetation, and proposed seasonal dwelling location and natural land.
- (2) The County may require additional information for the conditional use permit as needed.
- (3) The County may impose additional conditions on the conditional use permit.

### **734.4 General Regulations**

Additional requirements and other regulations set forth in the Shoreland Management Performance Standards (Section 733 of this ordinance).

## 735. Wind Energy Conversion Systems

### 735.1 Purpose

This ordinance is established to regulate the installation and operation of Wind Energy Conversion Systems (WECS) within Brown County. Brown County adopts Minnesota Statutes Section 216F as the same may from time to time be amended. Nothing in this section of the Brown County Zoning Ordinance is intended to contravene, limit or otherwise modify any wind power management or siting requirements of the State of Minnesota. If applicable, all applicants will need to comply with any and all permitting and siting requirements of the State.

### 735.2 Application Procedures

Zoning Permits, Conditional Use Permits and Variances shall be applied for and reviewed under the procedures established under this ordinance and Minnesota Statutes Chapter 394, except where noted below. An application to the County for a permit under this section shall not be considered complete unless it contains the following information, including but not limited to:

- (1) Applications for **all WECS** project(s) shall include:
  - A) The name(s) of all project applicant(s)
  - B) The name(s) and address(es) of all property owner(s) for the proposed project. *For C-bed projects, the application must provide the percentage of ownership for each of the property owners.*
  - C) The legal description and address of the location for the proposed project.
  - D) A description of the project that includes:
    1. Number of turbines
    2. Type of turbine
    3. Name plate generating capacity
    4. Total height of all wind turbines and means of connecting them to the electrical grid.
    5. Rotor diameter (RD)
    6. Engineer's certification
  - E) A site layout for the proposed project that includes:
    1. The location of the project area boundaries (purchased and legal wind rights).
    2. Property lines
    3. Roads
    4. Location of all proposed and existing wind turbines
    5. Electrical wires and interconnection points with the electrical grid
    6. All other related structures

*NOTE: The site layout shall include all distances and be drawn to scale.*

- F) Documentation of land ownership or legal control of the property and current land use of the site and surrounding area.
- G) Signed copy of the power purchase agreement or documentation that the power will be utilized on-site.
- H) Location of all wetlands, scenic, and natural areas including bluffs within a one (1) mile radius of the proposed WECS. *(A certified wetland delineation may be required as part of the application and is at the discretion of the Wetland Administrator or their designee.)*
- I) Location of all known communications towers within a five (5) mile radius of the proposed project.
- J) Location of all known public or private airports or heliports within a five (5) mile radius of the proposed project.
- K) Detailed decommissioning plan including how decommissioning costs will be covered.
- L) Engineer's Certification of the proposed WECS.

(2) The application for a **Large Wind Energy Conservation System (LWECS)** shall also include:

- A) A copy of the permit from the state agency responsible for size determination of a project, pursuant to Minnesota Statute Chapter 216F.011 as amended from time to time.
- B) The latitude and longitude of all proposed turbine. When possible, an electronic file (CAD, shapefile(s), etc) shall also be submitted with the application to the County GIS Specialist.
- C) A USGS topographical map, or map with similar data of the property and surrounding area. *(A site survey with elevations shown and performed by a licensed individual may satisfy this requirement.)*
- D) Copies of all permits for all other applicable state and federal regulations, including but not limited to:
  - 1. Federal Aviation Administration (FAA) Permit
  - 2. Minnesota Pollution Control Agency (MPCA) / Environmental Protection Agency (EPA)
  - 3. Noise abatement mitigation plan
- E) Identification of haul routes for material transportation and construction activities including state, federal, county, township and private roads in Brown County. A permit must be obtained through the Highway Department and included as part of this application.
- F) Locations and site plans for all staging areas during construction.
- G) Any additional information that may be deemed necessary by the Zoning Administrator or their designee, the Planning Commission or County Board.

### 735.3 District Regulations

WECS will be permitted (P), conditionally permitted (CP) or not permitted (NP) based on the generating capacity and land use district as established in the table below:

Zoning District	Micro	SWECS	LWECS	Meteorological Tower
Agriculture (A-1)	P	P	CP	CP
General Residential (R-1)	NP	NP	NP	NP
Highway Business (B-1)	P	CP	NP	NP
General Business (B-2)	P	CP	NP	NP
Limited Industry (I-1)	P	CP	NP	NP
General Industry (I-2)	P	CP	NP	NP
Project Riverbend	CP	NP	NP	NP
Floodplain (FP)	NP	NP	NP	NP
Shoreland (S-1)	CP	NP	NP	NP

*\* Any location within 1,000 feet of a lake or 300 feet from protected waters (rivers, streams, even some drainage ditches) is considered to be in the Shoreland Zone.*

**735.4 Setbacks – Wind Turbines and Meteorological Towers**

(1) All towers shall adhere to the setbacks established in the following table.

	Micro WECS	SWECS	LWECS	Meteorological Towers
Structures other than project owner(s)	200 ft	500 ft	750 ft	1.1 times the total height, minimum 250 feet
Road Rights-of-Way	1.1 times the total height	1.1 times the total height	1.1 times the total height, min of 250 ft. Any guy wires must meet the setbacks of the district	1.1 times the total height, min of 250 ft. Any guy wires must meet the setbacks of the district
Other rights-of-way (Railroads, power lines, etc.)	1.1 times the total height	1.1 times the total height	1.1 times the total height	1.1 times the total height
Public conservation lands	An amount equal to the height of the structure	1.1 times the total height	1.1 times the total height, minimum of 500 ft	1.1 times the total height, minimum 250 ft
Wetlands (except Type 1 or 2)	An amount equal to the height of the structure	1.1 times the total height	1.1 times the total height, minimum of 500 ft	1.1 times the total height, minimum 250 ft

(2) Additional Setback Requirements for WECS and Meteorological Towers

- A) Based on the total name plate generating capacity, C-bed projects are considered Micro WECS, Non-Commercial WECS, or Commercial WECS as defined in this ordinance and will follow the setbacks established for the category for which they fall under.
- B) The setback for new dwellings and other structures shall be reciprocal in that no dwelling or structure shall be constructed within the same setback as a new turbine would need to meet to an existing dwelling.
- C) All turbines and/or towers located adjacent to the Minnesota River Bluff must maintain a setback of 1,320 feet from the top of the bluff impact zone. For turbines and/or towers adjacent to any other river bluff, they shall maintain a setback of 750 feet from the top of the bluff impact zone.
- D) All essential service lines and structures must meet the setback requirements of that zoning district.
- E) Mining Operations – No turbines, towers or associated facilities shall be located in active mining operations.
- F) Native Prairie – Turbines and associated facilities shall not be placed in native prairie unless approved through a native prairie protection plan. The native prairie protection plan shall be submitted if native prairies are

present. The permittee shall, with the advice of the DNR and any others selected by the permittee, prepare a prairie protection and management plan and submit it to the county and DNR Commissioner sixty (60) days prior to the start of construction.

- G) Aviation (public and private airports) – No turbines, towers or associated facilities shall be located so as to create an obstruction to navigable airspace of public and private airports in Brown County. Setbacks or other limitations determined in accordance with MNDOT Department of Aviation and Federal Aviation Administration (FAA) requirements.
- H) Shoreland – No wind turbines are allowed within the Shoreland District, except Micro WECS may be allowed by obtaining permission from the County Board and Planning Commission through the conditional use permit application process and **ONLY in areas where electricity is not presently available.**
- I) Adjacent to a different Zoning District – There shall be an additional setback for the construction of a WECS when it is not a permitted use in an adjacent zoning district. All Micro and SWECS shall maintain a setback of 750 feet from the zoning district boundary while LWECS shall maintain a setback of ¼ mile from the district boundary.

### **735.5 Noise Standards**

Noise is regulated by the Minnesota Pollution Control Agency (MPCA) under MN Rules Chapter 7030, as amended. These rules establish the maximum night-time and daytime noise levels that effectively limit wind turbine noise to 50dB.

### **735.6 Safety Design Standards**

- (1) Engineering Certification – For all WECS, the manufacturer's engineer or another qualified engineer shall certify that the turbine, foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.
- (2) Clearance – Rotor blades or airfoils must maintain at least thirty (30) feet of clearance between their lowest point and the ground.
- (3) Warnings:
  - A) For all LWECS, a sign(s) shall be posted on the tower, transformer and substation warning of high voltage. Signs with emergency contact information shall also be posted on the turbine or at another suitable point as determined by local emergency services personnel.
  - B) For all guyed towers, visible and reflective objects, such as plastic sleeves, reflectors or tape shall be placed on the guy wire anchor points and along the outer and innermost guy wires up to a height of eight (8) feet above the ground. Visible fencing shall be installed around anchor points of guy wires to discourage climbing.
  - C) Aviation warnings shall be painted on all meteorological towers of 200 feet or less in height.



### **735.7 Other Applicable Standards**

- (1) Total Height – Micro and Small Wind Energy Conservation Systems (SWECS) shall have a total height of less than 200 feet.
- (2) All wind turbines which are part of a LWECS project shall be installed with a monopole type tower. Meteorological towers may be guyed. Micro and SWECS may use tubular (monopole) guy wire(s) or lattice construction.
- (3) Color and Finish – All wind turbines and towers that are part of a WECS shall be white, grey, or another non-obtrusive color. Blades may be black in order to facilitate deicing. Finishes shall be matte or non-reflective. An exception exists for meteorological towers where concerns exist relative to aerial spray application.
- (4) Lighting – Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by FAA permits and regulations. Red strobe lights are preferred for night-time illumination to reduce impacts on migrating birds. Red pulsating incandescent bulbs are prohibited.
- (5) Other signage – All signage onsite shall comply with Section 727 of this ordinance. The manufacture's or owner's company name and/or logo may be placed upon the nacelle, compartment containing the electrical generator, or the WECS.
- (6) Feeder (Power) Lines – All power lines associated with the WECS subject to Brown County authority and are equal to or less than 34.5 kV in carrying capacity shall be buried and located within the right of way (subject to approval by the road authority). All power lines installed as part of a WECS shall not be considered an essential service. If lines are not buried, a variance must be applied for and the applicant shall follow all procedures listed in Section 506 of this ordinance.
- (7) Electrical Codes and Standards – All WECS and accessory equipment and facilities shall comply with the National Electrical Code and other applicable standards.
- (8) Orderly Development – Upon issuance of a conditional use permit, all LWECS shall notify the Environmental Quality Board Power Plant Siting Act program Staff of the project location and details on the survey form specified by the Environmental Quality Board.
- (9) Federal Aviation Administration– All WECS shall comply with FAA standards and permits.

### **735.8 Waste Management**

- (1) Solid Waste: Construction of WECS, as with other facilities, will lead to the generation of various types of waste: packaging, equipment parts, litter, and debris generated by clearing. Removal of such material shall be accomplished in a timely manner. Similarly, ongoing operation and maintenance of these machines results in the generation of various waste products. This may include worn parts and packaging for new parts. All such materials shall be removed from the site immediately and managed in an appropriate manner.

- (2) Hazardous Waste: Operation and maintenance of WECS may result in the generation of some hazardous materials. This will primarily be used lubricating materials. All such material shall be removed from the site immediately and managed in a manner consistent with all appropriate federal, state, and local rules and regulations.

### **735.9 Discontinuation and Decommissioning**

A WECS shall be considered a discontinued use after 1 year without energy production, unless a plan is developed and submitted to the Brown County Zoning Administrator outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities shall be removed to four feet below ground level within 90 days of the discontinuation of use.

Each LWECS shall have a Decommissioning plan outlining the anticipated means and cost of removing WECS at the end of their serviceable life or upon becoming a discontinued use. The cost estimates shall be made by a competent party; such as a Professional Engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning. The plan shall also identify the financial resources and responsibilities that will be available to pay for the decommissioning and removal of the WECS and accessory facilities.

### **735.10 Interference**

The applicant shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals cause by any WECS. The applicant shall notify all communication tower operators within five (5) miles of the proposed WECS location upon application to the county for permits. No WECS shall be constructed so as to interfere with County or Minnesota Department of Transportation microwave transmissions.

### **735.11 Avoidance and Mitigation of Damages to Public Infrastructure**

- (1) Roads – Applicants shall: Identify all county, city or township roads to be used for the purpose of transporting WECS, substation parts, cement, and/or equipment for construction, operation or maintenance of the WECS and obtain applicable weight and size permits from the impacted road authority(ies) prior to construction.
- (2) Applicants shall conduct a pre-construction survey, in coordination with the impacted local road authority to determine existing road conditions. The survey shall include photographs and a written agreement to document the condition of the public facility.
- (3) Applicants shall be responsible for restoring or paying damages as agreed to by the applicable road authority sufficient to restore the road(s) and bridges to preconstruction conditions.

- (4) Drainage System – The Applicant shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation or maintenance of the WECS.

#### **735.12 Impact to ARMER System**

All proposed projects shall avoid impact to the ARMER system. Any proposed projects located in the ARMER corridor must obtain approval from the Minnesota Department of Transportation (MNDOT) prior to any permits being issued by the County.

## 736 Communication Towers

### 736.1 Purpose

This ordinance is established to regulate the installation and operation of communication towers within Brown County. If applicable, all applicants will need to comply with any and all permitting and siting requirements of the State.

### 736.2 Application Procedures

Zoning Permits, Conditional Use Permits and Variances shall be applied for and reviewed under the procedures established under this ordinance and Minnesota Statutes Chapter 394, except where noted below. An application to the County for a permit under this section shall not be considered complete unless it contains the following information, including but not limited to:

- (1) The name(s) of all project applicant(s)
- (2) The name(s) and address(es) of all property owner(s) for the proposed project.
- (3) The legal description and address of the location for the proposed project.
- (4) A site layout for the proposed project that includes:
  - A) The location of the project area boundaries
  - B) Property lines
  - C) Roads
  - D) Location of all proposed and existing towers
  - E) All other related structures

*NOTE: The site layout shall include all distances and be drawn to scale.*

- (5) Documentation of land ownership or legal control of the property and current land use of the site and surrounding area.
- (6) Location of all wetlands, scenic, and natural areas including bluffs within a one (1) mile radius of the proposed tower. *(A certified wetland delineation may be required as part of the application and is at the discretion of the Wetland Administrator or their designee.)*
- (7) Location of all known communications towers within a five (5) mile radius of the proposed project.
- (8) Location of all known public or private airports or heliports within a five (5) mile radius of the proposed project.
- (9) Detailed decommissioning plan including how decommissioning costs will be covered.

### 736.3 District Regulations

Towers will be permitted (P), conditionally permitted (CP) or not permitted (NP) based on the land use district as established in the table below:

<b>Zoning District</b>	<b>Communication</b>	<b>Meteorological Tower</b>
Agriculture (A-1)	CP	CP
General Residential (R-1)	NP	NP
Highway Business (B-1)	NP	NP
General Business (B-2)	NP	NP
Limited Industry (I-1)	CP	NP
General Industry (I-2)	CP	NP
Project Riverbend	NP	NP
Floodplain (FP)	NP	NP
Shoreland (S-1)	NP	NP

*\* Any location within 1,000 feet of a lake or 300 feet from protected waters (rivers, streams, even some drainage ditches) is considered to be in the Shoreland Zone.*

#### 736.4 Setbacks

(1) All towers shall adhere to the setbacks established in the following table.

	Communication Tower
Structures other than project owner(s)	200 ft
Road Rights-of-Way	1.1 times the total height
Other rights-of-way (Railroads, power lines, etc.)	1.1 times the total height
Public conservation lands	An amount equal to the height of the structure
Wetlands (except Type 1 or 2)	An amount equal to the height of the structure

- (2) Additional Setback Requirements for towers
- A) The setback for new dwellings and other structures shall be reciprocal in that no dwelling or structure shall be constructed within the same setback as a new turbine would need to meet to an existing dwelling.
  - B) All turbines and/or towers located adjacent to the Minnesota River Bluff must maintain a setback of 1,320 feet from the top of the bluff impact zone. For turbines and/or towers adjacent to any other river bluff, they shall maintain a setback of 750 feet from the top of the bluff impact zone.
  - C) All essential service lines and structures must meet the setback requirements of that zoning district.
  - D) Mining Operations – No towers or associated facilities shall be located in active mining operations.
  - E) Native Prairie – Towers and associated facilities shall not be placed in native prairie unless approved through a native prairie protection plan. The native prairie protection plan shall be submitted if native prairies are present. The permittee shall, with the advice of the DNR and any others selected by the permittee, prepare a prairie protection and management plan and submit it to the county and DNR Commissioner sixty (60) days prior to the start of construction.
  - F) Aviation (public and private airports) – No towers or associated facilities shall be located so as to create an obstruction to navigable airspace of public and private airports in Brown County. Setbacks or other limitations determined in accordance with MNDOT Department of Aviation and Federal Aviation Administration (FAA) requirements.
  - G) Shoreland – No communication towers are allowed within the Shoreland District

#### 736.5 Impact to ARMER System

All proposed projects shall avoid impact to the ARMER system. Any proposed projects located in the ARMER corridor must obtain approval from the Minnesota Department of Transportation (MNDOT) prior to any permits being issued by the County.

#### **736.6 Discontinuation and Decommissioning**

A tower shall be considered a discontinued use after 1 year of a property transfer, unless an amended conditional use permit is being pursued.

Every proposed project shall have a decommissioning plan outlining the anticipated means and cost of removing the tower at the end of their serviceable life or upon becoming a discontinued use. The cost estimates shall be made by a competent party; such as a Professional Engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning. The plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the tower and accessory facilities.

#### **736.7 Avoidance and Mitigation of Damages to Public Infrastructure**

- (1) Roads – Applicants shall: Identify all county, city or township roads to be used for the purpose of transporting parts, cement, and/or equipment for construction, operation or maintenance of the tower and obtain applicable weight and size permits from the impacted road authority(ies) prior to construction.
- (2) Applicants shall conduct a pre-construction survey, in coordination with the impacted local road authority to determine existing road conditions. The survey shall include photographs and a written agreement to document the condition of the public facility.
- (3) Applicants shall be responsible for restoring or paying damages as agreed to by the applicable road authority sufficient to restore the road(s) and bridges to preconstruction conditions.
- (4) Drainage System – The Applicant shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation or maintenance of the tower.

## **SECTION 8. ENFORCEMENT**

### **801. Violations and Penalties**

#### **801.1 Violations**

The violation of any provision of this Ordinance or the violation of the conditions or provisions of any permit issued (including violations of conditions and safeguards established in connection with grants of Variances or Conditional Uses) pursuant to this Ordinance shall be a misdemeanor, and upon conviction thereof, shall be punishable as a misdemeanor offense.

#### **801.2 Penalties**

Unless otherwise provided, each act of violation and every day on which such violation occurs or continues a separate offense.

#### **801.3 Application to County Personnel**

The failure of any officer or employee of the County to perform any official duty imposed by this Ordinance shall not subject the officer or employee to a penalty imposed for violation unless a penalty is specifically provided for such failure.

#### **801.4 Equitable Release**

In the event of a violation or the threatened violation of any provision of this Ordinance, or any provision or condition of a permit issued pursuant to this Ordinance, the County in addition to other remedies may institute appropriate actions or proceedings to prevent, restrain, correct, or abate such violation or threatened violation.

#### **801.5 Floodplain Violation Response**

In responding to a suspected violation of the Floodplain Section of this Ordinance, 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.

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.

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 30-days.

If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this Ordinance and shall be prosecuted accordingly. The Zoning Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this Ordinance.

**SECTION 9. SEPARABILITY, SUPREMACY, AND EFFECTIVE DATE**

**901.1 Separability**

Every Section, provision, or part of this Ordinance or any permit issued pursuant to this Ordinance is declared separable from every other section, provision, or part thereof to the extent that if any section, provision, or part of this Ordinance or any permit issued pursuant to this Ordinance shall be held invalid by a court of competent jurisdiction, it shall not invalidate any other section, provision, or part thereof.

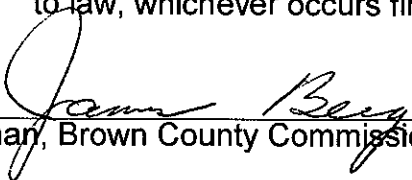
**901.2 Supremacy**

When any condition imposed by any provision of this Ordinance on the use of land or buildings or on the bulk of buildings is either more restrictive or less restrictive than similar conditions imposed by any provision of any other community ordinance or regulation, the more restrictive conditions shall prevail.

This Ordinance is not intended to abrogate any easements, restrictions, or covenants, relating to the use of land or imposed on lands within the community by private declaration or agreement, but where the provisions of this Ordinance are more restrictive than any such easement, restriction, or covenant, or the provision of any private agreement, the provisions of this Ordinance shall prevail.

**901.3 Effective Date**

This Ordinance, adopted as amended, shall be in full force and effect from and after September 25<sup>th</sup>, 2012, or the date of its passage and publication according to law, whichever occurs first.

  
\_\_\_\_\_  
Chairman, Brown County Commissioners

9-25-12  
\_\_\_\_\_  
Date

ATTEST

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