

FILLMORE COUNTY ZONING ORDINANCE ADOPTED SEPTEMBER 19, 1989

AMENDED JULY 1990
AMENDED MAY 4, 1993
AMENDED JULY 25, 1994
AMENDED JANUARY 5, 1995
AMENDED AUGUST 6, 1996
AMENDED SEPTEMBER 3, 1996
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AMENDED JUNE 8, 1999
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AMENDED JULY 17, 2001
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AMENDED OCTOBER 7, 2014
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AMENDED OCTOBER 13, 2015
AMENDED APRIL 5, 2016
AMENDED MAY 3, 2016
AMENDED JUNE 28, 2016
AMENDED APRIL 9, 2019
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AMENDED OCTOBER 1, 2019
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Fillmore County Zoning Ordinance

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FILLMORE COUNTY ZONING ORDINANCE

An Ordinance for the regulation of the use of land in the County of Fillmore including: setting minimum and maximum standards for the heights and size of buildings, the size of yards, courts and other open spaces, the density of population, the location and use of buildings and land for trade, commerce, industry, residence and other purposes; creating districts for said purposes and establishing the boundaries thereof; providing for changes in regulations, restrictions and boundaries of such districts; defining certain terms used herein; providing for enforcement and administration, and imposing penalties for the violation of this Ordinance.

The Fillmore County Board Does Ordain As Follows:

SECTION 1

Title

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

SECTION 2

Intent and Purpose

201. This Ordinance is adopted for the purpose of:

- 1) Protecting the public health, safety, comfort, convenience and general welfare;
- 2) Protecting and preserving agricultural land;
- 3) Promoting orderly development of the residential, commercial, industrial, recreational and public areas;
- 4) Conserving the natural and scenic beauty and attractiveness of the county;
- 5) Conserving the natural resources in the county;
- 6) Providing for the compatibility of different land uses and the most appropriate use of land throughout the county;
- 7) Conserving the value of properties; and
- 8) Protecting the environment.

SECTION 3

Rules and Definitions

301. Rules

301.01. Word Usage

Board: The word “Board” includes the County Commissioners, the Board of County Commissioners or any other word or words meaning the Fillmore County Board of Commissioners.

Board of Adjustment: The “Board of Adjustment” shall mean the Fillmore County Board of Adjustment.

Commission: The “Commission” shall mean the Fillmore County Planning Advisory Commission.

Distances: Unless otherwise specified, distances shall be measured horizontally.

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

Lot: The word “lot” shall include the words piece, parcel, and plot.

Masculine and Feminine Gender: The masculine gender includes the feminine and neuter genders.

Person: The word “person” includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.

Shall and May: The word “shall” is mandatory and not discretionary; the word “may” is permissive.

Singular and Plural: Words used in the singular shall include the plural and the plural the singular.

Tenses: Words used in the present tense shall include the future. In the event of conflicting provisions, the more restrictive provision shall apply. All words not specifically defined herein shall be defined according to common usage.

302. Definitions

- 1) **Accessory Dwelling Unit:** A home used temporarily by a person who knows that the home must be moved from the site within a certain time period or when a certain job is accomplished.

- 2) **Accessory Use or Structure:** A use or structure, or portion of a structure, subordinate to and serving the principal use of a structure on the same lot and customarily incidental thereto.
- 3) **Agricultural Use:** The use of land for the growing and/or production of trees, crops, livestock, and livestock products for the production of income including but not limited to the following:
 - a. trees, when enrolled in a tree farm program authorized by the DNR and operated under a forest management program;
 - b. crops, including but not limited to: barley, soybeans, corn, hay, oats, potatoes, rye, sorghum, sunflowers, and wheat;
 - c. livestock, including but not limited to: dairy and beef cattle, goats, horses, sheep, hogs, poultry, game birds, and other animals including dogs, ponies, rabbits, and mink;
 - d. livestock products including but not limited to: milk, butter, cheese, eggs, meat, fur, and honey.
- 4) **Agricultural Building or Structure:** Any building or structure existing or erected, which is used principally for agricultural purposes, with the exception of dwelling units.
- 5) **Alternative Support Structure:** Any structures including but not limited to clock towers, steeples, silos, light poles, water towers, free-standing chimneys, utility poles and towers, towers, buildings or similar structures that may support telecommunications facilities.
- 6) **Animal Feedlot:** A lot or building, or combination of lots and buildings, intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of these parts, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots under these parts.
- 7) **Animal Manure:** Animal manure means poultry, livestock, or other animal excreta or a mixture of excreta with feed, bedding, precipitation, or other materials.
- 8) **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 a manure storage area, calculated by multiplying the number of animals of each type in items A to I by the respective multiplication factor and summing the resulting values for the total number of animal units. For purposes of this definition, the following multiplication factors shall apply:
 - A. Dairy cattle:
 - (1) one mature cow (whether milked or dry);
 - (a) over 1,000 pounds, 1.4 animal units; or
 - (b) under 1,000 pounds, 1.0 animal unit;
 - (2) One heifer, 0.7 animal unit; and
 - (3) One calf, 0.2 animal unit;
 - B. Beef cattle:
 - (1) one slaughter steer or stock cow, 1.0 animal unit;
 - (2) one feeder cattle (stocker or backgrounding) or heifer, 0.7 animal units;
 - (3) one cow and calf pair, 1.2 animals units; and

- (4) one calf, .02 animal unit;
- C. One head of swine:
 - (1) over 300 pounds, 0.4 animal unit;
 - (2) between 55 and 300 pounds, 0.3 animal unit; and
 - (3) under 55 pounds, 0.05 animal unit;
- D. One horse, 1.0 animal unit
- E. One sheep or lamb, 0.1 animal unit;
- F. Chickens:
 - (1) one laying hen or broiler, if the facility has a liquid manure system, 0.033 animal unit;
 - (2) one chicken if the facility has a dry manure system:
 - (a) over five pounds, 0.005 animal unit; or
 - (b) under five pounds, 0.003 animal unit;
- G. One turkey:
 - (1) over five pounds, 0.018 animal unit; or
 - (2) under five pounds, 0.005 animal unit; and
- H. One duck, 0.01 animal unit; and
- I. For animals not listed in items A to H, the number of animal units is the average weight of the animal in pounds divided by 1,000 pounds.

9) Antenna: Any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves when such system is either external to or attached to the exterior of a structure. Antennas shall include devices having active elements extending in any direction, and directional beam type arrays having elements carried by and disposed from a generally horizontal boom that may be mounted upon and rotated through a vertical mast or tower interconnecting the boom and antenna support, all of which elements are deemed to be a part of the antenna.

10) Aquaculture: The cultivation of aquatic animals and plants, especially fish, shellfish, and seaweed, in natural or controlled marine or freshwater environments; underwater agriculture.

11) Antenna Building Mounted: Any antenna, other than an antenna with its supports resting on the ground, directly attached or affixed to a building.

12) Antenna Ground Mounted: Any antenna with its base placed directly on the ground.

13) Area: See Buildable Area or Lot Area.

14) Barnyard Waste: Any animal by-products or affiliated waste material.

15) Base Flood: the flood having a one percent chance of being equaled or exceeded in any given year.

16) Base Flood Elevation: The elevation of the “regional flood.” The term “base flood elevation” is used in the flood insurance study.

17) Basement: A portion of a building located partly underground but having half or more of its floor-to-ceiling height below the average grade of the adjoining ground.

- 18) Bed and Breakfast Establishment:** A dwelling which provides lodging and meals for overnight registered paying guests.
- 19) Berm:** A mound of earth or the act of pushing earth into a mound.
- 20) Bluff (Bluffland):** A high embankment or bold headland with a broad, precipitous, sometimes rounded cliff-face overlooking a plain or body of water, especially on the outside of a stream or meander-river bluff that rises or drops fifty (50) feet from the horizontal and the slope averages thirty (30) percent or greater. Within a Shoreland District it shall include a topographic feature such as a hill, cliff, or embankment having the following characteristics:
- a. Part or the entire feature is located in a shoreland or Blufflands area.
 - b. The slope rises at least twenty-five (25) feet above the plain or ordinary high water level of the waterbody;
 - c. The grade of the slope from the top of the bluff to a point twenty-five (25) feet or more above the ordinary high water level or a plain averages thirty (30) percent or greater;
 - d. The slope must drain toward the waterbody or plain (an area with an average slope of more than eighteen (18%) over a distance of fifty (50) feet or more shall be considered a part of the bluff).
- 21) Bluff (Shoreland):** A topographic feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of more than eighteen (18%) over a distance of fifty (50) feet or more shall be considered a part of the bluff):
- a. Part or the entire feature is located in a shoreland area;
 - b. The slope rises at least twenty-five (25) feet above the ordinary high water level of the waterbody;
 - c. The grade of the slope from the top of the bluff to a point twenty-five (25) feet or more above the ordinary high water level averages thirty (30) percent or greater;
 - d. The slope must drain toward the waterbody.
- 22) Bluff Impact Zone (Shoreland):** The bluff and land located within twenty (20) feet of the top of a bluff.
- 23) Bluff Impact Zone (Bluffland):** The bluff and land located within fifty (50) feet of the top of a bluff and within thirty (30) feet of the toe of the bluff.
- 24) Bluffland Areas:** Any land formation in Fillmore County where the geomorphic features of the land conform to the definition of “Bluff” as found in Section 302.
- 25) Bluffland Protection District:** All land distally two-hundred (200) feet from the top of the Bluff and one-hundred (100) feet distally from the Toe of the Bluff plus all lands between the Top of the Bluff and Toe of the Bluff.
- 26) Buildable Area:** The area of a lot remaining after the minimum yard requirements of this Ordinance have been met.
- 27) Building:** Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods, or material of any kind.

- 28) Building Site:** A parcel or part of a parcel of land where buildings are located.
- 29) Building, Agricultural:** All buildings, other than dwellings, which are incidental to Agricultural Uses.
- 30) Building Height:** Height is determined by the average elevation of the dirt surrounding a dwelling and the average elevation, of all four (4) sides of the dwelling, between the tallest peak of the dwelling and the tallest plate holding that peak.
- 31) Building Setback Line:** A line parallel to the street right of way and side and rear lot lines at any story level of a building and representing the minimum distance which all or any part of the building is set back from said property line.
- 32) Business:** Any occupation, employment or enterprise wherein merchandise is exhibited or sold, or where services are offered for compensation.
- 33) Cabin:** A single family dwelling.
- 34) Camouflaged Tower:** Any telecommunications tower that due to design or appearance hides, obscures, or conceals the presence of the tower and antennas. Camouflaging may be accomplished by a suitable combination of the following examples: lack of lighting, low tower height, non-contrasting colors, screening and landscaping, and others.
- 35) Campground:** Any area, whether privately or publicly owned, used on a daily, nightly, or longer basis for the accommodation of two (2) or more tents or recreational camping vehicles for compensation. Privately owned camping areas of up to four (4) sites without compensation do not fall under the campground definition. Five (5) or more sites whether free of charge or for compensation are considered a campground.
- 36) Camping Cabin:** A building or structure owned by the campground, intended to be rented out, which has been constructed or located in a permitted campground for use as an alternative to tents and recreational camping vehicles. This includes park model campers. The density allowed for camping cabins is one (1) cabin per every six (6) recreational camping vehicles.
- 37) Campsite:** A location upon which one temporary dwelling is located to include recreational camping vehicles, tents, camping cabins.
- 38) Carcass:** The remains of a dead animal.
- 39) Carrier:** Any company licensed by the Federal Communications Commission (FCC) to build personal wireless telecommunications facilities and operate personal wireless telecommunications services. Also called a provider.
- 40) Cemetery:** Property used for the interment of the dead.
- 41) Church:** A building where persons regularly assemble for religious service and which is maintained and controlled by an organized group for public worship.

- 42) Clear-Cutting:** The entire removal of a stand of vegetation.
- 43) Clustering/Cluster Housing:** A 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.
- 44) Co-location:** Any telecommunications facility comprised of a single telecommunications tower or building supporting multiple antennas, dishes, or similar devices owned or used by more than one public or private entity.
- 45) Commercial Outdoor Recreation Area:** A commercial outdoor recreation area that would not conflict with surrounding uses or residences and that would not deter from the surrounding landscape. Uses can include paintball, laser tag, and airsoft ranges and/or courses, paintball marker repair, paintball product supply and sales, airsoft products and supply sales, laser tag products and supplies, rental gear and equipment, and concessions.
- 46) Commercial Use:** The principal use of land or building for the sale, lease, rental, or trade of products, goods, and services.
- 47) Commissioner:** For the purposes of Sections 610 and 612 the term “Commissioner” shall mean the Commissioner of the Department of Natural Resources.
- 48) Community Water and Sewer System:** Utilities systems serving a group of buildings, lots, or an area of the county, with the design and construction of such utility systems as approved by the county and the State of Minnesota.
- 49) Conditional Use** – a specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls and upon a finding that:
- (a) Certain conditions as detailed in the zoning ordinance exist, and
 - (b) The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.
- 50) Condominium:** A form of individual ownership with a multiple family dwelling unit 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.
- 51) Construction Debris:** Waste building materials resulting from construction, remodeling, repair and/or demolition operations.
- 52) Cooperative:** A multiple family dwelling 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.
- 53) Corner Lot:** A lot situated at the junction of and fronting on two or more roads or highways.

- 54) Country Inn:** A dwelling, which provides lodging, meals, special facilities, catering, and other, organized activities for overnight registered guests.
- 55) County:** Fillmore County, Minnesota.
- 56) Critical Facilities:** Facilities necessary to a community's public health and safety, those that store or produce highly volatile, toxic or water-reactive materials, and those that house occupants that may be insufficiently mobile to avoid loss of life or injury. Examples of critical facilities include hospitals, correctional facilities, schools, daycare facilities, nursing homes, fire and police stations, wastewater treatment facilities, public electric utilities, water plants, fuel storage facilities, and waste handling and storage facilities.
- 57) Crop Land:** The use of land for the production of, but not limited to, adopted row or close sown crops, fruits, and nuts.
- 58) Days:** Defined as calendar, unless specified otherwise.
- 59) 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 above the ground.
- 60) Decorah Shale:** The Decorah shale is a geologic unit of green-gray shale found above the Platteville and Glenwood formations (which is above the St. Peter sandstone) and below the Cummingsville formation of limestone and shale. The edge of this formation is found where erosion has removed the overlying Cummingsville formation exposing the Decorah shale in an outcrop or so that it is the first encountered bedrock.
- 61) Depth of Lot:** The mean horizontal distance between the mean front street line and the mean rear lot line. The greater frontage of a corner lot is its depth, and its lesser frontage is its width.
- 62) Depth of Rear Yard:** The mean horizontal distance between the rear building line and the rear lot line.
- 63) Detrimental:** Causing damage or harm, injurious.
- 64) Development:** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation, or drilling operation.
- 65) Disposal System:** A system for disposing of sewage, industrial waste and other wastes, and includes sewer systems and treatment works
- 66) Dredging:** The process by which soils, mostly in the form of silt, or other surficial materials which are transported by surface water as a product of erosion into a body of water are removed for the purpose of deepening the body of water.
- 67) Dwelling:** The house or other structure in which a person or persons live or use as a place of shelter or habitation on a temporary, seasonal, or permanent basis.

- 68) Dwelling Site:** A designated location for residential use by one or more persons using a permanent or temporary shelter. The shelter may be affixed or movable, including camping and recreational camping vehicles.
- 69) Dwelling Unit:** A residential building or portion thereof intended for occupancy by a single family but not including hotels, motels, boarding or rooming houses. There are three (3) principal types:
- a. Single-family Detached: A free standing residence structure for or occupied by one (1) family only and containing no common party walls.
 - b. Single-family Attached: A residential building containing two (2) or more dwelling units with one or more common walls, but providing separate cooking and bathing facilities.
 1. Duplex: A residence designed for or occupied by two (2) families only, with separate housekeeping and cooking facilities for each.
 2. Townhouse: A residential building containing two (2) or more dwelling units with at least one (1) common wall, each unit so oriented as to have all exits open to the outside.
 - c. Multiple Family: A residence designed for or occupied by three (3) or more families, either wholly (attached) or partially a part of a large (detached), with separate sanitary and cooking facilities for each family.
- 70) Easement:** A grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation, or another person or entity.
- 71) Electrical Distribution Line:** That portion of an electric system, not including buildings, used to deliver electric energy from points on a transmission line or bulk power system to a consumer and carrying 30,000 volts or less.
- 72) Electrical Transmission Line:** That portion of an electric system, not including buildings, used to transfer electricity in bulk. The line ends when it is transformed to a distribution line for distribution to ultimate consumers.
- 73) Equal Degree of Encroachment** – a method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.
- 74) Essential Services:** The erection, construction, alteration, or maintenance of underground, surface or overhead electrical, gas, steam, water and sewerage transmission, distribution and collection systems and distribution, and the equipment and appurtenances necessary for such systems to furnish an adequate level of public service, but not to include any buildings.
- 75) Excavation:** The act by which soil, earth, sand, gravel, rock, or any similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated, or bulldozed and shall include the conditions resulting there from.
- 76) Exterior Storage:** (Includes Open Storage) The storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.

- 77) Extractive Use:** The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other non-metallic minerals, and peat not regulated under Minnesota Statutes, Sections 93.44 to 93.51.
- 78) Family:** An individual or two or more persons living together as a single housekeeping unit in a dwelling unit.
- 79) Farm Fence –** An open type of fence of posts and horizontally run wire, further defined by Minn. Statutes Section 344.02, Subd. 1(a)-(d), and is not considered to be a structure under this ordinance. Fences that have the potential to obstruct flood flows, such as chainlink fences and rigid walls, are regulated as structures under this ordinance.
- 80) Farmers Market:** An organized site where three (3) or more producers of locally produced products, including but not limited to, crafts, garden produce, plants, flowers, non-potentially hazardous food products or food sold from a licensed concession stand or mobile retail food vehicle, are sold.
- 81) Fill:** Any act, by which soil, earth, sand, gravel, rock, or any similar material is deposited, placed, pushed, pulled, or transported and shall include the conditions resulting therefrom.
- 82) Flood:** A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.
- 83) Flood Frequency:** The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.
- 84) Flood Fringe:** The portion of the Special Flood Hazard Area (one percent annual chance flood) located outside of the floodway. Flood fringe is synonymous with the term “floodway fringe” used in the Flood Insurance Study.
- 85) Flood Insurance Rate Map:** An official map on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).
- 86) Flood Plain:** The beds proper and the areas adjoining a wetland, lake or watercourse, which have been or hereafter may be covered by the regional flood.
- 87) Flood Prone Area –** any land susceptible to being inundated by water from any source.
- 88) 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.
- 89) Floodway:** The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain, which are reasonably required to carry or store the regional flood discharge.
- 90) Floor Area:** The sum of the gross horizontal areas of several floors of a building measured

from the exterior walls, including basements and attached accessory buildings.

- 91) Forest Land Conversion:** The clear cutting of forest lands to prepare for a new land use other than the re-establishment of a subsequent forestland.
- 92) Garage, Private:** An accessory structure designed to store power driven vehicles.
- 93) Garage, Public:** Any structure, except those described as a private garage, used for the storage or care of power driven vehicles, or where any such vehicles are equipped for operation, repair, or are kept for remuneration, hire, or sale.
- 94) Garbage:** Putrescent animal or vegetable wastes resulting from the handling, preparation, cooking, serving, or consumption of food, and including food containers.
- 95) Grade:** The average of the finished level at the center of the exterior walls of the building. For an earth sheltered building grade means the average of the finished level at the center of the lot. For a building with earth berms but less than 50 percent earth covering, grade means the average of the finished level at the center of the building at the beginning of the earth berm.
- 96) Grass Buffer:** Grass or other dense vegetation planted for the purpose of diverting or filtering materials.
- 97) Greenbelt:** A planting strip of grass, trees and shrubs established and maintained for the purpose of screening or limiting the view of certain property uses from the general public.
- 98) Greywater System:** An Individual Sewage Treatment System that does not contain toilet waste.
- 99) Groundwater:** The supply of fresh water under the earth's surface that forms a natural reservoir.
- 100) Guest Cottage:** A dwelling.
- 101) Guyed structure:** Any telecommunications tower that is supported in whole or in part by guy wires and ground anchors or other means of support besides the superstructure of the tower itself.
- 102) Hazardous Waste:** Waste designated as hazardous by the United States Environmental Agency or appropriate State Agency.
- 103) Height, Telecommunications Tower:** The distance measured from the original grade at the base of the tower to the highest point of the tower. This measurement excludes any attached antennas, and lighting.
- 104) Historical Structure:** A structure, which is listed on the National Register of Historic Places.
- 105) Home:** A dwelling.

- 106) 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. Such units include professional offices, minor repair shops, photo or art studios, dressmaking, barbershops, beauty shops, bed and breakfast establishments, or uses deemed similar by the Planning Commission or City Council.
- 107) Hunting Shack:** A dwelling.
- 108) Imminent Public Health Threat:** Means situations with the potential to immediately and adversely affect or threaten public health or safety. At a minimum, this means ground surface or surface water discharges and sewage backup into a dwelling or other establishment.
- 109) Impounded Waters:** Water that is stored in an open pit.
- 110) Industrial Waste:** Any liquid, gaseous or solid waste substance resulting from any process of industry, manufacturing trade or business or from the development of any natural resource.
- 111) Intensive Vegetative Clearing:** The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.
- 112) Irregular Parcel:** Any piece of land less than 5.0 acres that has been created by the construction of a public roadway.
- 113) ISTS:** An Individual Sewage Treatment System including a tank and associated pumps and pipes.
- 114) Junk Yard:** Land or buildings where waste, discarded or salvaged materials are brought, sold, exchanged, stored, cleaned, packed, disassembled or handled, including but not limited to: scrap metal, rags, paper, rubber products, glass products, lumber products, and products resulting from the wrecking of automobiles or three (3) or more inoperative motor vehicles or trailers for a period in excess of three (3) months shall also be considered a junk yard.
- 115) Karst Topography:** A terrain generally underlain by limestone in which the topography is chiefly formed by the dissolving of rock, which is commonly characterized by channeling, closed depressions, subterranean drainage, and caves.
- 116) 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.
- 117) Kindred, Degree of:** Degrees of Kindred shall be defined as follows:
1. First Degree is parent or child.
 2. Second Degree is brother, sister, grandparent or grandchild.
 3. Third Degree is uncle or aunt, nephew or niece, grandparent or grandchild.
 4. Fourth Degree is first cousin, granduncle or aunt, grandnephew or niece, or great-great grandparent or great-great grandchild.

Relatives of the half blood inherit the same share they would inherit if they were of the whole blood. (MN Stat. 524.2-107)

- 118) Land Occupier:** Any person, firm, corporation, municipality, or other legal entity who holds title to, or is in possession of any lands lying within the district, whether as owner, lessee, renter, tenant, or otherwise. Where the term “land occupier” is used in this ordinance, the term shall include both the owner and the occupier of the land when they are not the same.
- 119) Land Owner:** Any person, firm, corporation, municipality, or other legal entity that holds title to or is in possession of any land.
- 120) Large Assemblies:** Any public or private gathering of one thousand (1,000) or more persons at any single time or at any location in the Agricultural District for the purpose of musical, racing, promotional, social, entertainment or other similar type of activity. Large assemblies include the activities of permitting, maintaining, promoting, conducting, advertising, acting as entrepreneur, undertaking, organizing, managing, selling and/or giving tickets to an actual or reasonably anticipated assembly of one thousand (1,000) or more people. This shall not apply to:
- a. Any permanent place of worship or auctions conducted by licensed auctioneers.
- 121) Lattice Structure:** A telecommunications tower that consists of vertical and horizontal supports and crossed metal braces.
- 122) Livestock:** Farm animals kept for use and/or sale (livestock = animal units as defined under “animal units”).
- 123) Livestock Waste Lagoon:** A diked enclosure for disposal of livestock wastes by natural process.
- 124) Living Space:** That area of a building normally used by humans as part of their habitation and shelter, which shall include all areas normally and regularly used for sheltering human beings or their personal property. Basements, whether finished or unfinished, shall be considered living space. Attics, unless finished and used as additional habitation, shall not be included. Garages designed and/or used for the sheltering of automobiles shall not be included.
- 125) Lot:** A parcel or portion of land in a subdivision or plat of land, separated from other parcels or portions by description as on a subdivision of record or survey map, for the purpose of sale or lease or separate use thereof. A lot need not be a lot of existing record.
- 126) 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 Fillmore County, Minnesota prior to the effective date of this Ordinance.
- 127) Lot Area:** The area of a lot in a horizontal plane bounded by the lot lines.
- 128) 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 (135) degrees.

- 129) Lot Coverage:** The area of the zoning lot occupied by the principal buildings and accessory buildings. Earth berms are not to be included in calculating lot coverage. Only the above grade portions of an earth-sheltered building should be included in lot coverage calculations.
- 130) Lot Depth:** The mean horizontal distance between the front lot line and the rear lot line of a lot.
- 131) Lot Line:** The property line bordering a lot except that where any portion of a lot extends into the public right-of-way, the right-of-way line shall be the lot line for purposes of this Ordinance.
- 132) 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.
- 133) Lot Line, Rear:** That boundary of a lot, which is opposite, the front lot line. If the rear line is less than ten (10) feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten (10) feet in length within the lot, parallel to, and at the maximum distance from the front lot line. Every lot shall have a rear lot line.
- 134) Lot Line, Side:** Any boundary of a lot, which is not a front lot line or a rear lot line.
- 135) Lot, Substandard:** A lot or parcel of land for which a deed has been recorded in the office of the Fillmore County Recorder upon or prior to the effective date of this Ordinance which does not meet the minimum lot area, structure setbacks or other dimensional standards of this Ordinance.
- 136) Lot Width:** The maximum horizontal distance between the side lot lines of a lot measured within the first thirty (30) feet of the lot depth.
- 137) Lowest Floor:** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 Code of Federal Regulations, Part 60.3.
- 138) Manufactured Home:** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include the term "recreational vehicle."
- 139) Manufactured Home Park:** Any site, lot, field, or tract of land under single ownership, designed, maintained or intended for the placement of two (2) or more occupied manufactured homes. "Manufactured Home Park" shall include any buildings, structure, vehicle, or enclosure intended for use as part of the equipment of such manufactured home park.

- 140) Manufactured Home Stand:** The part of an individual manufactured home lot, which has been reserved for placement of the manufactured home, appurtenant structures, or additions.
- 141) Manufactured Home Subdivision:** A subdivision intended for placement of manufactured homes or conventional homes, having a minimum of ten (10) lots and at least thirty (30%) percent of the lots must be occupied by manufactured homes.
- 142) Manure Storage Area:** Manure storage area means an area where animal manure or process wastewaters are stored or processed. Short-term and permanent stockpile sites and composting sites are manure storage areas.
- 143) Metes and Bounds:** A method of property description by means of their direction and distance from an easily identifiable point.
- 144) Mobile Home:** A Manufactured Home.
- 145) Mobile Home Park:** A Manufactured Home Park.
- 146) Modular Home:** A non-mobile dwelling 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.
- 147) Monopole Structure:** A telecommunications tower of a single pole design.
- 148) Motel (Motor 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.
- 149) Motor Home or Recreation Vehicle:** A Recreational Camping Vehicle.
- 150) New Construction:** Structures, including additions and improvements, and placement of manufactured homes, for which the start of construction commenced on or after the effective date of this ordinance.
- 151) Non-Conforming Uses:** A use lawfully in existence on the effective date of this Ordinance and not conforming to the regulations for the district in which it is situated.
- 152) Non-riparian lot:** A lot, which has no area fronting a surface-water feature.
- 153) Notification:** Notification means all landowners within the notice or affected area as defined in Sections 504, 505, and 506 pertaining to conditional uses, variances, and requests for zoning amendments, respectfully, shall be sent a letter by First Class mail identifying a public hearing to take place.
- 154) Nuisance:** Any noise, odor, vibration, smoke, air pollution, liquid or solid waste, glare, heat, or dust condition which exceeds adopted standards and creates an irritation,

annoyance, or health hazard.

- 155) Nursery, Landscape:** A business growing and selling trees, flowering and decorative plants and shrubs and which may be conducted within a building or without, for the purpose of landscape construction.
- 156) Nursing Home:** A building with facilities for the care of children, the aged, infirm, or place of rest for those suffering bodily and/or mental disorders. Said nursing home shall be licensed by the State Board of Health as provided for in Minnesota Statutes, § Section 144.A01, subd. 5.
- 157) Obstruction:** (Waterway) Any dam, wall, wharf, embankment, levee, dike, pike, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain which may impede, retard or change the direction of the flow, either in itself or by catching or collecting debris carried by flood water.
- 158) 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 (1) vehicle of the type typically used in the particular business.
- 159) One Hundred Year Floodplain:** Lands inundated by the “Regional Flood” (see definition).
- 160) Open Pit:** The area of land created by moving the earth.
- 161) Open Sales Lot:** (Exterior Storage) Any land used or occupied for the purpose of buying and selling any goods, materials or merchandise and for storing of same under the open sky prior to sale.
- 162) Operation:** Operation means other than nominal use; when a facility is used regularly as an integral part of an active system of telecommunications, or for other business related activities, it shall be deemed in operation.
- 163) 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 terrestrial. For watercourses, it is the elevation of the top of the bank of the channel.
- 164) 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 (1) standard automobile.
- 165) Pedestrian Way:** A public or private right-of-way across or within a block, to be used by pedestrians.
- 166) Pesticides:** Any substance used to prevent, destroy, or repel undesirable plants or animals,

including herbicides, insecticides, fungicides, and rodenticides.

- 167) Planned Unit Development:** A development of a unified site whereby dwelling units or dwelling sites are grouped or clustered in and around common open space areas, whether for sale, rent, or lease in accordance with a pre-arranged site plan submitted by a developer and requiring membership in an association. A campground is not a PUD.
- 168) Portable Building:** A structure that can be moved when empty.
- 169) Practical Difficulties:** Practical difficulties, as used in connection with the granting of a variance, means that 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. Economic considerations alone do not constitute practical difficulties.
- 170) Prime Land:** Land classified as A, A-, B, or B- land as of 1994 or land with crop equivalency rating of 65 or greater.
- 171) Principal Structure or Use:** One that determines the predominant use as contrasted to accessory use or structure.
- 172) Private Game Farm:** A parcel of land or part of a parcel of land where upon the land occupier raises animals and fences them in or encages said animals for the purpose of allowing individuals to hunt, trap, or capture them for barter, fee, or any other form of compensation.
- 173) 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.
- 174) Property Owner:** Any person, association or corporation having a freehold estate interest, leasehold interest extending for a term or having renewal options for a term in excess of one year, a dominant easement interest, or an option to purchase any of same, but not including owners or interests held for security purposes only.
- 175) Protective Covenant:** A contract entered into between private parties, which constitute a restriction of the use of a particular parcel of property. Such covenants shall be considered valid only when they are recorded and filed in the office of the Fillmore County Recorder.
- 176) Provider:** See Carrier.
- 177) Public Land:** Land owned or operated by municipal, school district, county, state, or other governmental units.
- 178) Public Waters:** Any waters as defined in Minnesota Statutes, Section 103 G.005, Subd 15.
- 179) Qualified Employee:** An individual employed by a unit of government who is certified to inspect ISTS work.

- 180) Ravines:** A small narrow steep-sided valley that is larger than a gully and smaller than a canyon and is worn by running water.
- 181) 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.
- 182) Recreational Camping Area:** Campground.
- 183) Recreational Camping Vehicle (RCV):** Recreational Camping Vehicle includes any of the following:
- a. any vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, or vacation use;
 - b. any structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation;
 - c. any portable, temporary dwelling to be used for travel, recreation, and vacation, constructed as an integral part of a self-propelled vehicle; and
 - d. any folding structure mounted on wheels and designed for travel, recreation, and vacation use.
- 184) Recreation, Commercial:** Includes all uses such as bowling alleys, roller and ice-skating rinks, driving ranges and movie theaters that are privately owned and operated with the intention of earning a profit by providing entertainment to the public.
- 185) 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.
- 186) Refuse:** Discarded waste materials in a solid or semi-liquid state consisting of garbage, rubbish, or a combination thereof.
- 187) 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 Registered Land Survey Number (see Minnesota Statutes 508.47).
- 188) 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 magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term “base flood” used in the Flood Insurance Rate Map.
- 189) Regulatory Flood Protection Elevation:** An elevation not less than one (1) foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the Flood Plain that result from designation of a floodway.
- 190) Repetitive Loss:** Flood related damages sustained by a structure on two separate occasions during a ten year period for which the cost of repairs at the time of each such flood event

on the average equals or exceeds 25% of the market value of the structure before the damage occurred.

- 191) Residence:** A dwelling.
- 192) Residential Planned Unit Development:** A PUD where the nature of residency is non-transient and the primary focus of the development is not service oriented.
- 193) Resort:** A development consisting of buildings, campsites, parking areas, or recreation areas, for lease or rent for temporary dwellings, on one tract of land, under one ownership for the purpose of vacationing, relaxation, or recreation.
- 194) Riparian Lot:** A Lot with area fronting a surface water feature.
- 195) 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, lane, place, or however otherwise designated.
- 196) Rock Crushing:** The process whereby rock is reduced in size by mechanical means.
- 197) Rock Quarry:** A parcel of land or part of a parcel of land where mining activities are undertaken to extract rock or other minerals from the subsurface terrain. Said rock or other minerals being removed from the ground with the use of explosives and heavy equipment is reduced in size so as to be made useful for the public.
- 198) Rubbish:** Non-putrescible solid waste including ashes consisting of both combustible and non-combustible waste such as paper, cardboard tin cans, yard clippings, wood, glass, bedding, crockery, or litter of any kind.
- 199) Roadside Stand:** An unenclosed temporary structure used for the sale of goods and so designed and constructed that the structure is easily portable and can be readily removed.
- 200) Rural Home Based Business:** Any commercial or industrial business carried on in the Ag District, as outlined in Section 734.
- 201) Sand Pit:** A parcel of land or part of a parcel of land where mining activities are undertaken to extract sand from the subsurface terrain. Said sand being removed from the ground with the use of heavy equipment is piled and stored for sale to the public.
- 202) Sanitary Landfill:** A method of disposing of solid wastes on land without creating nuisances or hazards to public health or safety, by utilizing the principles of engineering to confine the solid waste to the smallest practical volume, and to cover it with a layer of earth at the conclusion of each day's operation, or at such more frequent intervals as may be necessary.
- 203) Satellite Dish Antenna:** An apparatus specifically designed and capable of receiving and/or sending communications from a transmitter or transmitter relay located in planetary orbit.

- 204) Satellite Dish:** A device incorporating a reflective surface that is solid, open mesh, or bar configured that is shallow dish, cone, horn, or cornucopia shaped and is used to transmit or receive electromagnetic signals. This definition is meant to include, but is not limited to, what are commonly referred to as satellite earth stations, TVROs and satellite microwave antennas.
- 205) Selective Cutting:** The removal of single scattered trees.
- 206) Semi-Public Uses:** The use of land by a private, non-profit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.
- 207) 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.
- 208) Septic System:** A system of treating human waste by the use of a septic tank and drainfield or other individual or cluster type sewage treatment system as described and regulated in Minnesota Rule 7080 Sewage Treatment System.
- 209) Setback:** The minimum horizontal distance between a structure or sewage treatment system or other facility and a property line, ordinary high water level, top of bluff, road or other facility as found in Minnesota Rule 6120.2500.
- 210) Sewage:** The water carried waste products from residences, public buildings, institutions or other buildings, including the excrementitious or other discharge from the bodies of human beings or animals, together with such groundwater infiltration and surface water as may be present.
- 211) Sewer System, Central:** Any sanitary sewer system, public or private, serving a group of buildings, lots, or an area of the County discharged to a common treatment and disposal structure and meets the County and State Health and Sanitation Regulations.
- 212) Sewer System, Community:** A sanitary sewer system comprised of lateral and/or trunk sewer lines connecting a house, building or structure with and consisting in part of a sewage treatment facility, owned by a homeowners association or other group, organization, company or cooperative other than a government agency. Such system must be approved by the County Zoning Administrator and the State Health Department. Such systems may consist of a common or community septic system when the number of units so attached and soil conditions, topography, water table and subsoil structure so permits.
- 213) Sewer System, Municipality:** A sanitary sewer system of lateral and/or trunk sewer lines connecting a group of buildings or an area to a central treatment plant owned and operated by such municipality or Sewer District under a Joint Power Agreement.
- 214) Shore Impact Zone:** Land located between the ordinary high water level of public water and a line parallel to it at a setback of fifty (50) percent of the building setback.

- 215) Shoreland:** Means land located within the following distances from public waters. (1) one-thousand (1,000) feet from the ordinary high water level of a lake, pond, or flowage; and (2) three-hundred (300) feet from a river or stream, or the landward extent of a flood plain designated by ordinance on such a river or stream, whichever is greater. The practical limits of shorelands may be less than the statutory limits whenever the waters involved are bounded by natural topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner of the Department of Natural Resources.
- 216) Sign:** Any letters, figures, design, symbol, trademark, architectural or illuminating device intended to attract attention to any place, subject, person, firm, corporation, public performance, article, machine or merchandise whatsoever and painted, printed, or constructed and displayed in any manner whatsoever for recognized advertising purposes. For purposes of this Ordinance, a flag constitutes a sign, but not including an emblem, or insignia of a government, school or religious group when displayed for official purposes.
- 217) Sign, Advertising:** A sign, which directs attention to business, commodity, service, activity, or entertainment not necessarily, conducted, sold, or offered upon the premises where such a sign is located.
- 218) 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.
- 219) Sign, Flashing:** Any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use.
- 220) Sign, Flat Wall:** A sign affixed directly to the exterior wall and confined within the limits thereof of any building and which projects from that surface less than eighteen (18) inches at all points.
- 221) Sign, Projecting:** A sign, other than a wall sign, which projects from and is supported by a wall of a building or structure.
- 222) Sign, Pylon:** A freestanding sign erected upon a single pylon or post, which is in excess of ten (10) feet in height, with a sign mounted on top thereof.
- 223) Sign, Rotating:** A sign, which revolves or rotates on its axis by mechanical means.
- 224) 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 of the limits of such sign and not forming an integral part of the display.
- 225) Sign, Temporary:** A banner, pennant, poster, or advertising display constructed of cloth, canvas, plastic sheet, cardboard, wall board, or similar material and intended to be displayed for a limited period of time.
- 226) Significant:** Having or likely to have a major effect. May also mean important.

- 227) Sinkhole:** A surface depression that is formed by the erosion of material into or the collapse of underlying cavernous bedrock (generally limestone or dolomite).
- 228) Site Development Plan:** A site development plan for construction which shall include at a minimum, the proposed location of the structure, the site elevations and the height of the structure, the location of the sewer and well, a construction erosion control plan if the site is over twelve (12%) slope.
- 229) Soil Survey:** A soil map or inventory of the soils of an area and a report of text describing the kinds of soils shown on the map and summarizing what is known about these soils, including their classification and capabilities.
- 230) 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.
- 231) Solar Energy Farm –** A Solar Energy Farm, sometimes referred to as a photovoltaic power station, is a large scale solar array supplying electricity to the power grid. Solar Energy Farms are distinguished from Accessory Solar Energy Systems, as they are the primary land use for the parcel on which the array is located.
- 232) Solar Energy System, Accessory Use –** A solar energy system that is secondary to the primary use of the parcel on which it is located and which is directly connected to or designed to serve the energy needs of the primary use. Excess power may be sold to a power company.
- 233) Solar Energy System, Building Integrated –** An active solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Such systems include, but are not limited to, solar energy systems that function as roofing materials, windows, skylights, and awnings.
- 234) Solar Energy System, Grid-intertie –** A photovoltaic solar energy system that is connected to an electric circuit served by an electric utility company.
- 235) Solar Energy System, Ground-mounted –** A solar collector, or collectors, located on the surface of the ground. The collector or collectors may or may not be physically affixed, or attached to the ground. Ground-mounted systems include pole-mounted systems.
- 236) Solar Energy System, Large –** A solar energy system with a nameplate capacity of forty (40) kilowatts or more.
- 237) Solar Energy System, Off-grid –** A photovoltaic solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility company.
- 238) Solar Energy System, Photovoltaic –** An active solar energy system that converts solar energy directly into electricity.

- 239) Solar Energy System, Primary Use** – A solar energy system which is the primary land use for the parcel on which it is located and which generates power for sale to a power company, or other off-premise consumer.
- 240) Solar Energy System, Roof-mounted** – A solar collector, or collectors, located on the roof of a building or structure. The collector or collectors may or may not be physically affixed, or attached to the roof.
- 241) Solar Energy System, Small** – A solar energy system with a nameplate capacity of less than forty (40) kilowatts.
- 242) Solar Structure:** A structure designed to utilize solar energy as an alternate for, or supplement to conventional mechanical heating system.
- 243) Solid Waste:** Garbage, refuse and other discarded solid materials, except animal waste used as fertilizer, including solid waste materials resulting from industrial, commercial, and agricultural operations and from community activities. Solid waste does not include earthen fill, boulders, rock and other materials normally handled in construction operations, solid or dissolved materials in domestic sewage or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents, dissolved materials in irrigation return flows, or other common water pollutants.
- 244) Special Flood Hazard Area:** A term used for flood insurance purposes synonymous with “One Hundred Year Floodplain.”
- 245) Start of Construction** – includes substantial improvement, and means the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement that occurred before the permit’s expiration date. The actual start is either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- 246) Steep Slope:** Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the sites soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and Ag practices are used in accordance with the provisions of this Ordinance. Where specific information is not available, steep slopes are lands having average slopes of over twelve percent (12%) as measured on horizontal distances of fifty (50) feet or more that are not bluffs.
- 247) Story:** That portion of a building included between the surface of any floor and the surface

of the next floor above, including below ground portions of earth-sheltered buildings.

- 248) Story, Half:** A half story is an upper most story lying under a sloping roof, the usable floor area of which does not exceed seventy-five (75%) percent of the floor area of the story immediately below it, and not used, or designed, arranged or intended to be used, in whole or in part, as an independent housekeeping unit or dwelling. A half story containing independent apartments or living quarters shall be deemed a full story.
- 249) Street:** A public right-of-way, which affords primary means of access to abutting property and shall also include avenue, highway, road, or way.
- 250) Street, Pavement:** The wearing or exposed surface of the roadway used by vehicular traffic.
- 251) Street Width:** The width of the right-of-way, measured at right angles to the centerline of the street.
- 252) Structure:** Anything constructed, placed, or erected, the use of which requires location on, in, or under the ground or attachment to something having a location on, in, or under the ground. Includes but not limited to buildings, poles, cables, pipes, bridges, and portable living quarters. For the purposes of this Ordinance, the pouring of cement or asphalt flat on the ground shall not be considered a structure.
- 253) Structural Alterations:** Any change in the supporting members of a building, such as bearing walls, columns, beams, or girders.
- 254) Subdivision:** Is a described tract of land, which is to be, or has been divided into three or more lots for the purpose of immediate or future transfer of ownership for the purpose of sale or of building development, including the re-subdivision or re-platting of land or lots.
- 255) Substantial Damage -** means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- 256) Substantial Improvement:** Within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:
- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
 - b. Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.” For the purpose of this ordinance, “historic structure” is as defined in 44 Code of Federal Regulations, Part 59.1.

- 257) Surface Water Oriented Commercial Use:** The use of land for commercial purposes where access to and use of a surface water feature is an integral part of the normal conductance of business, such as marinas, resorts, and restaurants with transient docking
- 258) “T”:** The tolerable soil loss level as defined in Section 2 of the Soil Conservation Technical Guide.
- 259) Telecommunications Facility:** A facility, site, or location that contains one or more antennas, telecommunications towers, alternative support structures, satellite dish antennas, other similar communication devices, and support equipment which is used for transmitting, receiving, or relaying telecommunications signals, excluding facilities exempted under Section 3.
- 260) Telecommunications Facility Structure:** A telecommunications tower or alternative support structure on which telecommunications antenna(s) may be mounted.
- 261) Telecommunications Tower:** Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including camouflaged towers, lattice towers, guy towers, or monopole towers. This includes radio and television transmission towers, microwave towers, and common-carrier towers. It shall exclude alternative support structures and those facilities exempted under 733.03.
- 262) Toe of the Bluff:** The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope from gentler to steeper slope above. If no break in the slope is apparent, the toe of bluff shall be determined to be the lower end of a fifty (50) foot segment measured on the ground with an average slope exceeding eighteen (18%) percent.
- 263) Top of the Bluff:** The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope from steeper to gentler slope above. If no break in the slope is apparent, the top of bluff shall be determined to be the upper end of a fifty (50) foot segment measured on the ground with an average slope exceeding eighteen (18%) percent.
- 264) Townhouse:** A single-family building attached by party walls with other single-family buildings, and oriented so that all exits open to the outside.
- 265) Travel Trailer:** A recreational camping vehicle.
- 266) 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.
- 267) Use, Accessory:** A use secondary to and serving the principal use or structure on the same lot and customarily incidental thereto.
- 268) Use, Permitted:** A public or private use which of itself conforms with the purposes, objectives, requirements, regulations, and performance standards of a particular district.
- 269) 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.

- 270) Utility:** See Essential Service.
- 271) Utility Pole Mounted Antenna:** An antenna attached to or upon an existing or replacement electric transmission or distribution pole, streetlight, traffic signal, athletic field light, or other approved similar structure.
- 272) Variance:** A modification or variation of the provisions of this Ordinance where it is determined that, by reason of exceptional circumstances, the strict enforcement of the official controls would cause unnecessary hardship.
- 273) Warrantied Systems:** Warrantied Systems are wastewater technologies or designs (new or existing) for which documentation and a warranty has been submitted to the Minnesota Pollution Control Agency (MPCA). Warrantied Systems are not standard, alternative, or experimental systems as defined in Minnesota Rules Chapter 7080.
- 274) Water Bottling:** The act of putting water in a container for the purpose of selling or distribution to the general public.
- 275) Water Oriented Accessory Structure:** 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 a public waters than normal structure setback. Examples of such structures include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.
- 276) Wetland:** Land which is annually subject to periodic or continual inundation by water and commonly referred to as bog, swamp, or marsh.
- 277) Wildlife Management Areas:** Wetland, uplands, or woods owned and managed for wildlife by the Department of Natural Resources (DNR) where hunting is open to the public during regular season.
- 278) 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. For earth sheltered buildings and buildings covered with earth berms, the line of the building is measured from the exterior surface of the building regardless of whether it is above or below grade.
- 279) 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 a depth required in the setback regulations for the zoning district in which such lot is located.
- 280) Yard, Rear:** The portion of the yard on the same lot with the principal building located between the rear lot line and a line at a distance specified by these regulations and extending for the full width of the lot.
- 281) Yard, Side:** The yard extending along the side lot line between the front yard and rear yards to a depth or width required by setback regulations for the zoning district in which such lot is located.

- 282) Zoning Amendment:** A change authorized by the County either in the allowed use within a district or in the boundaries of a district, the Zoning Ordinances, and/or the zoning map.
- 283) Zoning District:** An area or areas within the limits of the County for which the regulations and requirements governing use are uniform.
- 284) Zoning Map:** The map bearing the description “Official Zoning Map for Fillmore County” together with all proper notations, references and other information shown thereon.

SECTION 4

General Provisions

401. Jurisdiction

The jurisdiction of this Ordinance shall apply to all the area of Fillmore County outside the incorporated limits of municipalities, except for those incorporated municipalities who adopt the County Zoning Ordinance stating the regulations set forth in this document apply within their incorporated boundaries.

402. Application

This Ordinance shall be applicable to all lands, structures, and waters within the boundaries specified under the jurisdiction section above.

- 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.
- 3) Except as this Ordinance specifically provides, no structure shall be erected, converted, enlarged, reconstructed or altered; and no structure or land shall be used for any purpose or in any manner that is not in conformity with this Ordinance. Temporary buildings that are used in conjunction with construction work, including trailers and manufactured/mobile homes used as offices and for tool storage, may be permitted in any district during the period that construction is taking place, but such temporary buildings shall be removed within thirty (30) days after completion of construction work. Portable agricultural buildings placed on skids shall also be exempt from obtaining a building permit.

403. Separability

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

- 1) If any court of competent jurisdiction shall judge any provisions 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 judge 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 structure.

404. Zoning Permits

A zoning permit shall be obtained prior to erecting, installing, altering, converting, moving any building or structure or part thereof, or demolition of any historically significant structure, within areas regulated by this Ordinance in Fillmore County. Before a zoning permit is issued, the terms of this Ordinance shall be met.

404.01. Application Procedure

- 1) Application for a zoning permit shall be made by the owner or General Contractor if employed. Application shall be made to the Zoning Administrator on blank forms to be furnished by the County. Each application for a permit to construct or alter a building, structure 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. An application is not complete until all of the information and fees (including late fees) have been provided. For those townships which have enacted Zoning Ordinances, an application is not complete until the applicant provides a township permit, resolution or other documentation which certifies that the township has approved the proposed project. Fillmore County's application requirements do not imply or create a duty or legal obligation by the County to insure compliance with or enforce township zoning.
- 2) A Land Use Permit shall require that the applicant significantly begin* construction on the project for which the permit is issued within one (1) year and the project must be ready for its permitted purpose within two (2) years. Failure to significantly begin construction within one year or be ready for its intended purpose within two (2) years shall render the Land Use Permit null and void. Land Use Permits that are null and void cannot be renewed; instead, the landowner will be required to wait ninety (90) calendar days before they are allowed to complete a new, full application.
 - "Significantly Begin" shall mean the structure must have all footings, sidewalls, and roof on the structure.
- 3) A fee for the issuance of the permit shall be paid to the Zoning Administrator at the time of application. Fees shall be determined by the use of a fee schedule that shall be adopted by the Board of Commissioners, shall be posted in the office of the Zoning Administrator and shall be altered or amended only by the Board of Commissioners.
- 4) Any activity requiring a zoning permit, which is begun prior to obtaining the required permit, shall be subject to a penalty as set by the County Board and on file in the Zoning Office, plus the normal permit fee. Any activities in violation of this ordinance shall be subject to the legal remedies available.
- 5) A permit shall not be required for:
 - a. The remodeling or repair of a structure.
 - b. Portable agricultural buildings placed on skids.

- c. Concrete or blacktop poured for Agricultural Uses when the total of existing attached concrete plus the newly poured concrete is less than 160 total square feet.
- d. Concrete or asphalt poured for driveways.
- e. Concrete or asphalt poured for non-agricultural uses, excluding foundations and footings.
- f. Concrete poured on the inside of an existing building regardless of size.

405. Non-Conforming Uses

It is the purpose of the Section to provide for the regulation of non-conforming buildings, structures and uses and to specify those requirements, circumstances and conditions under which non-conforming buildings, structures and uses will be operated and maintained. It is necessary and consistent with the establishment of zoning districts that non-conforming buildings, structures and uses not be permitted to continue without restriction.

405.01. Land

The non-conforming use of land shall not in any way be expanded or extended either on the same or adjoining property.

405.02. Lot of Record

A non-conforming lot of record may be used for any principal use permitted in the zoning district in which the lot is located, provided that for any use which is to be served by an individual well and/or septic system, the non-conforming lot shall be of a size and design to meet the minimum requirements of the Board of Health regulations for such wells and septic systems.

405.03. Structure, Enlargement or Alterations

No non-conforming structure may be enlarged or altered in any way that increases its non-conformity. No addition or modification to a use within a flood fringe or floodway district shall increase the flood damage potential of the structure or increase the degree of obstruction to flood flow. No addition or modification to a non-conforming structure with a conforming use within a flood fringe or floodway district shall exceed fifty (50) percent of its current market value as determined by the Fillmore County Assessor's records, unless the entire structure is made conforming.

405.04. Structures, Damage or Destruction

If a non-conforming structure is destroyed by any means to an extent of more than fifty percent fifty (50) percent of its current market value, as determined by the Fillmore County Assessor's records at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the zoning code with the following exception:

- Any dwelling located outside of a Shoreland Area or Floodplain that is destroyed by forces constituting an act of God may be reconstructed on the original site.

If destroyed to less than fifty (50) percent of its market value, said restoration shall begin within twelve (12) months or the structure shall be made conforming.

405.05. Structure, Relocation

If a non-conforming structure is moved any distance, for any reason whatsoever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

405.06. Use, Change

Whenever a non-conforming use has been changed to a conforming use or to a use permitted in a district of greater restrictions, it shall not thereafter be changed back to a non-conforming use.

405.07. Use, Discontinuance

In the event that a non-conforming use of any structure or structure and land is discontinued for a period of one (1) year, the use of the same shall conform thereafter to the uses permitted in the district in which it is located.

405.08. Use, Zone Change

The foregoing provisions relative to non-conforming uses shall apply to buildings, land and uses which hereafter become non-conforming due to classification or reclassification of districts under this Ordinance.

406. Notifications to the Department of Natural Resources

406.01. DNR Notices

Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under local shoreland management controls must be sent to the Commissioner of the Department of Natural Resources or the commissioner's representative by the Zoning Office and postmarked at least ten (10) days before the hearings. Notices of hearings to consider proposed subdivision/plats must include copies of the subdivision/plat.

406.02. Copies to DNR

A copy of approved amendments and subdivisions/plats and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the commissioner or

the commissioner's designated representative by the Zoning Office and postmarked within ten (10) days of final action.

407. Uses not provided for in any Zoning District

Whenever a use is neither specifically permitted nor denied, the use shall be considered prohibited. If a property owner were to submit a request to establish such a use, the Planning Commission may conduct a study to determine if the use is appropriate for the district in which the property is located, or if not, whether the use would be appropriate to one of the County's other districts. The County Board or Planning Commission, upon receipt of the study, shall initiate an amendment to the Zoning Ordinance, if appropriate, to provide for the use under consideration or shall determine the use is not compatible in the County.

SECTION 5

Zoning Administration and Enforcement

501. Administrator

The Office of the Zoning Administrator is hereby established; the Zoning Administrator shall be appointed by the County Board and serve at its pleasure.

501.01. Duties

The Zoning Administrator shall enforce the provisions of this Ordinance as provided herein; in addition to the duties and powers of the Zoning Administrator under this Ordinance express or implied, he shall have the duty and power to:

- 1) Issue zoning and other permits, and make and maintain record thereof;
- 2) Oversee inspections and use of land to determine compliance with the terms of this Ordinance;
- 3) Maintain permanent and current records of this Ordinance, including but not limited to: all maps, amendments and conditional uses, variances, appeals and applications thereof;
- 4) Receive, file and forward all applications for appeals, variances, conditional uses or other matters to the designated official bodies; and
- 5) Review proposed development to assure that all necessary permits have been received from those governmental agencies which approval is required by Federal or State law.

502. Planning Commission

The Fillmore County Planning Commission is hereby established. The members of the commission shall be appointed and ratified by the County Board.

502.01. Membership and Terms

- 1) The Planning Commission shall consist of seven (7) members; one member shall be from each of the five (5) commissioner districts; one member shall be recommended from the Fillmore County Township Officers Association; and one member shall be a County Commissioner.
- 2) The county commissioner representing the County Board on the Planning Commission shall be appointed annually by the County Board.
- 3) The term of each member except the County Commissioner shall be for four (4) years.

Appointments shall be made so that at least one member shall be appointed at the beginning of each calendar year. Members may be eligible for reappointment at the discretion of the County Board.

- 4) The Commission may call for the removal of any member for non-performance of duty or misconduct in office. If a member has four (4) consecutive unexcused absences in any one year, the secretary shall certify this fact to the Commission and the Commission shall notify the County Board along with suggested action. The County Board shall appoint a replacement for the unexpired term, as if the member had resigned.
- 5) The members of such Planning Commission may be paid their necessary expenses in attending meetings of the Commission and in the conduct of the business of the Commission.
- 6) The Planning Commission shall elect a chairperson from among its members. The commission may also select a secretary from its members.

502.02. Functions of the Planning Commission

- 1) The Planning Commission shall adopt rules for the transaction of its business and shall keep public record of its transactions, findings, and recommendations.
- 2) The Planning Commission shall cooperate with the Zoning Administrator and other employees of the County in preparing and recommending to the Board for adoption, comprehensive plans and recommendations for plan execution in the form of official controls and other measures, and amendments thereto.
- 3) 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 conditional use permits and zoning amendments using the criteria in Sections 504 and 506, respectfully.

503. Board of Adjustment

A Board of Adjustment for Fillmore County is hereby established.

503.01. Membership and Terms

- 1) The Board shall consist of five (5) members, which are the same five (5) members of the County Planning Commission that are appointed from each of the Commissioner Districts. Further, at least one (1) member shall be from the unincorporated area of the County. No elected officer of the County or any employee of the Board of Commissioners shall serve as a member of the Board of Adjustment.
- 2) The term of each member shall be for four (4) years, which shall be the same four (4)

year term held as held as a member of the Planning Commission. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

- 3) The board may remove any of its members for non-performance of duty or misconduct in office.
- 4) The members of such board may be paid their necessary expenses in attending meetings of the board and in the conduct of the business of the board.
- 5) The Board of Adjustment shall elect a chairperson and vice-chairperson from among its members and shall select a secretary. It shall adopt rules for the transaction of its business and shall keep a public record of its transactions, findings, and determinations.

503.02. Functions of the Board of Adjustment

- 1) The Board of Adjustment shall act upon all questions as they may arise in the administration of this Ordinance, including the interpretation of zoning maps, and it shall hear and decide appeals from and review any order, requirement, decision or determination made by such an administrative official charged with enforcing the Ordinance. Such appeal shall be made within thirty (30) days of the administrative officials' decision and may be taken by any person, firm or corporation aggrieved or by any officer, department, board or bureau of the County. The Board of Adjustment shall also have the power to grant variances to the provisions of the Zoning Ordinance under certain conditions. The conditions for the issuance of a variance are as indicated in Section 5, Subdivision 5, of this Ordinance. No use variances (use difference than those allowed in the district) shall be issued by the Board of Zoning Adjustment.
- 2) Hearing by the Board of Adjustment shall be held within such time and upon such notice to interested parties as is provided in this Ordinance and its adopted rules for a reasonable time, make its order deciding the matter and shall serve a copy of such order upon the appellant or petitioner by certified mail. Any party may appear at the hearing in person or by agent or attorney.
- 3) The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, as in its opinion, ought to be made on the premises. The reasons for the board's decision shall be stated.
- 4) 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.
- 5) In exercising its power, the Board of Adjustment shall take into consideration the Town Board's recommendation when the Board of Adjustment's decision directly affects land within the Town. However, this is only a recommendation and the final decision shall be made by the Board of Adjustment.

504. Conditional Use Permits

504.01. Criteria for Granting Conditional Use Permits

In granting a conditional use permit, the Fillmore 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. Among other things, the following findings shall be considered.

- 1) The use will not create an excessive burden on existing parks, schools, streets and other public facilities and utilities that 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 properties will not be depreciated in value and there will be no deterrence to the development of vacant land.
- 3) The structure and site shall have an appearance that will not have an adverse effect upon adjacent 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 will not cause traffic hazards or congestion.
- 7) Existing businesses nearby will not be adversely affected because of curtailment of customer trade brought about by intrusion of noise, glare, vibration or other nuisances.
- 8) Adequate utilities, access roads, drainage and necessary facilities have been or will be provided.
- 9) If the Conditional Use Permit is for a use within the shoreland area of a public water, an evaluation of the waterbody and the topographic, vegetative, 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; and
 - b. the visibility of structures and other facilities as viewed from public waters is limited; and
 - c. the site is adequate for water supply and onsite sewage treatment.
- 10) No Conditional Use Permit shall be granted if such permit may have the potential for significant effect to:
 - a. the environment; or
 - b. the protection of the public health, safety, comfort, convenience, and general welfare of the public; or
 - c. the County's promotion of the orderly development and/or maintenance of

- agricultural, residential, recreational and public areas; or
- d. the compatibility of different land uses and the most appropriate use of land throughout the county; or
- e. the value of property.

504.02. 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) Increased setbacks from the ordinary high water level.
- 10) Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted.

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.

504.03. Required Exhibits for Conditional Use Permits

- 1) A preliminary building or structure and site development plan. 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.
- 2) Evidence of ownership or enforceable option or easements on the property.

504.04. Procedures

The procedure for obtaining a Conditional Use Permit is as follows:

- 1) The property owner or his/her agent shall meet with the Zoning Administrator to explain the situation, learn the procedures and obtain an application form.
- 2) The applicant shall file the completed application form together with the required exhibits with the Zoning Administrator and shall pay a filing fee as established by the County Board and on file in the Zoning Office.
- 3) The Zoning Administrator shall refer the application to the Planning Commission for review.
- 4) 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. Notice of the hearing shall also be submitted to the governing bodies of all towns and municipalities within two (2) miles of the affected property. In unincorporated areas of the County, property owners of record within one-quarter miles 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 the case of feedlots over nine-hundred ninety nine (999) animal units, property owners within one (1) mile shall be notified. 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. In the case of rock quarries, notice shall be sent to property owners of record as follows:
 - a. In incorporated areas to all owners of record within five hundred (500) feet of the affected property.
 - b. In unincorporated areas to all residences within one (1) mile of the new or existing quarry or the nearest ten (10) landowners whichever is greatest.
- 5) The Planning Commission shall hold the public hearing and then shall study the application to determine possible adverse effects of the proposed conditional use and to determine what additional requirements may be necessary to reduce such adverse effects and recommend one (1) of three (3) actions to the County Board at its next regular meeting: approval, denial, or approval with special conditions.
- 6) The County Board shall take action on the conditional use permit application following receipt of the findings and recommendations by the Planning Commission. 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) All appeals from the decision of the County Board relating to Conditional Use Permits shall be filed within thirty (30) days of the board's decision with a court of competent jurisdiction.
- 8) Revocation of Conditional Use Permits. Where a Conditional Use Permit has been issued pursuant to the provision of this Ordinance, such permit shall become null and void

without further action by the Planning Commission or the County Board unless work thereon is substantially complete within twelve (12) months of the date granting such conditional use. The Conditional Use Permit may be assignable only after the original applicant has begun the use and such transfer shall be reviewed and approved by the Zoning Administrator. A Conditional Use Permit shall be deemed to authorize one (1) particular use and shall expire if that use shall cease for more than six (6) consecutive months.

- 9) In the event that the applicant violates any of the conditions set forth in the conditional use permit, or the section of the Fillmore County Zoning Ordinance governing the conditional use, the County Board shall have the authority to revoke the conditional use permit.
- 10) The Planning Commission shall review all Conditional Use Permits at least one (1) time within 24 months of permit issuance to monitor compliance with the provisions of the Conditional Use Permit. Any violations of the conditions of the permit shall be cause for consideration for revocation of the permit.
- 11) Conditional Use permits shall be valid until their expiration pursuant to Paragraph 10 above unless a shorter or lesser time is specified in the permit.
- 12) No application of a property owner for a conditional use shall be considered by the Planning Commission within a one (1) year period following a denial for such a request, except the Planning Commission may permit a new application, if in its opinion, new evidence or a change in circumstances warrants it.

504.05. Terms of Receiving a Permit

Once an applicant receives a Conditional Use Permit, said permit holder agrees that:

- 1) The permit holder must undertake the project according to plans and specifications submitted to the county with the application.
- 2) If this Conditional Use Permit is not acted upon for the purpose specified in the application within one year, the permit becomes null and void.
- 3) This permit will be periodically reviewed by the county to assure compliance with the permit and permit conditions.
- 4) The county may enter onto the premises at a reasonable time and in a reasonable manner to ensure the permit holder is in compliance with the conditions and all other applicable statutes, rules, and ordinances.

504.06. Transfers (Rock Quarries, Sand Pits and Feedlots)

The Zoning Office must be notified of all transfers of ownership of properties and/or conditional use permits involving only gravel pits and quarries that have a conditional use attached to such

property. It shall be the duty of the landowner and/or the operator of the conditional use to:

- 1) Complete a Change in Ownership of a Conditional Use Transfer application.
- 2) Pay a fee as established by the County Board for the transfer. This fee is meant to cover the County's administrative costs for ensuring compliance of the conditional use as well as for record keeping expenses the County may incur.

A public hearing is not needed or required unless there is a change in the use of the conditional use. Any change in the use of the conditional use, such as but not limited to the use, size, and/or change in animal units will require a new conditional use application as well as a public hearing, as shown in section 504.04. All applicants are required to provide the necessary exhibits needed for a conditional use as shown in sections 504.02 and 504.03.

Failure to apply for the conditional use transfer of ownership within thirty (30) days will result in a monetary penalty as set by the County Board and on file in the Zoning Office.

504.07. Revocation Procedures

A conditional use permit shall be revocable by the County Board, either by petitioning a court of law or through this section, at any time due to failure of the permittee to observe any condition specified or failure to observe other requirements of the Fillmore County Zoning Ordinance in regards to the maintenance of improvements or conduct of the use or business as approved. The county shall also have a right of action to compel offending structures or uses to be removed at the cost of the violator or owner.

No conditional use permit shall be revoked until a hearing is held by the Planning Commission. The permittee shall be notified in writing of such hearing. The notification shall state the grounds for the complaint or reasons for revocation, and the time and location at which the hearing is to be held. At the hearing, the permittee shall be given an opportunity to be heard. The permittee may call witnesses and present evidence. Upon conclusion of the hearing, the Planning Commission shall make a recommendation to the County Commissioners about whether the permit should be revoked.

505. Variances

505.01. Criteria for Granting Variances

A variance to the provision of the Zoning Ordinance may be issued by the Board of Adjustment to provide relief to the landowner in those cases where the Ordinance imposes practical difficulties to the property owner in the use of this land. No variance may be granted that would allow any use that is prohibited or is a nonconforming use in the zoning district in which the subject property is located. The Board of Adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance. A variance may be granted only in the event that all the following circumstances exist for practical difficulties:

- 1) The variance is in harmony with the intent of the comprehensive plan, zoning ordinance, and State Shoreland Management Rules.
- 2) Without the variance, the owner is deprived of a reasonable use of the property.
- 3) The alleged practical difficulty is due to circumstances unique to this property.
- 4) The circumstances causing the practical difficulty were created by someone or something other than the landowner or previous landowners.
- 5) The issuance of the variance will maintain the essential character of the locality.
- 6) The alleged practical difficulty involves more than economic considerations.

505.02. Required Exhibits for Variances

- 1) A preliminary building or structure and site development plan. Requirements for site plan found in Section 504.03 of this Ordinance.
- 2) Evidence of ownership or enforceable option or easement on the property.

505.03. Procedures

The procedures for obtaining a variance from the regulations of this Ordinance are as follows:

- 1) The property owner or his/her agent shall meet with the Zoning Administrator to explain his situation, learn the procedures and obtain an application form.
- 2) The applicant shall file the completed application form together with the required exhibits with the Zoning Administrator and shall pay a filing fee as established by the County Board and on file in the Zoning Office.
- 3) The Zoning Administrator shall refer the application to the Board of Adjustment for review.
- 4) 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. Notice of the hearing shall also be submitted to the governing bodies of all towns and municipalities within two (2) miles of the affected property. 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.
- 5) The Board of Adjustment shall hold a public hearing on the proposed variance and shall make a decision within thirty (30) days after the public hearing. It shall take one of three (3) actions: approval, denial or approval with special conditions.
- 6) No application by a property owner for a variance shall be submitted to the Board of Adjustment within a six (6) month period following a denial of such a request, except the board may permit a new application, if in the opinion of the board, new evidence of change or circumstances warrant it.

- 7) All appeals from the decision of the Board of Adjustment relating to variances shall be final except that any aggrieved person or persons, or any department, board or commission, of the jurisdiction or of the State shall have the right to appeal within 30 days, after receipt of notice of the decision, to the district court in which the land is located on question of law and fact.

506. Zoning Amendments

506.01. Criteria for Granting Zoning Amendments

The County Board may adopt amendments to the Zoning Ordinance and zoning map in relation both to land uses 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 or changes in conditions of the county.

506.02. Kinds of Amendments

- 1) A change in a district's boundary (rezoning).
- 2) A change in a district's regulations.
- 3) A change in any other provision of this Ordinance.

506.03. Initiation of Proceedings

Proceedings for amending this Ordinance shall be initiated by at least one (1) of the following three (3) methods:

- 1) By petition of an owner or owners of property which is proposed to be rezoned, or for which district regulation changes are proposed.
- 2) By recommendation of the Planning Commission.
- 3) By action of the County Board.

506.04. Required Exhibits for Rezoning or District Regulation Changes initiated by Property Owners

- 1) A preliminary building or structure and site development plan. Site plan requirements are listed in Section 504.03 of this Ordinance.
- 2) Evidence of ownership or enforceable option or easement on the property.

506.05. Procedures

The procedure for a property owner to initiate a rezoning or district regulation change applying to this property is as follows:

- 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 meet with the Zoning Administrator to explain the situation, learn the procedures and obtain an application form.
- 2) The applicant shall file the completed application form together with the required exhibits with the Zoning Administrator and shall pay a filing fee as established by the County Board.
- 3) Written notice of public hearings on the proposed amendment shall be sent to the governing bodies of all townships and municipalities located within the County. In unincorporated areas, property owners of record within one-half (1/2) mile of the property in question shall be notified in writing of the proposed zoning amendment. In incorporated areas, property owners within five (500) feet of the property in question shall be notified in writing of the proposed zoning amendment.
- 4) A public hearing on the application for amendment shall be held by the Planning Commission after the request for the zoning amendment has been received. 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 the next regular meeting of the board following the hearing recommending approval, disapproval or modified approval of the proposed amendment.
- 5) The County Board shall take action on the proposed amendment following receipt of the recommendations by the Planning Commission. Said action for approval by the County Board shall be by a majority vote of its members. The person making application for the amendment shall be notified in writing of the board's action. The date of adoption will be set by the County Board of Commissioners at their discretion.
- 6) 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 warrant it.
- 7) All appeals from the decision of the County Board shall be directed to a court of competent jurisdiction. Any such appeal must be filed within thirty (30) days of the County Board's final action.

SECTION 6
Zoning Districts and Provisions

601. Zoning Districts

The zoning districts are so designed as to assist in carrying out the intents and purposes of this Zoning Ordinance.

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

<u>Symbol</u>	<u>Name</u>
A	Agricultural District
RA	Residential Agricultural District
R-1	Single and Two Family District
B-1	General Commercial District
I-1	General Industrial District

602. Overlay Zoning Districts and Shoreland Classification System

602.01. Zoning Overlay Districts

The following overlay districts are also made part of the Zoning Ordinance on property where both the zoning district (Section 601) and the overlay district would apply. The use or development of such a property shall comply with both districts. The following symbols and names shall represent Fillmore County's overlay districts:

<u>Symbol</u>	<u>Name</u>
FP	Flood Plain District
ST	Scenic Trail District
SH	Shoreland District
BL	Bluffland
DS	Decorah Shale

602.02. Shoreland Classification

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

Classification

Legal Descriptions

A. Transition

	From	From Section	From Twp.	From Range	To	To Section	To Twp.	To Range
Root River	West Sec. Line	27	104	10W	Confluence S Br. R.R.	7	103N	9W
S. Br. Root River	Bridge on Co. Road 5	22	102N	12W	Bridge	4	102N	11W
Deer Creek	Bridge on Co. Road 1	9	103N	13W	Co. Rd. 8 Bridge E ½	8	103N	12W

B. Agriculture

	From	From Section	From Twp.	From Range	To	To Section	To Twp.	To Range
North Br. Root River	North Sec. Line	1	104N	12W	Conflu. With Mid. Br. R.R.	17	104N	11W
Deer Creek	West Sec. Line	18	103N	13W	Bridge on Co. Rd. 1	9	103N	13W
Middle Br. Root River	Co. Rd. #8 Bridge E ½	8	103N	12W	Conflu. With N. Br. R.R.	17	104N	12W
Root River	Conflu. With N. Root & Mid Br. R.R.	17	104N	11W	East Section Line	28	104N	10W
Root River	Conflu. With S. Br. R.R.	7	103N	9W	East Section Line	24	104N	8W
South Br. Root River	West Sec. Line	18	102N	13W	Bridge on Co. Hwy. #5	22	102N	12W
South Br. Root River	Bridge	4	102N	11W	Conflu. With Root River	7	103N	9W
South Fork Root River	Co. Rd. Bridge	1	101N	10W	East Section Line	36	103N	8W

C. Natural Environment Trout Streams

	From	From Section	From Twp.	From Range	To	To Section	To Twp.	To Range
Riceford Creek		24	101N	8W		24	101N	8W
Riceford Creek		13	101N	8W		12	101N	8W
Riceford Creek		12	101N	8W		1	101N	8W
Unnamed to Riceford Creek		1	101N	8W		1	101N	8W
Canfield Creek		25	102N	12W		24	102N	12W
Forestville Creek		15	102N	12W		13	102N	12W
Willow Creek		13	102N	11W		1	102N	11W
Camp Creek		5	101N	10W		5	101N	10W

Camp Creek		17	102N	10W		5	102N	10W
Watson Creek		30	103N	11W		29	103N	11W
Duschee Creek		1	102N	10W		24	103N	10W
Unnamed to Duschee Creek		35	103N	10W		1	102N	10W
Shady Creek		31	104N	11W		20	104N	11W
Spring Valley Creek		29	103N	13W		8	103N	12W
Kedron Creek		36	104N	13W		36	104N	13W
Carson Creek		21	104N	12W		27	104N	12W
Upper Bear Creek		8	104N	12W		15	104N	12W
Upper Bear Creek		18	104N	11W		18	104N	11W
Lynch Creek		2	104N	11W		14	104N	11W
Rice Creek		3	103N	11W		33	104N	11W
Rice Creek		22	104N	11W		14	104N	11W
Trout Run		5	104N	10W		20	104N	10W
Torkelson Creek		25	104N	10W		36	104N	10W
Gibbon Creek		27	103N	9W		9	103N	9W
Unnamed to Gibbon Creek		33	103N	9W		28	103N	9W
Diamond Creek		13	103N	9W		2	103N	9W
Unnamed to Diamond Cr.		24	103N	9W		13	103N	9W
Big Springs Creek		15	104N	9W		24	104N	9W
Pine Creek		2	104N	9W		2	104N	9W
Wisel Creek		5	101N	8W		19	102N	8W
Unnamed to Wisel Creek		8	101N	8W		5	101N	8W
Vesta Creek		14	102N	8W		11	102N	8W
Unnamed to S. Fork R.R.		27	103N	8W		10	102N	8W
Unnamed to S. Fork R.R.		35	103N	8W		36	103N	8W

D. Tributary

This classification applies to all remaining non-classified protected watercourses in Fillmore County as shown on the Protected Waters Inventory Map, a copy that is hereby adopted by reference.

603. Official Zoning Map and Boundary Interpretation

The County shall be divided into zones, or districts, as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared

to be a part of this Ordinance. The Official Zoning Map shall be identified by the signature of the Chairman of the Fillmore County Board attested by the County Surveyor and bearing the seal of the County under the following words: "This is to certify that this is the Official Zoning Map referred to in section 603 enacted by the Zoning Ordinance of Fillmore County, Minnesota," together with date of the adoption of this Ordinance.

603.01. Zoning Map Changes

If, in accordance with the provisions of this Ordinance, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the Fillmore County Board with an entry on the Official zoning Map as follows: "On /Date/, by official action of the Board of County Commissioners, the following change/changes were made in the Official Zoning Map: /brief description of nature of change/," which entry shall be signed by the Chairman of the Fillmore County Board and attested by the County Surveyor. No amendment to this Ordinance which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said Map.

No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Ordinance.

Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Ordinance and punishable as provided under Section 8.

Regardless of the existence of purported copies of the Official Zoning Map which may, from time to time, be made or published, the Official Zoning Map which shall be located in the Office of the County Auditor as well as a copy of the Official Zoning Map in the Office of the Zoning Administrator, and shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the County.

603.02. Zoning Map Replacement

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Fillmore County Board may, by resolution, adopt a new Official Zoning Map, which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map, or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Chairman of the Fillmore County Board attested by the County Surveyor and bearing the seal of the County under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted /date of adoption of zoning map being replaced/ as part of Zoning Ordinance No. 603.02 of Fillmore County, Minnesota." Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

603.03. Rules for Interpretation of 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 centerlines of streets, highways, or alleys, shall be construed to follow such centerlines;
- 2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- 3) Boundaries indicated as approximately following sections, half sections, quarter sections, eighth sections and government lots shall be construed to follow such lines;
- 4) Boundaries indicated as approximately following city limits shall be construed as following such city limits;
- 5) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
- 6) Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shorelines shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines;
- 7) Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 6 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the Map;
- 8) Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections 1 through 7 above, the Fillmore County Planning Commission and/or Board of Adjustment shall interpret the district boundaries.

604. Ag District

604.01. Purpose

To provide a district, whose primary purpose is to maintain, conserve and enhance agricultural land that has historically been tilled on a continuous basis and to provide for orderly development of dwellings and rural home based businesses.

604.02. Permitted Uses

- 1) Dwellings. There shall be no more than a total of 2 (two) dwellings per quarter of a

quarter section of land in the Ag District. The following rules must be followed:

- All accesses and driveways to the dwelling must be at a grade that can be traversed by an emergency vehicle.
 - Dwellings and accessory structures shall not be permitted in areas classified as wetlands, floodplain, and other areas of poor drainage.
 - All dwellings constructed must adhere to the Bluffland and Shoreland Ordinances and be reviewed for Decorah Shale Outcroppings.
 - There shall be a minimum buildable lot size of 2.5 acres or more.
- 2) Agricultural Uses
 - Raising crops to include but not limited to corn, beans, oats, grasses and legumes, sunflowers, wheat, and sorghum.
 - Raising livestock (999 animal units or less) to include but not be limited to dairy cattle, beef cattle, horses, mules, donkeys, lama, emu, deer, elk, swine, sheep, goats, ducks, chickens, turkeys, chinchilla, bees, and buffalo.
 - Horticulture and other similar agriculturally related uses.
 - 3) Accessory structures and uses customarily incidental to any of the above permitted uses when located on the same property.
 - 4) Drainage systems, flood control and watershed structures and erosion control devices provided each will meet the appropriate safety laws and regulations.
 - 5) Temporary or seasonal roadside stands with adequate off street parking.
 - 6) Forestry and Wildlife Management Areas.
 - 7) Home occupations.
 - 8) Electrical distribution lines and other essential services in accordance with Section 733.
 - 9) Cemetery Expansions.
 - 10) Kennels provided they are a part of an existing building site.
 - 11) Stables provided they are a part of an existing building site.
 - 12) One room school houses.
 - 13) Publicly owned and operated buildings except when operated for commercial purposes.
 - 14) One, two, or three-day celebration events held once a year or less.
 - 15) Bed and Breakfast Establishments.
 - 16) Commercial Storage Units. Only the use of existing buildings with no extensions are permitted and only the interior of the building may be remodeled.
 - 17) Rural Home Based Businesses.
 - 18) Sale of dwellings.
 - 19) Sawmills when operated for personal use.
 - 20) Farmers markets.
 - 21) Electric transmission lines.

604.03. Conditional Uses

- 1) Mining or extraction of minerals and raw materials regulated in Section 721.
- 2) Public, Private, and Parochial Schools and Learning Centers.
- 3) Churches and similar places of worship and instruction.
- 4) Cemeteries, including mausoleums and crematories:
 - Cemeteries shall contain a minimum of two (2) acres and include necessary parking area.
 - No burial sites within forty (40) feet of a right of way.

- Mausoleums shall be located at least two hundred (200) feet from a property line.
- 5) Public parks.
 - 6) Golf Courses.
 - 7) Airports and landing fields for the operation of aircraft.
 - 8) Sawmills when used for the industrial sawing of logs.
 - 9) Commercial radio and television towers and transmitters.
 - 10) Public utility buildings and structures such as substations, transformer stations and communications stations.
 - 11) Campgrounds.
 - 12) Temporary or portable machinery that is used to make, crush, or otherwise process concrete, asphalt, rocks, sand, gravel, or other like materials.
 - 13) Commercial or industrial uses primarily intended to serve agriculture. Non-agricultural commercial or industrial uses can be located in existing buildings, not previously permitted as a dwelling, sited adjacent to the US 52, US 63, State Highway 16, and State Highway 56 corridors.
 - 14) Celebrations other than one, two, or three-day celebration events held once a year or less.
 - 15) Feedlots greater than 999 animal units.
 - 16) Country Inns.
 - 17) WECS (Wind Energy Conversion Systems).
 - 18) Ponds (not intended for Agricultural Use).
 - 19) Extraction of water for bottling purposes.
 - 20) Commercial Outdoor Recreation Area.

604.04. Prohibited Uses

- 1) Any activity that would require a change in the Zoning Map from the Ag District to a Residential Agricultural District, Single & Two-Family Residential District, Commercial District or an Industrial District unless it is within ½ mile of city limits.
- 2) Commercially operated race tracks, ATV and motorbike off road courses or similar activities.
- 3) Manufactured Home Parks.
- 4) Multiple Family Dwelling Unit Structures.
- 5) Private Game Farms.
- 6) Subdivisions.
- 7) Residential PUDs.
- 8) PUDs.
- 9) Large Assemblies.

604.05. Performance Standards

- 1) Height Regulations (Height is determined by the average elevation of the dirt surrounding a dwelling and the average elevation between the tallest peak of the dwelling and the tallest plate holding that peak).
 - a. Dwellings shall not exceed a height of thirty-five (35) feet.
 - b. Accessory buildings shall not exceed a height of seventy (70) feet except silos and grain bins.

- c. Non-agricultural structures shall not exceed a height of one hundred (100) feet unless as a part of a Conditional Use Permit or a Variance.
- d. Public or semi-public buildings, churches, cathedrals, temples, or schools may be erected to a maximum height of fifty-five (55) feet. In this instance, setback requirements shall increase at a rate of one (1) foot for each foot of height exceeding thirty-five (35) feet.

2) Front Yard Regulations

- a. There shall be a front yard setback of not less than seventy-three (73) feet from the centerline of the public road and forty (40) feet from the road right of way for all permanent buildings and dwellings. In the instance of a corner lot, there shall be two front yard requirements along the street sides. Where highway safety and/or back slope easements are factors, the setback shall be as determined by the County Highway Engineer and Zoning Administrator, but not less than the above minimum.
- b. No structure shall be allowed within seventy-three (73) feet of the centerline of a public road and forty (40) feet from the road right of way. All utilities must cross this area at right angles to the road easement or as close to right angles as practical. Any sewer installed must be located back of the Right of Way and may be closer to the road than 73 feet with the approval of the County Engineer.
- c. In cases where an accessory building is attached to the main building, it shall be considered as structurally a part thereof and shall comply in all respects with the requirements of this Ordinance applicable to the main building. An accessory building, unless attached to and made a part of the main building as above provided, shall not be closer than eight (8) feet to the main building.

3) Side Yard Regulations

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

4) Rear Yard Regulations

- a. There shall be a minimum rear yard of not less than ten (10) feet.

5) Lot Width Regulations

- a. Each lot shall have a minimum width of one hundred fifty (150) feet at the front of the proposed building site.
- b. Each lot shall be provided with either thirty-three (33) feet of public road frontage or a recorded private easement of not less than thirty-three (33) feet for access to the building site.

- 6) No landowner may have more than one (1) access in each quarter mile unless such field is divided by natural drainage ways that prohibit access to all parts of the field. A parcel of land may have a second access within one-quarter of a mile provided one of the accesses is intended for agricultural purposes and one is intended for a dwelling.

- 7) Upon re-grading of a road, no agricultural lot of forty (40) acres or more may have more than two (2) access driveways.

- 8) The construction of all new dwellings must be at least one thousand (1,000) feet from a feedlot measured from the nearest point of the dwelling to the border of the feedlot as determined and measured by the Fillmore County Feedlot Officer unless:

- a. the dwelling owner and feedlot owner are first, second, third, or fourth degree kindred; or
 - b. the dwelling is being located on an existing building site.
- 9) No new dwelling unit or existing dwelling unit may be located within one thousand (1,000) feet of the surveyed boundaries of a rock quarry or sand pit.
- 10) Cement or asphalt may be poured up to the property line provided runoff does not adversely impact or pollute neighboring property or waters of the State.
- 11) All newly planted trees and shrubs must be set back from all property lines and Right-of-Way lines at least one half ($\frac{1}{2}$) the crown size of the tree at maturity.
- 12) General Regulations. Additional requirements for signs, parking, water supply, waste disposal, and sewage disposal are set forth in Section 7.
- 13) New Cemeteries:
- a. Shall contain a minimum of two (2) acres and include necessary parking area.
 - b. No burial sites within forty (40) feet of a right-of-way.
 - c. Mausoleums shall be located at least two hundred (200) feet from a property line.

605. Residential Agricultural District (RA)

605.01. Purpose

To provide suitable areas of low-density residential development in areas of existing development which occur in unincorporated areas.

605.02. Permitted Uses

- 1) One single family dwelling per lot.
- 2) Keeping and raising of livestock or poultry, provided:
 - a. said animals are housed and fenced so as not to create a nuisance;
 - b. said raising of livestock or poultry is clearly not commercial in nature;
 - c. the animal density shall not be greater than one (1) animal unit per acre of pasture (see definition in Section 302(8)); and
 - d. no structure for housing poultry or livestock may be located nearer than fifty (50) feet to any property line.
- 3) Parks and recreation areas owned or operated by a government agency.
- 4) Public or private schools provided no building shall be located within fifty (50) feet of any lot line of a residential use.
- 5) Churches.
- 6) Home occupations.
- 7) Accessory structures and uses customarily incidental to any of the above permitted uses when located on the same property.
- 8) Electrical distribution lines and other essential services in accordance with Section 733.
- 9) Bed and Breakfast Establishments.

605.03. Conditional Uses

- 1) Cemeteries meeting the conditions of Section 604.03(4).
- 2) Water supply buildings, reservoirs, commercial wells, elevated tanks, electric substations and similar essential service structures, provided no structure shall be located within fifty (50) feet of any residential lot line.
- 3) Public utility buildings and structures.
- 4) Commercial radio and television towers.
- 5) Accessory structures and uses customarily incidental to any of the above conditional uses when located on the same property.
- 6) Country Inns.
- 7) Substations.

605.04. Performance Standards

- 1) Height Regulations (Height is determined by the average elevation of the dirt surrounding a dwelling and the average elevation between the tallest peak of the dwelling and the tallest plate holding that peak).
 - a. No residential buildings used for dwellings shall be erected or structurally altered to exceed thirty-five (35) feet in height.
 - b. Public or semi-public buildings, churches, cathedrals, temples, or schools may be erected to a maximum height of fifty-five (55) feet. In this instance, the setback requirements shall increase at a rate of one (1) foot for each foot of height exceeding thirty-five (35) feet.
- 2) Front Yard Regulations
 - a. All lots shall front on and have ingress and egress by means of a public street or road.
 - b. A minimum front yard depth of not less than thirty (30) feet to the edge of any street lot line or road right-of-way. No structure shall be allowed within thirty (30) feet of any public road right of way. All utilities must cross the thirty (30) foot setback at right angles to the road easement, or as close to right angles as practical.
- 3) Side Yard Regulations
 - a. There shall be a minimum interior side yard setback of ten (10) feet.
- 4) Rear Yard Regulations
 - a. There shall be a rear yard of not less than ten (10) feet in depth.
- 5) Lot Area Regulations
 - a. Each lot shall have an area of not less than one (1) acre, except when additional lot area is required as determined by the County Planning Commission to meet water treatment and safety standards.
- 6) Lot Width Regulations
 - a. Each lot shall have a minimum width of one hundred fifty (150) feet at the front building line.

- 7) All curb and gutter construction required must meet Department of Transportation State Aid Standards.
- 8) No new dwelling may be located within one thousand (1,000) feet of the surveyed boundaries of a rock quarry on file in the Zoning Office or animal feedlot measured from the nearest point of the dwelling to the border of the feedlot as determined and measured by the Fillmore County Feedlot Officer.
- 9) General Regulations. Additional requirements for signs, parking, water supply, waste disposal, and sewage disposal are set forth in Section 7.

606. Single and Two-Family Residential District (R-1)

606.01. Purpose

The purpose of this district is to provide for residential development in areas that have suitable soils for long-term private sewage systems or those areas served by public or other centralized sewage collection and treatment systems.

606.02. Permitted Uses

- 1) One and two family residential dwellings.
- 2) Public recreation including parks and playgrounds.
- 3) Public and parochial schools of general instruction.
- 4) Essential services and electrical distribution lines in accordance with Section 723.
- 5) Churches, Chapels, including parish houses.
- 6) Home occupations.
- 7) Accessory structures and uses customarily incidental to any of the above permitted uses when located on the same property.
- 8) Electrical transmission lines and substations.

606.03. Conditional Uses

- 1) Municipal office buildings and day care centers.
- 2) Multiple family dwellings for any number of families.
- 3) Cemeteries, memorial gardens and funeral homes meeting the conditions of Section 604.03(4).
- 4) Boarding or rental of rooms, including bed and breakfast establishments and Country Inns.
- 5) City buildings and structures including police and fire stations, libraries, museums, and art galleries.
- 6) Nursing homes, hospitals, and sanitariums.
- 7) Water supply buildings and reservoirs, elevated tanks, utility buildings, substations, transformer stations.
- 8) Planned unit developments (PUD's).

- 9) Semi-private recreation areas, clubs, lodges, and centers, including country clubs, swimming pools and golf courses, but not including such uses as camping areas, miniature golf courses or practice driving tees which are operated for commercial purposes.
- 10) Any other use of the same character of those listed as permitted uses.
- 11) Manufactured Home Parks.
- 12) Subdivisions.

606.04. Performance Standards

- 1) Height Regulations (Height is determined by the average elevation of the dirt surrounding a dwelling and the average elevation between the tallest peak of the dwelling and the tallest plate holding that peak).
 - a. No residential buildings used for dwellings shall hereafter be erected or structurally altered to exceed thirty-five (35) feet in height.
 - b. Public or semi-public buildings, churches, cathedrals, temples, or schools may be erected to a maximum height of fifty-five (55) feet. When such buildings exceed thirty-five (35) feet in height, the setback requirements shall increase at a rate of one (1) foot for each foot of height exceeding thirty-five (35) feet.
- 2) Front Yard Regulations
 - a. A minimum front yard depth of not less than thirty (30) feet shall be provided to the edge of any street lot line or road right-of-way. No structure shall be allowed within thirty (30) feet of any public road right of way. All utilities must cross the thirty (30) foot setback at right angles to the road easement or as close to right angles as practical.
- 3) Side Yard Regulations
 - a. There shall be a minimum interior side yard setback of ten (10) feet.
- 4) Rear Yard Regulations
 - a. There shall be a rear yard of not less than ten (10) feet in depth.
- 5) Lot Area Regulations
 - a. The minimum lot area shall be ten thousand (10,000) square feet for single and fifteen thousand (15,000) square feet for two family residences.
 - b. The minimum lot area shall be fifteen thousand (15,000) square feet, plus two thousand (2,000) square feet per dwelling multi-family structures that shall apply to each unit above two.
- 6) Lot Width Regulations
 - a. Each lot shall have a minimum width of seventy (70) feet at the front building line.
- 7) No access drives shall exceed twenty-two (22) feet in width.
- 8) All curb and gutter construction must meet the Department of Transportation State Aid Standards.

- 9) No new dwelling unit may be located within one thousand (1,000) feet of the surveyed boundaries of a rock quarry or animal feedlot measured from the nearest point of the dwelling to the border of the feedlot as determined and measured by the Fillmore County Feedlot Officer.
- 10) General Regulations. When a manufactured home is used as the dwelling unit or as an accessory structure, that home shall be not less than twenty (20) feet wide. Additional requirements for parking, signs, sewage systems, and other regulations are set forth in Section 7.

607. General Commercial District (B-1)

607.01. Purpose

The purpose of this district is to permit areas of concentrated commercial areas by allowing retail, service, office, and entertainment facilities as well as public and semi-public uses.

607.02. Permitted Uses

- 1) Business services including banks, offices and postal stations.
- 2) Clothing services including dry cleaning and laundry establishments, laundromats, dressmaking, millinery and tailor shops, and shoe repair shops.
- 3) Equipment services including radio and television shops, electrical appliance shops, show room of a plumber, decorator or similar trade.
- 4) Food services including grocery stores, fruit, vegetable and meat markets, supermarkets, restaurants, delicatessen, candy shops, and bakeries whose products are sold only at retail on the premises.
- 5) Personal services including barber and beauty shops, reducing salons, photographic shops and funeral homes.
- 6) Retail services including drug stores, hardware stores, haberdasher, stationery and book stores, news shops, apparel shops, show room for articles to be sold at retail, flower shops, and commercial greenhouses.
- 7) Public transportation terminals, public utility buildings and transformer stations without storage yards.
- 8) Buildings used for research and testing laboratories, storage buildings or distributing stations.
- 9) Any similar commercial establishment or professional service not specifically stated or implied elsewhere in this article.
- 10) Residence when included as an integral part of the principal building to be occupied by the owner or his employee.
- 11) Buildings and uses customarily necessary to any of the above uses, which may include the repair, alteration, finishing, assembly, fabrication, or storage of goods. Such use shall not be detrimental either by reason of odor, smoke, noise, dust or vibration to the surrounding neighborhood.
- 12) Accessory structures and uses customarily incidental to any of the above permitted uses when located on the same property.
- 13) Electrical distribution and transmission lines, substations, and other essential services.

607.03. Conditional Uses

- 1) Automobile service including auto equipment sales, car wash service, new and used car sales lots, trailer sales areas, gasoline service station and auto repair garages.
- 2) Recreation services including theaters, bowling alleys, pool and billiard rooms, dance halls, roller and ice skating rinks, miniature golf courses, hotels, motels, private clubs and lodges, wholesale establishments, taverns, night clubs and on and off liquor stores, trade schools, commercial parking garages, sales rooms, public transportation terminals, public utility buildings, and transformer stations without storage yards.
- 3) Hotels, motels, private clubs and lodges, wholesale establishments, taverns, nightclubs, on and off sale liquor stores, trade schools, commercial parking garages and ramps.
- 4) Drive-in restaurants, drive-in banks, and other drive-in services.
- 5) Open air display areas for the sale of products such as garden furniture, hardware items, nursery stock, or automobiles or areas used to display rental equipment such as tools or trailers.
- 6) Any similar commercial establishment or professional service or commercial service not specifically stated or implied elsewhere in this article.
- 7) Buildings and uses customarily incidental to any of the uses listed in this section when located on the same property and which will not be detrimental either by reason of odor, smoke, noise, dust, or vibration to the surrounding neighborhood.
- 8) Pole buildings subject to screening, appearance, height, and size requirements.
- 9) Accessory structures and uses customarily incidental to any of the above conditional uses when located on the same property.
- 10) Campgrounds.

607.04. Performance Standards

- 1) Height Regulations (Height is determined by the average elevation of the dirt surrounding a building and the average elevation between the tallest peak of the building and the tallest plate holding that peak).
 - a. No building or structure shall exceed forty-five (45) feet in height.
 - b. Public/semi-public buildings, churches, cathedrals, temples, or schools may be erected to a maximum height of fifty-five (55) feet.
- 2) Front, Side and Rear Yard Regulations, Lot Coverage, Lot Area, and Frontage. For all permitted uses in the B-1 District there are no minimum requirements for front, side or rear yards, lot coverage, lot area or frontage. However, if such use falls within any overlay district, the performance standards in the following sections will apply:
 - a. Flood Plain - Section 610
 - b. Scenic Trail - Section 611
 - c. Shoreland - Section 612
 - d. Bluffland – Section 613
 - e. Decorah Shale – Section 614
- 3) Screening and Fencing. The County may require the screening or fencing of commercial uses on side and rear yards that face the Residential or Agricultural Districts.

- 4) No access drives shall exceed thirty-two (32) feet in width.
- 5) All curb and gutter construction required must meet the Department of Transportation State Aid Standards.
- 6) General Regulations
 - a. Requirements for signs, parking, shopping center and other regulations are set forth in Section 7.

608. General Industrial District (I-1)

608.01. Purpose

This district is intended to provide for the establishment of industrial and manufacturing uses, which because of the nature of the product, requires isolation from residential or commercial uses.

608.02. Permitted Uses

- 1) Building materials storage yards, lumberyards, machinery lots, car lots, and agricultural products yards.
- 2) Contractors' equipment rental and storage yards. *
- 3) Wholesale businesses, including warehousing and storage buildings. *
- 4) Commercial laundries and dry cleaning plants. *
- 5) Light manufacture, compounding and treatment of such products as bakery goods, candies, cosmetics, dairy products, food products, drugs, perfumes, pharmaceuticals, soap, toiletries and wineries. *
- 6) Light manufacture, compounding treatment and assembly of articles or merchandise previously manufactured elsewhere. *
- 7) Manufacturing processes and treatments of products using light machinery such as tool and die shops, metal fabricating plants and welding shops.
- 8) Public utility service buildings and yards, electrical transformer stations, sub-stations and gas regulator stations.
- 9) Buildings and uses customarily necessary to the aforementioned permitted uses. *
- 10) Monument works.
- 11) Dwellings for watchmen or custodians of industrially used property only.
- 12) Automobile service stations.
- 13) Outdoor storage of vehicles or materials or open sales lot, farm implement sales.
- 14) Restaurants, lunch counters, and confectioneries.
- 15) *Retail sales incidental to and in connection with the aforementioned permitted uses.
- 16) Accessory uses shall be off-street parking, storage garage, and buildings and loading docks as regulated in this Ordinance; buildings temporarily located for purposes of construction, essential security and safety facilities as approved by the County and offices accessory to the principal use.
- 17) Electrical distribution and transmission lines, substations, and other essential services in accordance with Section 733.

* Uses permitted in those items noted above shall be conducted entirely within a building with a landscaped front yard and with side and rear yards used for loading, unloading, and parking. Visitor parking may be allowed in the front yard.

608.03. Conditional Uses

- 1) Grain elevators and warehouses.
- 2) Manufacturing of cement, concrete, lime, gypsum or plaster.
- 3) Distillation of bone, coal, tar, petroleum, refuse, grain, or wood.
- 4) Explosive manufacture or storage.
- 5) Fertilizer manufacturing, compost or storage.
- 6) Garbage, offal, dead animals, refuse, rancid fats, incineration, glue manufacturing, size or gelatine manufacturing where the processes include the refining or recover of products from animal refuse or offal.
- 7) Petroleum or asphalt refining, manufacturing or storage.
- 8) Smelting or refining of metals from ores.
- 9) Storing, curing and tanning of raw, green or salted hides or skins.
- 10) Corrosive acid manufacturing or bulk storage thereof.
- 11) Junkyards.

608.04. Storage of Materials

- 1) All activities involving the manufacturing, fabricating, repairing, storing, cleaning, servicing, and testing of materials shall be within completely enclosed buildings; or
- 2) May be outdoors if completely screened by a solid wall or uniformly painted solid fence or suitable substitute at least eight (8) feet in height.
- 3) No open storage at a greater height than that of the screening element.
- 4) No storage of equipment or materials in road or street right-of-way.

608.05. Performance Standards

- 1) Height Regulations (Height is determined by the average elevation of the dirt surrounding a building and the average elevation between the tallest peak of the building and the tallest plate holding that peak).
 - a. No building shall be erected or structurally altered to exceed sixty (60) feet in height.
- 2) Front Yard Regulations
 - a. The minimum front yard required shall be thirty (30) feet from lot line or road right-of-way. No structure shall be allowed within thirty (30) feet of any public road right-of-way. All utilities must cross the thirty (30) foot setback at right angles to the road easement, or as close to right angles as practical.
- 3) Side and Rear Yard Regulations
 - a. The minimum of each side yard shall be twenty (20) feet and a rear yard of thirty (30) feet.

- 4) Lot Area and Width Regulations
 - a. The minimum lot area shall be one acre.
- 5) Screening and Fencing
 - a. The County may require the screening or fencing of industrial side and rear yards, which abut a Residential District.
- 6) No access drives shall exceed thirty-two (32) feet in width.
- 7) All curb and gutter construction required must meet the Department of Transportation State Aid Standards.
- 8) General Regulations. Standards and regulations related to signs, parking, etc. are set forth in Section 7.

609. Planned Unit Development (P)

609.01. Purpose

The purpose of this Section is:

- 1) To encourage a more creative and efficient development of land and its improvements than is possible under the more restrictive application of zoning requirements such as lot sizes and building setbacks, while at the same time preserving the health, safety, and welfare of the citizens;
- 2) To allow for a mixture of residential units in an integrated and well planned area;
- 3) To ensure concentration of open space into more usable areas, and the preservation of the natural resources of the site including wetlands, steep slopes and scenic areas; and
- 4) No new PUD shall be permitted outside the boundaries of an incorporated municipality.

609.02. Scope and Legal Authority

This Section shall cover all lands in Fillmore County subject to the Fillmore County Zoning Ordinance that are located outside of any lands designated as Shoreland in Section 612 of the Fillmore County Zoning Ordinance but still located within the boundaries of an incorporated city.

609.03. Permitted Uses

In the incorporated areas of the County that have adopted the Fillmore County Zoning Ordinance, these developments may be organized and operated as single-family units, duplex units, condominiums, time-share condominiums, cooperatives, full-fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, resorts, hotels, motels, and conversions of structures and land uses to these uses.

609.04. General Requirements

A conditional use permit shall be required of all planned unit developments. The City may approve the planned unit development only if it finds that the development satisfies all the following standards in addition to meeting the requirements of Section 504, except for the time limit:

- 1) The planned unit development is consistent with the Development Plan of the County.
- 2) The planned unit development is an effective and unified treatment of the development possibilities in the project site and the development plan provides for the preservation of unique natural amenities such as streams, stream banks, wooded cover, rough terrain, and similar areas.
- 3) The planned unit development can be planned and developed to harmonize with any existing or proposed development in the areas surrounding the project site.
- 4) Financing is available to the applicant on conditions and in an amount, which is sufficient to assure completion of the planned unit development.
- 5) The tract under consideration is under single control.
- 6) The planned unit development must meet all structure setbacks specified in each district.
- 7) If any of the planned unit development area is within three hundred (300) feet of public water, approval cannot occur until the Environmental Review Process (EAW/EIS) is complete.

609.05. Pre-Application Meeting

Prior to the submission of any plan to the City Council, the applicant shall meet with the Zoning Administrator, and if necessary, with the City Council to discuss the contemplated project relative to county development objectives for the area in question and to learn the procedural steps for a conditional use permit and a preliminary plat. The applicant may submit a simple sketch plan at this stage for informal review and discussion. The applicant is urged to avail him or herself of the advice and assistance of the planning staff to facilitate the review of the outline plan and preliminary plat.

609.06. Preliminary Development Plan

- 1) An applicant shall make an application for a conditional use permit following the procedural steps as set forth in Section 504.04 of this Ordinance. In addition to the exhibits required in Subdivision 504.03, the following information will also be included in a site plan: locations of property boundaries, land alterations, and topographic contours at ten (10) foot intervals or less.
- 2) In addition to the criteria and standards set forth in Section 504.04 for the granting of the Conditional Use Permits, the following additional findings shall be made before the approval of the outline development plan.
 - a. The proposed PUD is in conformance with the Fillmore County Comprehensive Land Use Plan.
 - b. The uses proposed will not have an undo and adverse impact on the reasonable enjoyment of neighboring property, and will not be detrimental to potential surrounding uses.

- c. Each phase of the proposed development, as it is proposed to be completed, is of sufficient size, composition, and arrangement that its construction, marketing and operation of dwelling units and common space are balanced and coordinated.
- d. The PUD will not create an excessive burden on parks, schools, streets, and other public facilities and utilities which are proposed to serve the district.
- e. The proposed total development is designed in such a manner as to form a desirable and unified environment within its own boundaries.
- f. The development will have a property owner's association agreement with mandatory membership.

3) Preliminary Development Plan Documentation

The following exhibits shall be submitted to the Zoning Administration by the proposed developer as part of the application of a Conditional Use Permit:

- a. An explanation of the character and need for the planned development and the manner in which it has been planned to take advantage of the planner development regulations.
- b. A statement of proposed financing of the PUD.
- c. A statement of the present ownership of all the land included within the planned development and a list of property owners within three-hundred fifty (350) feet of the outer boundaries of the property.
- d. A general indication of the expected schedule of development including sequential phasing and time schedules.
- e. A map giving the legal description of the property including approximate total acreage and also indicating existing property lines and dimensions, ownership of all parcels, platting, easement, street right-of-ways, utilities, and building for the property, and for the area three hundred fifty (350) feet beyond.
- f. Natural features map or maps of the property and area three hundred fifty (350) feet beyond showing contour lines at not more than two (2) foot intervals, drainage patterns, wetlands, vegetation, soil and subsoil condition.
- g. A map indicating proposed land use including housing units and types, vehicular and pedestrian circulation, and open space uses.
- h. Full description as to how all necessary governmental services will be provided to the development including sanitary sewers, storm sewers, water system, streets, and other public utilities.

4) Preliminary Plat

The applicant shall also submit a preliminary plat and all the necessary documentation as required under the Fillmore County Subdivision Ordinance of all or that portion of the project to be platted.

609.07. Final Development Plan

- 1) Within ninety (90) days following the approval of the preliminary development plan with recommended modifications, if any, and the preliminary plat, the applicant shall file with the Zoning Administrator a final development plan containing in final form the information required in the preliminary development plan plus any changes recommended by the City Council as a result of the public hearing. The applicant shall also submit a final plat for all or that portion to be platted.

- 2) The Zoning Administrator shall submit a final development plan and the final plat to the Planning Commission and other applicable agencies for review.
- 3) The final development plan and the final plat shall conform to the preliminary development plan and preliminary plat plus any recommended changes by the City Council to the general development plan and preliminary plat.
- 4) The City Council shall review the final development plan and final plat. The City Council shall give notice and provide opportunity to be heard on the final development plan to any person who has indicated in writing that he wishes to be notified.
- 5) If the City Council approves the final development plan, a Conditional Use Permit shall be issued to the applicant.

609.08. Enforcing Development Schedule

The construction and provisions of all the common open spaces and public and recreational facilities, which are shown on the final development plan, must proceed at the same rate as the construction of dwelling units. At least once every six (6) months following the approval of the final development plan, the Zoning Administrator shall review all of the building permits issued for the planned development and examine the construction that has taken place on the site. If he/she shall find that the rate of construction of dwelling units is faster than the rate at which common open spaces and public recreational facilities have been constructed and provided, he/she shall forward this information to the City Council which may revoke the Conditional Use Permit. If the developer or landowners fails to complete the open spaces and recreation areas within sixty (60) days after the completion of the remainder of the project, the City may finish the open space areas and assess the cost back to the developer or landowner.

609.09. Conveyance and Maintenance of Common Open Space

- 1) Before final approval of a planned unit development, adequate provisions must be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.
- 2) At least fifty (50) percent of the total project area must be preserved as open space. This open space must include areas of physical characteristics unsuitable for development in the natural state. Dwelling units or sites, road rights-of-way, or land covered by road surfaces, parking areas, or structures shall not be included in the computation of minimum open space.
- 3) Open space preservation, deed restrictions, covenants, permanent assessments, public dedication and acceptance, or other equally effective and permanent means must be provided to ensure long-term preservation and maintenance of open space. The instruments must include all of the following protections:
 - a. commercial uses prohibited
 - b. vegetation and topographic alterations other than routine maintenance prohibited
 - c. construction of additional buildings or storage of vehicles and other materials prohibited.
- 4) Development organization and function. Unless an equally effective alternative community framework is established, when applicable, all residential planned unit developments must use an owners association with the following features. Membership must be mandatory for each dwelling unit or site purchaser and any successive

purchasers. Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites. Assessments must be adjustable to accommodate changing conditions. The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

- 5) All land shown on the final development plan as common open space must be conveyed under one of the following methods at the option of the County:
 - a. It may be conveyed to a public agency that will agree to maintain the common open space and any buildings, structures or improvements that have been placed on it.
 - b. It may be conveyed to trustees provided in an indenture establishing an association or similar organization of the maintenance of the planned development. The common open space must be conveyed to the trustees subject to covenants to be approved by the City Council which restrict the common open space to the uses specified on the final development plan, and which provide for the maintenance of the common open space in a manner which assures its continuing use for its intended purpose.

If the common open space is conveyed to a homeowners association, and the common open space is not maintained properly to standards established by the City, the City shall have the authority to maintain the property and assess the costs back to the homeowners' association.

609.10. Standards for Common or Public Open Space

No open area may be accepted as common open space under the provisions of this Ordinance unless it meets the following standards:

- 1) The location, shape, size, and character of the common open space must be suitable for the planned development.
- 2) Common open space must be used for amenity or recreational purposes. The uses authorized for the common open space must be appropriate to scale and character of the planned development, considering its size, density, expected population, topography and the number and type of dwellings to be provided.
- 3) Common open space must be suitably improved for its intended use; the common open space containing natural features worthy of preservation may be left unimproved. The buildings, structures, and improvements, which are permitted in the common open space, must be appropriate to the uses that are authorized for the common open space and must enhance the amenities of the common open space having regard to its topography and unimproved condition.

609.11. Erosion Control and Stormwater Management Plan

Erosion Control and Stormwater Management Plans must:

- 1) Be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetative buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical character is warranted; and
- 2) Be designed and constructed to effectively manage reasonably expected quantities and

qualities of stormwater run-off.

609.12. Centralization and Design of Facilities

Centralization and design of facilities and structures must be done according to the following standards:

- 1) Planned unit developments must be connected to publicly owned water supply and sewer systems, if available.
- 2) On-site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota PCA, which have been referenced in Section 705 of this Ordinance.
- 3) On-site sewage treatment systems must be located on the most suitable areas of the development and sufficient lawn area must be provided for a replacement soil treatment system for each sewage system.

609.13. Utility Connection

- 1) Water Connections. Where more than one property is served from the same service line, a shut-off valve must be located in such a way that each unit's service may be shut-off by the utility provider, in addition to the normally supplied shut-off at the street.
- 2) Sewer Connections. Where more than one unit is serviced by a sanitary sewer lateral which exceeds three-hundred (300) feet in length, provision must be made for a manhole to allow adequate cleaning and maintenance of the lateral. All maintenance and cleaning shall be the responsibility of the property owners' association or owner.

609.14. PUD Review and Amendments

- 1) Annual Review: The City Council shall review all PUD's within the City at least once each year. If the City Council finds that the development has not occurred within a reasonable time after the original approval of the conditional use for the PUD, the City Council may revoke the conditional use permit as set forth in Section 5, Subdivision 504 of this Ordinance.
- 2) Revisions to the PUD: Minor changes in the location, placement and heights of buildings or structures may be authorized by the Zoning Administrator if required by engineering or other circumstances not foreseen at the time the Final Plan was approved. Approval of the City Council shall be required for other minor changes such as rearrangement of lots, blocks and building tracts. These changes shall be consistent with the purpose and intent of the approved Final Development Plan.
- 3) Amendments to the PUD: Any amendment to the PUD shall require the same procedures for the application of a conditional use permit as set forth in Section 5, Subdivision 504 of this Ordinance.

610. Floodplain District (FP)

610.01. Statutory Authorization

The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 394 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the Board of Commissioners of Fillmore County, Minnesota, does ordain as follows.

1) Purpose:

- a. This ordinance regulates development in the flood hazard areas of Fillmore County. These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this ordinance to promote the public health, safety, and general welfare by minimizing these losses and disruptions.
- b. National Flood Insurance Program Compliance. This ordinance is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.
- c. This ordinance is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

610.02. General Provisions

- 1) Lands to Which Ordinance Applies:** This ordinance applies to all lands within the jurisdiction of Fillmore County within the boundaries of the Floodway, Flood Fringe and General Floodplain Districts. The boundaries of these districts are determined by scaling distances on the Flood Insurance Rate Map, or as modified in accordance with Section 610.03(2).
 - a. The Floodway, Flood Fringe and General Floodplain Districts are overlay districts that are superimposed on all existing zoning districts. The standards imposed in the overlay districts are in addition to any other requirements in this ordinance. In case of a conflict, the more restrictive standards will apply.
 - b. Where a conflict exists between the floodplain limits illustrated on the official floodplain maps and actual field conditions, the flood elevations shall be the governing factor in locating the regulatory floodplain limits.
 - c. Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the Fillmore County Board of Commissioners and to submit technical evidence.
- 2) Incorporation of Maps by Reference:** The following maps together with all attached material are hereby adopted by reference and declared to be a part of the Official Zoning Map and this ordinance. The attached material includes the Flood Insurance Study for

Fillmore County, Minnesota, and Incorporated Areas, and the Flood Insurance Rate Map Index for Fillmore County, Minnesota, and Incorporated Areas, both dated August 15, 2019 and prepared by the Federal Emergency Management Agency. These materials are on file in the Fillmore County Zoning Office.

- 3) Abrogation and Greater Restrictions:** It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.
- 4) Warning and Disclaimer of Liability:** This ordinance does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This ordinance does not create liability on the part of Fillmore County or its officers or employees for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.
- 5) Severability:** If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of law, the remainder of this ordinance shall not be affected and shall remain in full force.
- 6) Detachments.** The Flood Insurance Rate Map panels adopted by reference into Section 610.02(2) above will include floodplain areas that lie inside the corporate boundaries of municipalities at the time of adoption of this ordinance. If any of these floodplain land areas are detached from a municipality and come under the jurisdiction of Fillmore County after the date of adoption of this ordinance, the newly detached floodplain lands will be subject to the provisions of this ordinance immediately upon the date of detachment.

610.03. Establishment of Floodplain Districts

1) Districts:

- a. Floodway District. The Floodway District includes those areas within Zone AE delineated within floodway areas as shown on the Flood Insurance Rate Maps and Flood Boundary and Floodway Maps adopted in Section 610.02(2).
- b. Flood Fringe District. The Flood Fringe District includes areas within Zone AE on the Flood Insurance Rate Maps adopted in Section 610.02(2), but located outside of the floodway.
- c. General Floodplain District. The General Floodplain District includes those areas within Zone A (that do not have a floodway delineated) as shown on the Flood Insurance Rate Maps adopted in Section 610.02(2).

- 2) Applicability:** Where Floodway and Flood Fringe districts are delineated on the floodplain maps, the standards in Sections 610.05 or 610.06 will apply, depending on the location of a property. Locations where Floodway and Flood Fringe districts are not delineated on the floodplain maps are considered to fall within the General Floodplain district. Within the General Floodplain district, the Floodway District standards in Section 610.05 apply unless the floodway boundary is determined, according to the process outlined in Section 610.07(2).

610.04. Requirements for all Floodplain Districts

- 1) Permit Required. A permit must be obtained from the Zoning Administrator to verify if a development meets all applicable standards outlined in this ordinance prior to conducting the following activities:
 - a. The erection, addition, modification, rehabilitation, or alteration of any building, structure, or portion thereof. Normal maintenance and repair also requires a permit if such work, separately or in conjunction with other planned work, constitutes a substantial improvement as defined in this ordinance.
 - b. The construction of a dam, on-site septic system, or any fence not meeting the definition of a farm fence outlined in Section 3 of this ordinance.
 - c. The change or extension of a nonconforming use.
 - d. The repair of a structure that has been damaged by flood, fire, tornado, or any other source.
 - e. The placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.
 - f. Relocation or alteration of a watercourse (including stabilization projects or the construction of new or replacement culverts and bridges), unless a public waters work permit has been applied for.
 - g. Any other type of “development” as defined in this ordinance.
- 2) Minimum Development Standards. All new construction and substantial improvements must be:
 - a. Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - b. Constructed with materials and utility equipment resistant to flood damage;
 - c. Constructed by methods and practices that minimize flood damage; and
 - d. Constructed with electrical, heating, ventilation, ductwork, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- 3) Flood Capacity. Floodplain developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.
- 4) 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.
- 5) Critical Facilities, as defined in Section 302(56), are to be located, so that the lowest floor is not less than two feet above the regional flood elevation, or the 500-year flood elevation, whichever is higher.
- 6) New dwellings are not allowed in the Ag District within any portion of the 100-year floodplain, whether elevated above the 100-year floodplain or not

610.05. Floodway District (FW)

1) Permitted Uses: The following uses, subject to the standards set forth in Section 610.05(2), are permitted uses if otherwise allowed in the underlying zoning district or any applicable overlay district:

- a. General farming, pasture, grazing, farm fences, outdoor plant nurseries, horticulture, forestry, sod farming, and wild crop harvesting.
- b. Loading areas, parking areas, streets, trails, airport landing strips, railroads, bridges, culverts, utility transmission lines and pipelines.
- c. Open space uses, including but not limited to private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, hunting and fishing areas, and single or multiple purpose recreational trails.
- d. Residential yards, lawns, gardens, parking areas, and play areas, provided these uses do not include associated accessory structures.
- e. Grading or land alterations associated with stabilization projects.

2) Standards for Floodway Permitted Uses:

- a. The use must have a low flood damage potential.
- b. The use must not involve structures or obstruct flood flows. The use must not cause any increase in flood damages, nor any increase in flood elevations in areas where a floodway has been established, as certified by a registered professional engineer.
- c. Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.

3) Conditional Uses: The following uses may be allowed as conditional uses following the standards and procedures set forth in Section 610.11(4) of this ordinance and further subject to the standards set forth in Section 610.05(4), if otherwise allowed in the underlying zoning district.

- a. Structures accessory to primary uses listed in 610.05(1)(a) – 610.05(1)(c) above and primary uses listed in 610.05.3(b) – 610.05.3(c) below.
- b. Extraction, fill and storage of soil, sand, gravel, and other materials.
- c. Marinas, boat rentals, permanent docks, piers, wharves, water control structures, and navigational facilities.
- d. Storage yards for equipment, machinery, or materials.
- e. Fences that have the potential to obstruct flood flows.
- f. Levees or dikes intended to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

4) Standards for Floodway Conditional Uses:

- a. A conditional use must not cause any increase in flood damages, nor any increase in flood elevations in areas where a floodway has been established, as certified by a registered professional engineer.
- b. Fill; Storage of Materials and Equipment:

- i. Fill, dredge spoil, and other similar materials deposited or stored in the floodplain must be protected from erosion by vegetative cover, mulching, riprap or other acceptable method. Permanent sand and gravel operations and similar uses must be covered by a long-term site development plan.
 - ii. Temporary placement of fill, other materials, or equipment which would cause an increase to the stage of the 1% percent chance or regional flood may only be allowed if the Zoning Administrator has approved a plan that assures removal of the materials from the floodway based upon the flood warning time available.
- c. Accessory Structures. Accessory structures, as identified in Section 610.05(3)(a), may be permitted, provided that:
 - i. Structures are not intended for human habitation;
 - ii. Structures will have a low flood damage potential;
 - iii. Structures will be constructed and placed so as to offer a minimal obstruction to the flow of flood waters;
 - iv. Structures must be elevated on fill or structurally dry floodproofed and watertight to the regulatory flood protection elevation. Certifications consistent with Section 610.11(2)(b) shall be required.
 - v. As an alternative, an accessory structure may be floodproofed in a way to accommodate internal flooding. To allow for the equalization of hydrostatic pressure, there shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one foot above grade. The openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding, have a net area of not less than one square inch for every square foot of enclosed area subject to flooding, and shall allow automatic entry and exit of floodwaters without human intervention. A floodproofing certification consistent with Section 610.11(2)(b) shall be required.
- d. Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters are subject to the provisions of Minnesota Statutes, Section 103G.245.
- e. A levee, dike or floodwall constructed in the floodway must not cause an increase to the 1% chance or regional flood. The technical analysis must assume equal conveyance or storage loss on both sides of a stream.

610.06. Flood Fringe District (FF)

1) Permitted Uses: Permitted uses are those uses of land or structures allowed in the underlying zoning district(s) that comply with the standards in Sections 610.06(2). If no pre-existing, underlying zoning districts exist, then any residential or nonresidential structure or use of a structure or land is a permitted use provided it does not constitute a public nuisance.

2) Standards for Flood Fringe Permitted Uses:

- a. All structures, including accessory structures, must be elevated on fill so that the lowest floor, as defined, is at or above the regulatory flood protection elevation. The finished fill elevation for structures must be no lower than one foot below the regulatory flood protection elevation and the fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure. Elevations must be certified by

a registered professional engineer, land surveyor or other qualified person designated by the community.

- b. Accessory Structures. As an alternative to the fill requirements of Section 610.06(2)(a), structures accessory to the uses identified in Section 610.06(1) may be designed to accommodate the inundation of floodwaters, meeting the following provisions:
 - i. The accessory structure constitutes a minimal investment and satisfy the development requirements in Section 610.04(2).
 - ii. Any enclosed accessory structure shall not exceed 576 square feet in size, and only be used for parking and storage. Any such structure shall be designed and certified by a registered professional engineer, or be designed in accordance with the following floodproofing standards:
 - To allow for the equalization of hydrostatic pressure, there shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one foot above grade. The openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding, and shall allow automatic entry and exit of floodwaters without human intervention.
- c. The cumulative placement of fill or similar material on a parcel must not exceed 1,000 cubic yards, unless the fill is specifically intended to elevate a structure in accordance with Section 610.06(2)(a) of this ordinance, or if allowed as a conditional use under Section 610.06(3)(c) below.
- d. All service utilities, including ductwork, must be elevated or water-tight to prevent infiltration of floodwaters.
- e. All fill must be properly compacted and the slopes must be properly protected by the use of riprap, vegetative cover or other acceptable method.
- f. All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation, or must have a flood warning /emergency evacuation plan acceptable to the Zoning Administrator.
- g. Accessory uses such as yards, railroad tracks, and parking lots may be at an elevation lower than the regulatory flood protection elevation. However, any facilities used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.
- h. Manufactured homes and recreational vehicles must meet the standards of Section 610.10 of this ordinance.

3) Conditional Uses: The following uses may be allowed as conditional uses following the standards and procedures set forth in Section 610.11(4) of this ordinance and further subject to the standards set forth in Section 610.06(4), if otherwise allowed in the underlying zoning district(s).

- a. The placement of flood-proofed nonresidential basements below the regulatory flood protection elevation. Residential basements are not allowed below the regulatory flood protection elevation.
- b. The cumulative placement of more than 1,000 cubic yards of fill when the fill is not being used to elevate a structure in accordance with Section 610.06(2)(a) of this ordinance.

- c. The use of methods other than fill to elevate structures above the regulatory flood protection elevation. This includes the use of: stilts, pilings, filled stem walls, or above grade, internally flooded enclosed areas such as crawl spaces or tuck under garages, meeting the standards in Section 610.06(4)(d).

4) Standards for Flood Fringe Conditional Uses:

- a. The standards for permitted uses in the flood fringe, listed in Sections 610.06(2)(d) through 610.06(2)(h), apply to all conditional uses.
- b. All areas of nonresidential structures, including basements, to be placed below the regulatory flood protection elevation must be structurally dry floodproofed, which requires making the structure watertight with the walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A floodproofing certification consistent with Section 610.11(2)(b) shall be required.
- c. The placement of more than 1,000 cubic yards of fill or other similar material on a parcel (other than for the purpose of elevating a structure to the regulatory flood protection elevation) must comply with an approved erosion/sedimentation control plan.
 - i. The plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the regional (1% chance) flood event.
 - ii. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the Zoning Administrator.
 - iii. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.
- d. Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: 1) the enclosed area is above-grade on at least one side of the structure; 2) it is designed to internally flood; and 3) it is used solely for parking of vehicles, building access or storage. These alternative elevation methods are subject to the following additional standards:
 - i. Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and include a minimum of two openings on at least two sides of the structure. The bottom of all openings shall be no higher than one foot above grade, and have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice.
 - ii. Floodproofing certifications consistent with Section 610.11(2)(b) shall be required. The structure shall be subject to a deed-restricted nonconversion agreement with the issuance of any permit.

610.07. General Floodplain District (GF)

1) Permitted Uses:

- a. The uses listed in Section 610.05(1) of this ordinance, Floodway District Permitted Uses, are permitted uses.
- b. All other uses are subject to the floodway/flood fringe evaluation criteria specified in Section 610.07(2) below. Section 610.05 applies if the proposed use is determined to

be in the Floodway District. Section 610.06 applies if the proposed use is determined to be in the Flood Fringe District.

2) Procedures for Determining Floodway Boundaries and Regional Flood Elevations:

- a. Requirements for Detailed Studies. Developments greater than 50 lots or 5 acres, or as requested by the zoning administrator, shall be subject to a detailed study to determine the regulatory flood protection elevation and the limits of the Floodway District. The determination of the floodway and flood fringe must be consistent with accepted hydrological and hydraulic engineering standards, and must include the following components, as applicable:
 - i. Estimate the peak discharge of the regional (1% chance) flood.
 - ii. Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
 - iii. Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than one-half (0.5) foot. A lesser stage increase than 0.5 foot is required if, as a result of the stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries, unless development or geographic features warrant other analysis, as approved by the Department of Natural Resources.
- b. Alternative Methods. For areas where a detailed study is not available or required, the regional flood elevation must be identified to determine the boundaries of the special flood hazard area. The zoning administrator must use the best available data to determine the regional flood elevation. The entire floodplain must be treated as floodway until there is a floodway determination.
 - i. In those areas of the Special Flood Hazard Area where the floodway has not been determined, allowable uses are restricted to those identified in Sections 610.05(1) and 610.05(3). The proposed development must not increase flood stages more than one-half foot, as determined by a professional engineer or by using accepted engineering practices approved by the Zoning Administrator. A stage increase less than one-half foot must be used if increased flood damages would result.
 - ii. If buildings or other development prohibited in floodways are proposed, a floodway/flood fringe determination is required to verify the development is within the flood fringe. The floodway /flood fringe determination must be done by a professional engineer or by using other accepted engineering practices approved by the Zoning Administrator. Any such proposal must assume a 0.5 foot stage increase for the purposes of determining the regulatory flood protection elevation to accommodate for future cumulative impacts.
- c. The Zoning Administrator will review the submitted information and assess the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary. The assessment must include the cumulative effects of previous floodway encroachments. The Zoning Administrator may seek technical assistance from an engineer or other expert person or agency, including the Department of Natural Resources. Based on this assessment, the Zoning Administrator may approve or deny the application.
- d. Once the Floodway and Flood Fringe District boundaries have been determined, the Zoning Administrator must process the permit application consistent with the applicable provisions of Section 610.05 and 610.06 of this ordinance.

610.08. Subdivision Standards

- 1) Subdivisions:** No land may be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply or sewage treatment facilities. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this ordinance.
 - a. All lots within the floodplain districts must be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation.
 - b. All subdivisions must have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation, unless a flood warning emergency plan for the safe evacuation of all vehicles and people during the regional (1% chance) flood has been approved by the Zoning Administrator. The plan must be prepared by a registered engineer or other qualified individual, and must demonstrate that adequate time and personnel exist to carry out the evacuation.
 - c. For all subdivisions in the floodplain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads must be clearly labeled on all required subdivision drawings and platting documents.
 - d. In the General Floodplain District, applicants must provide the information required in Section 610.07(2) of this ordinance to determine the regional flood elevation, the Floodway and Flood Fringe District boundaries and the regulatory flood protection elevation for the subdivision site.
 - e. Subdivision proposals must be reviewed to assure that:
 - i. All such proposals are consistent with the need to minimize flood damage within the flood prone area,
 - ii. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and
 - iii. Adequate drainage is provided to reduce exposure of flood hazard.

610.09. Utilities, Railroads, Roads, and Bridges

- 1) Public Utilities:** All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be floodproofed in accordance with the State Building Code or elevated to the regulatory flood protection elevation.
- 2) Public Transportation Facilities:** Railroad tracks, roads, and bridges to be located within the floodplain must comply with Sections 610.05 and 610.06 of this ordinance. These transportation facilities must be elevated to the regulatory flood protection elevation where failure or interruption of these facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.
- 3) On-site Water Supply and Sewage Treatment 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 are subject to the provisions in Minnesota Rules Chapter 4725.4350, as amended; and 2) New or replacement on-site sewage

treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, they must not be subject to impairment or contamination during times of flooding, and are subject to the provisions in Minnesota Rules Chapter 7080.2270, as amended.

610.10. Manufactured Homes and Recreational Vehicles

1) Manufactured Homes: Manufactured homes and manufactured home parks are subject to applicable standards for each floodplain district. In addition:

- a. New and replacement manufactured homes must be elevated in compliance with Section 610.06 of this ordinance and must be securely anchored to a system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.
- b. New manufactured home parks and expansions to existing manufactured home parks must meet the appropriate standards for subdivisions in Section 610.08 of this ordinance. New or replacement manufactured homes in existing manufactured home parks must meet the vehicular access requirements for subdivisions in Section 610.08(1)(b) of this ordinance.

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

- a. Meet the requirements for manufactured homes in Section 610.10(1), or
- b. Be travel ready, meeting the following criteria:
 - i. The vehicle must have a current license required for highway use.
 - ii. The vehicle must be highway ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks.
 - iii. No permanent structural type additions may be attached to the vehicle.
 - iv. Accessory structures may be permitted in the Flood Fringe District, provided that they constitute a minimal investment, do not hinder the removal of the vehicle should flooding occur, and meet the standards outlined in Sections 610.04(2) and 610.06(2)(b).

610.11. Administration

1) Duties: A Zoning Administrator or other official designated by the Fillmore County Board of Commissioners must administer and enforce this ordinance.

2) Permit Application Requirements:

- a. Application for Permit. Permit applications must be submitted to the Zoning Administrator on forms provided by the Zoning Administrator. The permit application must include the following as applicable:
 - i. A site plan showing all pertinent dimensions, existing or proposed buildings, structures, and significant natural features having an influence on the permit.
 - ii. Location of fill or storage of materials in relation to the stream channel.

- iii. Copies of any required municipal, county, state or federal permits or approvals.
 - iv. Other relevant information requested by the Zoning Administrator as necessary to properly evaluate the permit application.
- b. Certification. The applicant is required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this ordinance. Floodproofing measures must be certified by a registered professional engineer or registered architect as being in compliance with applicable floodproofing standards in in the State Building Code. Accessory structures designed in accordance with Section 610.06(2)(b) of this ordinance are exempt from certification, provided sufficient assurances are documented. Any development in established floodways must not cause any increase in flood elevations or damages, as certified by a registered professional engineer.
- c. Recordkeeping of Certifications and As-Built Documentation. The Zoning Administrator must maintain records in perpetuity documenting:
 - i. All certifications referenced in Section 610.11(2)(b) of this ordinance as applicable.
 - ii. Elevations complying with Section 610.06(2)(a) of this ordinance. The Zoning Administrator must also maintain a record of the elevation to which structures and alterations to structures are constructed or floodproofed.
- d. Notifications for Watercourse Alterations. Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator must notify adjacent communities. If the applicant has applied for a permit to work in public waters pursuant to Minnesota Statutes, Section 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).
- e. Notification to FEMA When Physical Changes Increase or Decrease Base Flood Elevations. As soon as is practicable, but not later than six months after the date such supporting information becomes available, the Zoning Administrator must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.

3) Variances:

- a. Variance Applications. An application for a variance to the provisions of this ordinance will be processed and reviewed in accordance with applicable State Statutes and Section 505 of the Zoning Ordinance.
- b. Adherence to State Floodplain Management Standards. A variance must not allow a use that is not allowed in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.
- c. Additional Variance Criteria. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:
 - i. Variances must not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
 - ii. Variances may only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional

threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

- iii. Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- d. Flood Insurance Notice. The Zoning Administrator must notify the applicant for a variance that: 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and 2) Such construction below the base or regional flood level increases risks to life and property. Such notification must be maintained with a record of all variance actions.
- e. General Considerations. The community may consider the following factors in granting variances and imposing conditions on variances and conditional uses in floodplains:
 - i. The potential danger to life and property due to increased flood heights or velocities caused by encroachments;
 - ii. The danger that materials may be swept onto other lands or downstream to the injury of others;
 - iii. The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions;
 - iv. The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;
 - v. The importance of the services to be provided by the proposed use to the community;
 - vi. The requirements of the facility for a waterfront location;
 - vii. The availability of viable alternative locations for the proposed use that are not subject to flooding;
 - viii. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
 - ix. The relationship of the proposed use to the Comprehensive Land Use Plan and floodplain management program for the area;
 - x. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - xi. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.
- f. Submittal of Hearing Notices to the Department of Natural Resources (DNR). The Zoning Administrator must submit hearing notices for proposed variances to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
- g. Submittal of Final Decisions to the DNR. A copy of all decisions granting variances must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
- h. Record-Keeping. The Zoning Administrator must maintain a record of all variance actions, including justification for their issuance, and must report such variances in an annual or biennial report to the Administrator of the National Flood Insurance Program, when requested by the Federal Emergency Management Agency.

4) Conditional Uses:

- a. Administrative Review. An application for a conditional use permit under the provisions of this ordinance will be processed and reviewed in accordance with Section(s) 504 of the zoning ordinance/code.
- b. Factors Used in Decision-Making. In passing upon conditional use applications, the Fillmore County Board of Commissioners must consider all relevant factors specified in other sections of this ordinance, and those factors identified in Section 610.11(3)(e) of this ordinance.
- c. Conditions Attached to Conditional Use Permits. In addition to the standards identified in Sections 610.05(4) and 610.06(4), the Fillmore County Board of Commissioners may attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the following:
 - i. Limitations on period of use, occupancy, and operation.
 - ii. Imposition of operational controls, sureties, and deed restrictions.
 - iii. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
- d. Submittal of Hearing Notices to the Department of Natural Resources (DNR). The Zoning Administrator must submit hearing notices for proposed conditional uses to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
- e. Submittal of Final Decisions to the DNR. A copy of all decisions granting conditional uses must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

610.12. Nonconformities

- 1) Continuance of Nonconformities:** A use, structure, or occupancy of land, which was lawful before the passage or amendment of this ordinance but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions. Historic structures, as defined in Section 302(104) of this ordinance, are subject to the provisions below.
- a. A nonconforming use, structure, or occupancy must not be expanded, changed, enlarged, or altered in a way that increases its flood damage potential or degree of obstruction to flood flows except as provided in Section 610.12(1)(b) below. Expansion or enlargement of uses, structures or occupancies within the Floodway District is prohibited.
 - b. Any addition or structural alteration to a nonconforming structure or nonconforming use that would result in increasing its flood damage potential must be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP1 thru FP4 floodproofing classifications) allowable in the State Building Code, except as further restricted in Section 610.12(1)(d) below.
 - c. If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this ordinance.
 - d. If any structure experiences a substantial improvement as defined in this ordinance, then the entire structure must meet the standards of Section 610.05 or 610.06 of this ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively. If the proposed development,

- including maintenance and repair during the previous 365 days, plus the costs of any previous alterations and additions since the first Flood Insurance Rate Map exceeds 50 percent of the market value of any nonconforming structure, the entire structure must meet the standards of Section 610.05 or 610.06 of this ordinance.
- e. If any nonconformity is substantially damaged, as defined in this ordinance, it may not be reconstructed except in conformity with the provisions of this ordinance. The applicable provisions for establishing new uses or new structures in Sections 610.05 or 610.06 will apply depending upon whether the use or structure is in the Floodway or Flood Fringe, respectively.
 - f. If any nonconforming use or structure experiences a repetitive loss, as defined in Section 302(190) of this ordinance, it must not be reconstructed except in conformity with the provisions of this ordinance.

610.13. Violations and Penalties

- 1) Violation Constitutes a Misdemeanor:** Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) constitute a misdemeanor and will be punishable as defined by law.
- 2) Other Lawful Action:** Nothing in this ordinance restricts Fillmore County from taking such other lawful action as is necessary to prevent or remedy any violation. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses will constitute an additional violation of this ordinance and will be prosecuted accordingly.
- 3) Enforcement:** Violations of the provisions of this ordinance will be investigated and resolved in accordance with the provisions of Section 8 of the Zoning Ordinance. In responding to a suspected ordinance violation, the Zoning Administrator and County Board of Commissioners 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. Fillmore County must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

610.14. Amendments

- 1) Floodplain Designation – Restrictions on Removal:** The floodplain designation on the Official Zoning Map must not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Department of Natural Resources (DNR) if it is determined that, through other measures, lands are adequately protected for the intended use.

2) Amendments Require DNR Approval: All amendments to this ordinance must be submitted to and approved by the Department of Natural Resources (DNR) prior to adoption.

3) Map Revisions Require Ordinance Amendments. The floodplain district regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in Section 610.02(2) of this ordinance

611. Scenic Trail District (ST)

611.01. Purpose

This section is intended to allow for the orderly development of the land surrounding and along a DNR Trail.

611.02. Policy

It is the policy of the Fillmore County Board of Commissioners to provide for the orderly development of the county lands by establishing a fair and uniform Land Use Policy.

611.03. Definitions

For the purpose of this Section the following definitions shall apply.

- 1) Commercial Business. The selling or vending of any item or service to include but not limited to food, beverages, souvenirs, craft items, repair services, or any other saleable item or service. This definition shall not include electric transmission lines or any public utility line or service.
- 2) DNR Trail. That strip of land owned by the DNR that is mostly 100' wide and follows closely the route of the Chicago, Milwaukee, St. Paul and Pacific Railroad. Branches of the trail include:
 - a. First branch extending from Fountain through Isinours, Lanesboro, Whalan, Peterson, and Rushford to the Fillmore/Houston County line.
 - b. Second branch extending from the SE ¼ of the NW ¼ of Section 21 Carrollton Township commonly referred to as Isinours Junction to the City of Preston.
 - c. Third branch extending from Preston to Harmony as per recorded deeds with the Fillmore County Recorder's Office.

611.04. Prohibited Uses

There shall be no commercial business conducted within two-hundred (200) feet of the centerline of a DNR Trail in an Agriculture District with the exception of those facilities permitted before the effective date of this Ordinance.

There shall be no industrial business conducted within two-hundred (200) feet of the centerline of a DNR Trail in an Agriculture District with the exception of those facilities permitted before

the effective date of this Ordinance.

There shall be no construction of any residence within two-hundred (200) feet of the centerline of a DNR Trail in an Agricultural District except for the replacement of a dwelling that was constructed before the effective date of this ordinance.

611.05. Prohibited Signs

There shall be no advertising signs or advertisements of any other nature within two-hundred (200) feet of the centerline of a DNR Trail in an Agriculture District, unless such signs or advertisements conform to the natural appearance of its surroundings, and no other colors than white, green, and/or brown are used. No sign so permitted shall have an advertising area greater than two-hundred (200) square inches. No sign shall be placed within one thousand three hundred twenty (1,320) feet of another sign on the same side of the trail.

611.06. Incorporated Areas

The establishment of a commercial business conducted within two-hundred (200) feet of the centerline of a DNR Trail in a commercial or industrial district, in an incorporated municipality, may be established if approved by the municipality and Zoning Administrator.

611.07. Residential Areas

The establishment of a commercial business conducted within two-hundred (200) feet of the centerline of a DNR Trail in a residential district may be established only if approved by the municipality and zoning administrator.

611.08. Exemptions

Dwellings in the Ag District that are built before January 1, 1996, and that are located within two-hundred (200) feet of a DNR Trail, will be allowed to carry on non-commercial and non-industrial activities in a manner consistent with activities found in the Ag District or Residential District.

612. Shoreland District (SH)

612.01. General Provisions

- 1) Lands to which this Section Applies: This Section shall apply to all land designated as Shoreland area within the jurisdiction of Fillmore County. This area includes lands three hundred (300) feet landward from the ordinary high water level of all protected watercourses as identified on the Protected Waters and Wetlands Map and listed in Section 602.02 of this Ordinance.
- 2) Compliance: The use of any shoreland, the size and shape of lots, the building of new or

the alteration of existing structures, the installation and maintenance of water supply or sewage treatment systems shall be in full compliance with the terms of this Ordinance and other applicable regulations.

- 3) Interpretation: In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statute.

612.02. Purpose

To provide an overlay district to preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shoreland, and provide for the wise use of waters and related land resources.

612.03. Permitted Uses

- 1) In the Ag District:
 - a. Ag Buildings.
 - b. Dwellings.
 - c. General Ag Use.
 - Raising crops
 - Livestock (provided they do not constitute an animal feedlot)
 - Poultry
 - Dairy
 - Horticulture
 - And other similar agriculturally related uses
 - d. Drainage systems, flood control and watershed structures and erosion control devices provided each will meet the appropriate safety laws and regulations.
 - e. Temporary or seasonal roadside stands not to exceed one (1) stand per Ag lot and with adequate off-street parking.
 - f. Forest and Game Management areas.
 - g. Home Occupations.
 - h. Accessory uses incidental to any of the above permitted uses when located on the same property.
 - i. Electrical distribution and transmission lines and other essential services in accordance with Section 733.
 - j. Kennels.
 - k. Stables.
 - l. Publicly owned and operated buildings.
- 2) In the Rural Residential District (RA):
 - a. One single family dwelling per lot.
 - b. Keeping and raising of livestock or poultry, provided they are housed and fenced so as not to become a nuisance; and
 - Clearly not commercial in nature;
 - Animal density shall not be greater than one (1) animal unit per acre of pasture.

- See definition in Section 302(8).
 - No structure for housing poultry or livestock may be located nearer than fifty (50) feet to any property line.
- c. Public or private schools provided no building shall be located within fifty (50) feet of any lot line of a residential use.
 - d. Churches.
 - e. Limited ag use and truck gardening activities to include, but not be limited to, carrots, radishes, sweet corn, potatoes, beans, rhubarb, cabbage, lettuce, pumpkins, watermelon, corn, beans, and hay.
 - f. Home Occupations.
 - g. Accessory structures and uses customarily incidental to any of the above permitted uses when located on the same property.
 - h. Electrical distribution and transmission lines and other essential services in accordance with Section 733.
- 3) In the Single and Two Family Residential District (R-1):
- a. One and two family residential dwellings.
 - b. Public and parochial schools of general instruction.
 - c. Essential services and electrical distribution and transmission lines in accordance with Section 733.
 - d. Churches and Chapels, including parish houses.
 - e. Home Occupations.
 - f. Accessory structures and uses customarily incidental to any of the above permitted uses when located on the same property.
 - g. Electrical transmission lines and substations.

612.04. Conditional Uses

- 1) In the Ag District:
 - a. Mining or extraction of minerals or raw materials regulated in Section 721.
 - b. Public Parks.
 - c. Commercial and industrial uses primarily intended to serve the agricultural uses.
 - d. Animal feedlots exceeding nine-hundred ninety nine (999) animal units as defined in Section 302 (8). No new animal feedlots are allowed within three hundred (300) feet of a public water course, nor are existing animal feedlots allowed to encroach further within three hundred (300) feet of a public water course. Setbacks from a feedlot shall be from the nearest point of the dwelling to the border of the feedlot as determined and measured by the Fillmore County Feedlot Officer. Setback from the public waters shall be measured on a horizontal plane from the river bank to the dwelling.
 - e. Public Utility Buildings and Structures such as substations, transformer stations, regular stations, and communications stations.
 - f. Accessory Structures and Uses customarily incidental of any of the above conditional uses when located on the same property.
 - g. Campgrounds, including recreational camping vehicle, trailer and tent camps.
 - h. Planned Unit Development.

- 2) In the Rural Residential District (RA):
 - a. Railroad Rights of Way, but not including railroad yards.
 - b. Public Utility Buildings and structures as specified in 604.03(10).
 - c. Accessory Structures and Uses customarily incidental to any of the above conditional uses when located on the same property.
 - d. Electrical Distribution Lines and Substations.
 - e. Parks and Recreation Areas owned or operated by government agency.
 - f. Planned Unit Development.

- 3) In the Single and Two Family Residential District (R-1):
 - a. Municipal Office Buildings and Day Care Centers.
 - b. Multiple Family Dwellings for any number of families, including row houses and terrace dwellings.
 - c. Cemeteries, Memorial Gardens and Funeral Homes meeting the conditions of Section 604.03(4).
 - d. Boarding or Rental of Rooms including Bed and Breakfast Establishments.
 - e. City buildings and structures including police and fire stations, libraries, museums, and art galleries.
 - f. Nursing homes, hospitals and sanitariums, water supply buildings and reservoirs, elevated tanks, utility buildings, substations, and transformer stations.
 - g. Planned Unit Development (PUD).
 - h. Professional Offices limited to a maximum of two (2) employees.
 - i. Semi-private Recreation Areas. Clubs, Lodges, and Centers including country clubs, swimming pools and golf courses but not including such uses as camping areas, miniature golf courses, or private driving tees which are operated for commercial purposes.
 - j. Manufactured Home Parks
 - k. Any other use of the same character as those listed as permitted uses.

- 4) In the General Commercial District (B-1):
 - a. Business Services including banks, offices and postal stations.
 - b. Clothing Services including dry cleaning and laundry establishments, Laundromats, dressmaking, millinery and tailor shops, shoe repair shops.
 - c. Equipment Services including radio and television shops, electrical appliance shops, showroom of a plumber, decorator or similar trade. Food Services including grocery stores, fruit, vegetable and meat markets, supermarkets, restaurants, delicatessen, candy shops, and bakeries whose products are sold only at retail on the premises.
 - d. Personal Services including barber and beauty shops, reducing salons, photographic shops and funeral homes.
 - e. Retail Services including drug stores, hardware stores, haberdasher, stationery and book stores, new shops, apparel shops, showroom for articles to be sold at retail, flower shops, and commercial greenhouses.
 - f. Electrical Distribution and Transmission Lines, Substations and other Essential Services.
 - g. Automobile Services including auto equipment sales, car wash service, new and used car sales lot, trailer sales areas, gasoline service station and auto repair garages.
 - h. Drive-in restaurants, drive-in banks and other drive in services.
 - i. Open Air Display Areas for the sale of products such as garden furniture, hardware items, nursery stock or automobiles or areas used to display rental equipment such as

- tools or trailers.
 - j. Accessory Structures and Uses customarily incidental to any of the above conditional uses when located on the same property.
 - k. Planned Unit Development.
- 2) In the General Industrial District (I-1):
- a. Building materials storage yards, lumber yards, machinery lots, car lots, contractor(s) equipment rental and storage yards. *
 - b. Wholesale Businesses including warehousing and storage buildings, Light Manufacture, Compounding Treatment and Assembly of Articles or merchandise previously manufactured elsewhere. *
 - c. Manufacturing Processes and Treatments of Products using light machinery such as tool and die shops, metal fabricating plants and welding shops.
 - d. Public Utility Service Buildings and Yards, Electrical Transformer Stations, Substations, and Gas Regulator Stations.
 - e. Dwellings for Watchmen or Custodians of industrially used property only.
 - f. Automobile Service Stations.
 - g. Outdoor Storage of Vehicles or Materials or Open Sales Lot, Farm Implement Sales.
 - h. Restaurants, Lunch Counters, Confectioneries to serve the employees of the district.
 - i. Retail Sales incidental to and in connection with the aforementioned permitted uses. These uses shall be conducted wholly within a building with a landscaped front yard and with side and rear yard used for loading, unloading and parking. Visitor parking may be allowed in the front yard.
 - j. Accessory Uses shall be: Off-street parking, storage garages, and building and loading facilities as regulated in this Ordinance. Buildings temporarily located for purposes of construction. Essential security and safety facilities as approved by the County. Offices accessory to the principal use.
 - k. Electrical Distribution and Transmission Lines, Substations and other Essential Services in accordance with Section 733.
 - l. Planned Unit Development.

* Uses permitted in those items noted above shall be conducted entirely within a building with a landscaped front yard and with side and rear yards used for loading, unloading, and parking. Visitor parking may be allowed in the front yard.

612.05. Performance Standards

- 1) Lot Area-Refer to the Underlying District.
- 2) Lot Width for Public Waters by Classification (in feet).

Number of Units	Transition	Trout	Agricultural	Tributary
Single	250'	250'	150'	150'
Two	375'	375'	225'	150'
Three	500'	500'	300'	200'
For Each				
Additional Unit	+ 125'	+ 125'	+ 75'	+ 50'
(Add)				
- 3) Height regulations refer to the underlying District.

- 4) Front, Side, and Rear Yard Setbacks from OHWL to nearest point of a structure.
 - a. Refer to the Underlying District.
 - b. Setbacks from Ordinary High Water Level

Public Waters Classification	Structures Unsewered	Structures Sewered	Sewage Treatment System
Transition or Trout Streams	150'	150'	100'
Agricultural or Tributary	100'	50'	75'

Additional Structure Setbacks

Setback from	Setback
1) Top of Bluff	80'
2) Unplatted Cemetery	50'
3) Road Right-of-Way-Federal, State	
Co. Hwy	100'
All others	100'
4) Ordinary High Water Level	
New animal feedlots	300'

612.06. Special Provisions Applicable to Lot Area and Width Standards

- 1) Residential subdivisions with dwelling densities exceeding those established in the performance standards of each land use district can only be allowed if designed and approved as residential PUD's.
- 2) Lots intended as controlled accesses to public waters or as recreation lots within PUD's are permissible and must meet or exceed the following standards:
 - a. They must meet the width and size requirements for residential lots and be suitable for the intended uses of controlled access lots.
 - b. They must be jointly owned by all purchasers of lots in the PUD and or by all purchasers of non-riparian lots in the PUD who are provided riparian access rights on the access lot.

612.07. Design Criteria for Structure

- 1) High Water Elevations. Structures must be placed in accordance with any flood plain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or floor proofed must be determined as follows:
 - a. For rivers and streams, by placing the lowest floor at least three (3) feet above the flood of record, if data is available. If data is not available, by placing the lowest floor at least three (3) feet above the ordinary high water level or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with Minnesota Rules parts 6120.5000 to 6120.6200 governing the management of flood plain areas. If more than one approach is used, the highest

flood protection elevation determined must be used for placing structures and other facilities.

- 2) Steep Slopes. The Zoning Administrator must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf on vegetation.

612.08. 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. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by Section 612.09 of this Ordinance are exempt from the vegetation alteration standards that follow.

- 1) Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in Section 612.11 is allowed subject to the following standards:
 - a. Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the Soil and Water Conservation District in which the property is located.
 - b. 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 area, access paths, livestock water areas, beach and watercraft access areas provided that:
 - i) the screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced.
 - ii) along rivers, existing shading of water surfaces is preserved; and
 - iii) the above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.
- 2) Use of fertilizer and pesticides in the Shoreland District must be done in such a way as to minimize run-off into the shore impact zone or public water by the use of earth, vegetation, or both.
- 3) Grading, filling, and excavations necessary for 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.
- 4) Public roads and parking areas are regulated by Section 612.09 of this Ordinance.
- 5) Notwithstanding items three (3) and four (4) above, a grading and filling permit will be required for:
 - a. the movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and
 - b. the movement of more than fifty (50) cubic yards of material outside of steep slopes

and shore and bluff impact zones.

- 6) The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances, and PUD approvals:
 - a. Grading or filling in any type 2, 3, 4, 5, 7, or 8 wetland must be evaluated* to determine how extensively the proposed activity would affect the following functional qualities of the wetland:
 - i) sediment and pollutant trapping and retention;
 - ii) storage of surface run-off to prevent or reduce flood;
 - iii) fish and wildlife habitat;
 - iv) recreational use;
 - v) shoreline or bank stabilization; and
 - vi) noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.
 - b. 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.
 - c. 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.
 - d. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.
 - e. 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.
 - f. Fill or excavated material must not be placed in a manner that creates an unstable slope.
 - g. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of thirty (30) percent or greater.
 - h. Fill or excavated material must not be placed in bluff impact zones.
 - i. Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under Minnesota Statutes, Section 103 G.245.
 - j. 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.
 - k. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three (3) feet horizontal to one (1) foot vertical, the landward extent of the riprap is within ten (10) feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three (3) feet.

* This evaluation must also include a determination of whether the wetland alteration being proposed required 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.

612.09. Placement and Design of Roads, Driveways, and 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 setbacks and must not be placed within bluff and shore impact zones when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas and must be designed to minimize adverse impacts.
- 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 612.08 of this Ordinance must be met.

612.10. Stormwater Management

- 1) When possible, existing natural drainage ways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater run-off before discharge to public waters.
- 2) Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, run-off velocities, erosion potential, and reduce and delay run-off volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.
- 3) When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater run-off 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 manmade materials and facilities.
- 4) Impervious surface coverage of lots must not exceed twenty-five (25%) percent of the lot area.
- 5) 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.
- 6) New stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

612.11. Special Provisions for Commercial, Industrial, Public/Semi-public, Agricultural, Forestry and Extractive Uses and Mining of Metallic Minerals and Peat

- 1) Standards for Commercial, Industrial, Public and Semi-Public Uses:
 - a. Surface water oriented commercial uses and industrial, public, or semi-public uses with similar needs, which need to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water oriented needs must meet the following standards:
 - i) In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this Ordinance, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures.

- b. 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 setback 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.
- 2) Agriculture Use Standards:
- a. General Cultivation Ag Uses, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in perennial vegetation or operated under an approved conservation plan, consistent with the field office technical guides of the local soil and water conservation districts or the National Resources Conservation Service, as provided by a qualified individual or agency.
 - b. Landowners owning property with permitted agricultural land uses adjacent to a water body identified and mapped on a buffer protection map as public waters must maintain a buffer to protect the State's water resources as follows:
 - i. Must maintain a 50-foot average width, 30-foot minimum width, continuous buffer of perennially rooted vegetation. The width of a buffer on public waters must be measured from the top or crown of the bank. Where there is no defined bank, measurement must be from the edge of the normal water level.
 - ii. May meet the requirements by adopting an alternative riparian water quality practice, or combination of structural, vegetative, and management practices, based on the Natural Resources Conservation Service Field Office Technical Guide or other practices approved by the board, that provide water quality protection comparable to the buffer protection for the water body that the property abuts. Included in these practices are retention ponds and alternative measures that prevent overland flow to the water resource.
- 3) May meet the requirements by adopting an alternative riparian water quality practice, or combination of structural, vegetative, and management practices, based on the Natural Resources Conservation Service Field Office Technical Guide or other practices approved by the board, that provide water quality protection comparable to the buffer protection for the water body that the property abuts. Included in these practices are retention ponds and alternative measures that prevent overland flow to the water resource. Forest Management Standards: The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment-Forestry and the provisions of Water Quality in Forest Management "Best Management Practices in Minnesota".
- 4) Extractive Use Standards:
- a. Site Development and Restoration Plan. An extractive use site development and restoration plan must be developed, approved by the appropriate State agency 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.
 - b. 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.
- 5) Mining of Metallic Minerals and Peat. Mining of metallic minerals and peat, as defined

in Minnesota Statutes, Sections 93.44 to 93.51 shall be a permitted use provided the provisions of Minnesota Statutes, Sections 93.44 to 93.51, are satisfied.

612.12. Water Supply and Sewage Treatment

- 1) Water Supply. Any public and 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.
- 2) Sewage Treatment. Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:
 - a. Publicly owned sewer systems must be used where available.
 - b. All private sewage treatment systems must meet or exceed the Minnesota Pollution Control Agency's standards for individual sewage treatment systems contained in the document titled, "Individual Sewage Treatment Systems Standards, Minnesota Rule 7080," a copy of which is hereby adopted by reference and declared to be a part of this Ordinance.
 - c. On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in Section 612.05.
 - d. All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria. If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil boring and percolation tests from on-site field investigations.
 - e. Evaluation criteria:
 - i) depth to the highest known or calculated groundwater table or bedrock;
 - ii) soil conditions, properties and permeability
 - iii) slope;
 - iv) the existence of low lands, local surface depressions, and rock outcrops.
 - f. Non-conforming sewage treatment systems shall be regulated and upgraded in accordance with Section 612.15 of this Ordinance.

612.13. Construction of Non-Conforming Lots of Record

- 1) Lots of record in the office of the County Recorder on the date of enactment of local shoreland controls that do not meet the Performance Standards of the individual land use districts of this Ordinance may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback treatment and setback requirements of this Ordinance are met.
- 2) A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the Board of Adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.
- 3) If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the Performance Standards, Section 6 of this Ordinance, the lot must not be considered as a separate parcel of land for the purposes of sale or development.

The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the Performance Standards as established in this ordinance as much as possible.

612.14. Additions/Expansions to Non-Conforming Structures

- 1) All additions or expansion to the outside dimensions of an existing non-conforming structure must meet the setback, height, and other requirements of Section 6 of this Ordinance. Any deviation from these requirements must be authorized by a variance pursuant to Section 505.
- 2) Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met:
 - a. the structure existed on the date the structure setbacks were established;
 - b. a thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;
 - c. the deck encroachment toward the ordinary high water level does not exceed fifteen (15%) percent of the structure from the ordinary high water level or does not encroach closer than thirty (30) feet, whichever is more restrictive; and
 - d. the deck is constructed primarily of wood and is not roofed or screened.

612.15. Non-conforming Sewage Treatment Systems

- 1) A sewage treatment system not meeting the requirements of Section 612.12 of this ordinance must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered non-conforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.
- 2) The governing body of Fillmore County has by formal resolution notified the Commissioner of its program to identify non-conforming sewage treatment systems that are located in the Shoreland Overlay District. A property owner will be required to submit a Certificate of Inspection from a certified sewage treatment system installer indicating whether the treatment system conforms to MPCA 7080 rules. This shall be done prior to the owner's making application for a building permit, requesting a variance, or a rezoning.

The certificate shall also be required by the Fillmore County Recorder prior to the recording of a transfer of property on which a structure exists. Should the property owner choose, the County will conduct the sewage treatment system inspection and make the determination whether the said system conforms to MPCA 7080 rules. The owner shall pay a fee, as established by the Fillmore County Board.

If, at the time of inspection, the system is determined to be non-conforming, the property owner will be required to bring the system into conformance within ninety (90) days.

Sewage treatment systems installed according to all applicable local Shoreland Management Standards adopted under Minnesota statutes, Section 105.485 in effect at the time of installation, may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the MPCA Chapter 7080 for design of on-site sewage treatment systems, shall be considered non-conforming.

612.16. Subdivision/Platting Provisions

- 1) Land Suitability. Each lot created through subdivision, including planned unit developments authorized under Section 609 of this Ordinance, must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the Fillmore County Zoning Office shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitation for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities near shore aquatic conditions in unsuitable areas 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 PUD or of the community.
- 2) Consistency with Other Controls. PUD's must conform to all official controls of this County. A PUD 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 PUD will not be approved unless domestic water supply is available and a sewage treatment system consistent with Sections 612.05 and 612.12 can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of Section 612.05 and the requirements set forth in the underlying district, including at least a minimum contiguous lawn area that is free of limiting factors sufficient for the construction of two (2) standard soil treatment systems. Lots that would require use of holding tanks must not be approved.
- 3) Information Requirements. Sufficient information must be submitted by the applicant for the Fillmore County Zoning Office to make a determination of land suitability. The information shall include at least the following:
 - a. topographic contours at ten (10) foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics;
 - b. the surface water features required in Minnesota Statutes, section 505.02, subdivision 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;
 - c. adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests or other methods;
 - d. information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater run-off and erosion both during and after construction activities; and
 - e. location of 100-year flood plain areas and floodway districts from existing adopted maps or data; and a line or contour representing the ordinary high water level, the "toe" and the "top" of bluffs, and the minimum building setback distances from the

- top of the bluff and the lake or stream.
- 4) Dedications. When a land or easement dedication is a condition of PUD approval, the approval must provide easements over natural drainage or ponding areas or management of stormwater and significant wetlands.
 - 5) Platting. All PUD's that create five (5) or more lots shall be processed as a plat in accordance with Minnesota Statutes Chapter 505. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after these official controls were enacted unless the lot was approved as a part of a formal PUD.
 - 6) Controlled Access or Recreational Lots. Lots intended as controlled accesses to public waters or for recreational use areas for use by non-riparian lots within a subdivision must meet or exceed the sizing criteria in Section 612.06 of this Ordinance.

612.17. Planned Unit Development (PUD's)

1) Types of PUD's Permissible.

Planned unit developments (PUD's) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing building and land. The land use districts in which they are an allowable use are identified in the land use district descriptions in Section 602 of this ordinance and the official zoning map. For the purposes of this Section (612) the following definition shall apply.

Planned Unit Development. A development of a unified site whereby dwelling units or dwelling sites are grouped or clustered in and around common open space areas, in accordance with a pre-arranged site plan submitted by a developer and requiring membership in an association

2) Permitted Uses.

In the Ag District these developments may be organized and operated as campgrounds, recreational vehicle parks, and conversions of structures and land uses to these uses. In the incorporated areas of the County that have adopted the Fillmore County Zoning Ordinance, these developments may be organized and operated as condominiums, time-share condominiums, cooperatives, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, campgrounds, recreational vehicle parks resorts, hotels, motels, and conversions of structures and land uses to these uses.

3) Processing of PUD's

Planned unit developments must be processed as a conditional use, except that an expansion to an existing commercial PUD involving six (6) or less new dwelling units or sites since the date this ordinance was adopted is permissible as a permitted use provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures in Section 612.17(5.). Approval cannot occur until the environmental review process (EAW/EIS) is complete.

4) Application for a PUD

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

- 1) A site plan and/or plat for the project showing locations of property boundaries,

surface water features, existing and proposed structures and other facilities, land alterations, sewage treatment and water supply systems (where public systems will not be provided), and topographic contours at ten (10) foot intervals or less. When a PUD is a combined commercial and residential development, the site plan and/or plat must indicate and distinguish which buildings and portions of the project are residential, commercial or a combination of the two.

- 2) A property owner’s association agreement (for residential PUD’s) with mandatory membership, and all in accordance with the requirements of Section 6 of this ordinance. Deed Restrictions, covenants, permanent easements and other instruments that: 1) properly address future vegetative and topographic alterations, construction of additional buildings; beaching of watercraft and construction of commercial buildings in residential PUD’s; and 2) ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in Section 612.17(11) of this ordinance.
- 3) When necessary, a master plan/drawing describing the project and the floor plan for all commercial structures to be occupied.
- 4) Those additional documents as requested by the Fillmore County Board of Commissioners that are necessary to explain how the PUD-will be designed and will function.

5) Site “Suitable Area” Evaluation

Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation.

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

Shoreland Tier Dimensions	Unsewered (Feet)	Sewered (Feet)
All river classes	300	300

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

6) Residential and Commercial PUD Density Evaluation

The procedures for determining the “base” density of PUD and density increase multipliers are as follows. Allowable densities may be transferred from any tier to any other tier further from the water body, but must not be transferred to any other tier closer.

7) Residential PUD Base Density Evaluation:

- 1) The suitable area within each tier is divided by the single residential lot size standard for rivers, the single residential lot width standard times the tier depth, unless the local unit of government has specified an alternative minimum lot size for rivers which shall then be used to yield a base density of dwelling units or sites for each tier. Proposed locations and numbers of dwelling units or sites for the residential planned

unit developments are then compared with the tier, density, and suitability analyses herein and the design criteria in Section 612.17(5) and (6).

- 8) Commercial PUD Base Density Evaluation:
 - a. Determine the average inside living area size of dwelling units or sites within each tier, including both existing and proposed units and sites. Computation of inside living area sizes need not include decks, patios, stoops, steps, garages, or porches and basements, unless they are habitable space.
 - b. Select the appropriate floor area ratio from the following table:

Commercial Planned Unit Development

Floor Area Ratios*

unit floor area sq. ft.	Public waters classes		
	tributary river segments	*Average transition and forested river segments	Natural agricultural lakes and remote river segments
200	.040	.020	.010
300	.048	.024	.012
400	.056	.028	.014
500	.065	.032	.016
600	.072	.038	.019
700	.082	.042	.021
800	.091	.046	.023
900	.099	.050	.025
1,000	.108	.054	.027
1,100	.116	.058	.029
1,200	.125	.064	.032
1,300	.133	.068	.034
1,400	.142	.072	.036
1,500	.150	.075	.038

For average unit floor areas less than shown, use the floor area ratios listed for two-hundred (200) square feet. For areas greater than shown, use the ratios listed for one thousand five hundred (1,500) square feet. For recreational camping areas, use the ratios listed at four hundred (400) square feet. Manufactured home sites in recreational camping areas shall use a ratio equal to the size of the manufactured home, or if unknown, the ratio listed for one thousand (1,000) square feet.

- c. Multiply the suitable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.
- d. Divide the total floor area by tier computed in Item C. above by the average inside living area size determined in Item A. above. This yields a base number of dwelling units and sites for each tier.
- e. Proposed locations and numbers of dwelling units or sites for the commercial planned unit development are then compared with the tier, density and suitability analyses herein and the design criteria in Section 612.17(5) and (6).

9) Density Increase Multipliers:

- a. Increases to the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standards in Section 612.17(5) are met or exceeded and the design criteria in Section 612.17(6) are satisfied. The allowable density increases in Item B, below, will only be allowed if structure setbacks from the ordinary high water level are increased to at least fifty (50) percent greater than the minimum setback, or the impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional means acceptable to the local unit of government and the setback is at least twenty five (25) percent greater than the minimum setback.
- b. Allowable Dwelling Unit or Dwelling Site Density Increases for Residential or Commercial Planned Unit Developments:

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

10) Maintenance and Design Criteria

Maintenance and Administration Requirements:

- a. Before final approval of a planned unit development, adequate provisions must be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.
- b. Open space preservation. Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means must be provided to ensure long-term preservation and maintenance of open space. The instruments must include all of the following protections:
 - i) commercial uses prohibited (for residential PUD's);
 - ii) vegetation and topographic alterations other than routine maintenance is prohibited; and
 - iii) construction of additional buildings or storage of vehicles and other materials is prohibited; and uncontrolled beaching of watercraft is prohibited.
- c. Development organization and functioning. Unless an equally effective alternative community framework is established, when applicable, all residential planned unit developments must use an owners association with the following features:
 - i) membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers;
 - ii) any unpaid assessments can become liens on units or sites;
 - iii) assessments must be adjustable to accommodate changing conditions; and
 - iv) the association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

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

- 1) at least fifty (50) percent of the total project area must be preserved as open space;
- 2) dwelling units or sites, road rights-of-way, or land covered by road surfaces, parking areas, or structures, are developed areas and shall not be included in the computation of open space;
- 3) open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries;
- 4) open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public;
- 5) open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems;
- 6) open space must not include commercial facilities or uses;
- 7) the appearance of open space areas, including topography, vegetation and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means; and
- 8) the shore impact zone based on normal structure setbacks, must be included as open space. For residential PUD's, at least fifty (50) percent of the shore impact zone area of existing developments or at least seventy (70) percent of the shore impact zone area of new developments must be preserved in its natural or existing state. For Commercial PUD's, at least fifty (50) percent of the shore impact zone must be preserved in its natural state.

12) Erosion Control and Stormwater Management

Erosion control and stormwater management plans must be developed and the PUD must:

- a. be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant; and
- b. be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff. Impervious surface coverage within any tier must not exceed twenty-five (25) percent of the tier area, except that for commercial PUD's thirty-five (35) percent impervious surface coverage of general development lakes with an approved stormwater management plan and consistency with Section 612.17(3)(5).

13) Centralization and Design of Facilities. Centralization and design of facilities and structures must be done according to the following standards:

- a. planned unit developments must be connected to publicly owned water supply and sewer systems if available. On-site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and Sections 612.17(5) of this

- ordinance. On-site sewage treatment systems must be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors must be provided for a replacement soil treatment system for each sewage system;
- b. dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high water level, elevation above the surface water features, and maximum height. Setbacks from the ordinary high water level must be increased in accordance with Section 612.17(5) of this ordinance for developments with density increases;
 - c. shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (not with standing existing mooring sites in an existing commercially used harbor). Launching ramp facilities, including a small dock for loading and-unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers; and
 - d. structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shoreland by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided; accessory structures and facilities must meet the required principal structure setback and must be centralized.

14) Conversions

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

- a. Proposed conversions must be initially evaluated using the same procedures for residential planned unit developments involving all new construction. Inconsistencies between existing features of the development and these standards must be identified.
- b. Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit.
- c. Shore and bluff impact zone deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:
 - i) Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;
 - ii) remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water; and
 - iii) if existing dwelling units are located in shore or bluff impact zones, conditions are attached to approvals of conversions that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future

relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.

- 15) Existing dwelling unit or dwelling sites densities that exceed standards in Section 612.17(5) may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreational facilities, installing new sewage treatment systems, or other means.

613. Bluffland Areas

613.01. Findings and Purpose

The purpose of this ordinance is to control through permitting and zoning regulations certain land uses within the Bluffland Areas. It is intended to protect the scenic qualities of the bluffs, to protect the sensitive natural features of the bluffs and to preserve agricultural land by controlling soil erosion. The protection of the bluffs with their rich historical background provides economic benefits to a large number of people living in the county. The citizens of Fillmore County recognize the bluffs as a unique and valuable part of the county.

613.02. Jurisdiction and Scope

The provisions of Section 613 shall be enforced in those areas of Fillmore County where bluffs are found. These regulations are intended to control soil erosion and protect the visual integrity of the Bluffland Areas by regulating structure setbacks, septic system locations, and vegetation and land alterations in relation to the Bluff Impact Zone.

For the purposes of this Section, the following definition is in effect:

Site Development Plan. A site development plan for construction near a Bluff Impact Zone shall include the proposed location of the structure in proximity to the top of the bluff, the site elevations and the height of the structure, the location of the sewer and well, a construction erosion control plan if the site is over twelve (12) percent.

613.03. Construction in Bluffland Areas

- 1) All structures must be located outside the Bluff Impact Zone. All residential structures must be eighty (80) feet back of the Top of the Bluff.
- 2) There is a fifty (50) foot structural setback from the Toe of the Bluff.
- 3) All residential construction within two hundred (200) feet distal of the top of the bluff or within one hundred (100) feet distal of the toe of the bluff must have a Site Development Plan certified by a licensed Civil Engineer or surveyor.

613.04. Height of Structure

For all structures exceeding twenty-five (25) feet in height, the structure must be fifty (50) foot back of the Bluff Impact Zone plus three (3) feet for each additional foot of height over twenty-five (25) feet.

613.05. Access

- 1) All access drives must be constructed at fourteen (14) percent or less slope. No access drive may be located in a Bluff Impact Zone if another alternative exists.
- 2) Soil erosion must be controlled on all access drives in the Bluff Impact Zone. An erosion control plan must be formulated on all access drives between twelve (12) percent and fourteen (14) percent slope.
- 3) All access drives must be no less than twelve (12) foot in width.

613.06. Development

The establishment of all Subdivisions of land whereby any part of the Subdivision includes a Bluff Impact Zone must be done according to PUD regulations found in Section 609 of the Fillmore County Zoning Ordinance.

There shall be no structural construction in the Bluff Impact Zone except for fencing. There shall be no filling or excavating of land in the Bluff Impact Zone except for permitted rock quarries and sandpits.

613.07. Campers, Recreational Camping Vehicles, and Temporary Dwellings

The parking or placement of campers, recreational camping vehicles, or any other form of temporary housing is allowed for one (1) week.

613.08. Vegetation Alterations

Removal or alteration of vegetation in a Bluff Impact Zone, except for agricultural and forest management uses is allowed subject to the following standards:

- 1) Intensive vegetation clearing within Bluff Impact Zones is not allowed.
- 2) In Bluff Impact Zones limited clearing of trees and shrubs and cutting, pruning and trimming of trees is allowed to provide a view. Removal of more than thirty (30) percent of existing trees greater than six (6) inches in diameter at four (4) feet in height is prohibited.
- 3) Trees of any size that are diseased or unsafe may be removed.
- 4) The restoration and management of natural communities in the Blufflands is allowed.

614. Decorah Shale Overlay District

- 1) Purpose. To provide an overlay district to:

- a. preserve and enhance the quality of the water flowing over the Decorah shale and recharging the St. Peter-Prairie du Chien-Jordan aquifer;
 - b. reduce damages to structures and sewage treatment systems caused when ground water flow over the Decorah shale is intercepted; and
 - c. maintain native plant communities unique to the habitat conditions created when the Decorah shale is the first encountered bedrock.
- 2) Lands to which this section applies:
- a. This section shall apply to all land designated as the Decorah Shale Overlay District within the jurisdiction of Fillmore County. This Overlay District includes all land where the first encountered bedrock is the Decorah shale as identified on the Bedrock Geology plate of the Fillmore County Geologic Atlas or that lie within one hundred (100) feet of that boundary.
 - b. The uses in the Decorah Shale Overlay District, the size and shape of lots, the building of new or the alteration of existing structures, the installation and maintenance of water supply or sewage treatment systems shall be in full compliance with the terms of this Ordinance and other applicable regulations.
- 3) Permitted Uses. All uses permitted in the Ag District are allowed in the Decorah Shale Overlay District if the following conditions are met:
- a. All wetland and high water table conditions within six (6) feet of the land's surface are delineated. Where these conditions exist, the areas are to be marked or fenced off to prevent disturbance of the vegetation and compaction of wet soils.
 - b. Development of roadways when necessary shall be limited to reduce disturbance of vegetation and compaction of wet soils.
 - c. Soil observations (performed in an exposed pit, or by hand auguring or probing) and percolation tests are conducted where the structure(s) and individual sewage treatment system are to be located. The design of the sewage treatment system meets all requirements of Minnesota Rule Chapter 7080 for the soil conditions.
 - d. A one (1) foot vertical setback from the lowest useable floor to the seasonal high water table shall be maintained for all buildings (not to include footings and frost walls).
 - e. Any disturbance of vegetation within the setback areas must be re-established with permanent vegetation.
 - f. Intercepted ground water flow shall be reinfiltated in a manner that mimics natural recharge processes.
 - g. Infiltration of runoff from impervious surfaces (driveways, parking areas, access roads) must be accomplished by establishing vegetated swales where runoff may be filtered. The use of wet meadow plants tolerant of occasional inundation, which are also salt-tolerant, will be acceptable.
- 4) Decorah Shale Overlay District Site Development Plan. The site development plan shall include:
- a. An evaluation of high water table conditions based on six (6) foot soil borings and a wetland delineation conducted by SWCD staff, who have completed the Minnesota Board of Water and Soil Resources Jurisdictional Delineation of Wetlands in Minnesota training, or by a licensed soil scientist. A preliminary site review may be done based on the current Fillmore County Soil Survey.
 - b. A soil map or inventory of the site and a report describing the kinds of soils on the map and summarizing what is known about these soils including their classification and capabilities;
 - c. A description of the vegetation found on the site prior to construction;

- d. The proposed location of the structure in proximity to the wetland boundary (if present);
 - e. The location of the sewer and well;
 - f. The site elevations; and
 - g. An erosion control plan.
- 5) Development:
The establishment of all Subdivisions of land whereby any part of the Subdivision lies within the Decorah Shale Overlay District must be done according to PUD regulations found in Section 609 of the Fillmore County Zoning Ordinance.
- 6) Extraction of Materials and Minerals, Open Pits or Impounding of Waters:
No new quarries or sandpits are allowed within the Decorah Shale Overlay District. Existing active and inactive quarries and sandpits may operate under existing permitting requirements under the Fillmore County Zoning Ordinance.
- 7) Impoundments of water:
Impoundments of water are prohibited except for agricultural or public utility purposes.

SECTION 7

General Regulations and 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 the 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. If said data complies with all parts of this Ordinance, the Zoning Administrator shall issue the necessary zoning permit.

702. Apartments, Townhouses and Other Multiple Family Dwelling Unit Structures

702.01. Districts Where Permitted

All multiple family dwelling unit structures allowed in the R-1 district shall be subject to the following standards.

702.02. Standards for Multiple Family Dwelling Unit Structures

All requests for building or conditional use permits shall be accompanied by a series of site plans and data showing:

- 1) Building locations, dimensions, and elevations, all signs, structures, entry areas, storage sites, and other structural improvements to the site.
- 2) Circulation plans for both pedestrian and vehicular traffic.
- 3) Fences and screening devices.
- 4) Solid waste disposal provisions and facilities.
- 5) Storm drainage plans.
- 6) Firefighting and other public safety facilities and provisions such as hydrant locations and fire lanes.
- 7) Data pertaining to numbers of dwelling units, size, lot area, ratio, etc.
- 8) Exterior wall materials and design information.
- 9) A minimum of a two (2) foot contour topographical map of the existing site.
- 10) A grading plan illustrating the proposed grade changes from the original topographical map. All site areas, when fully developed, shall be completely graded so as to adequately drain and dispose of all surface water, storm water and groundwater in such a manner as to preclude large scale erosion, unwanted ponding and surface chemical runoff.
- 11) A recreation plan illustrating in detail all recreational facilities and structures.
- 12) A landscape plan. The site, when fully developed, shall be landscaped according to a

plan approved by the Planning Commission. The landscaping plan shall specify the size, type, and location of all trees and shrubbery and the location of all seeded and sodded areas.

- 13) A soil erosion control plan for the construction period. Areas within the construction zone shall be fenced with construction limit fencing as per the plan to prohibit heavy machinery and/or materials from being placed on areas not to be disturbed during construction. This shall, at a minimum, include all slopes in excess of eighteen (18) percent.

702.03. Performance Standards

Same as those listed in the R-1 District.

702.04. Parking Requirements

- 1) One and one-half (1 ½) parking spaces per multiple family dwelling unit structures shall be provided on the same site as the dwelling unit. Each space shall not be less than nine (9) feet wide and twenty (20) feet in length, or as approved by the Zoning Administrator and each space shall be served adequately with access drives. All parking areas shall be in compliance with Subdivision 718 of this Section.
- 2) Parking spaces shall not be located any closer than ten (10) feet of the side or rear lot line.
- 3) Bituminous or concrete driveways and parking areas with bituminous concrete or curbing shall be required. In lieu of a paved surface, a dust free surface with adequate drainage may be approved when approved by the Planning Commission and County Board.

702.05. Landscape Provisions

- 1) The design shall make use of all land contained in the site. All of the site shall be related to the circulation, recreation, screening, building, storage, landscaping, etc., so that no portion of the site remains undeveloped.
- 2) A minimum of twenty (20) percent of the site not used for building or off-street parking shall be landscaped with adequate vegetation including grass areas, shrubs, trees, or other natural vegetation.

702.06. Screening

- 1) Screening to a height of at least five (5) feet shall be required where:
 - a. Any off-street parking area contains more than six (6) 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 zone.
- 2) All exterior storage shall be screened. The exterior storage screening required shall consist of a solid fence or wall not less than five (5) feet high, but shall not extend to within fifteen (15) feet of any street driveway or lot line.

- 3) Sidewalks shall be provided from parking areas, loading zones and recreation areas to the entrances of the building.
- 4) Outdoor swimming pools shall observe setbacks required for the principal structure.

702.07. Appearance

All buildings within an apartment development shall be so planned and constructed so that they present a finished appearance that is consistent with that of the principal building.

702.08. General Buildings or Structural Requirements

- 1) Requirements for exterior wall surfacing and covering. All multiple family dwelling buildings shall be designed and constructed to have the equivalent of a front appearance on each exterior surface. All accessory or ancillary buildings, including garages, shall be designed and constructed with the same facing materials as the principal building. Such material shall be used in the same or better proportions as used on said principal building.
- 2) Each multiple family dwelling development containing more than four (4) dwelling units shall include a play area.
- 3) Any detracting aspects (i.e. parking or exterior storage) of the multiple family dwelling developments shall be integrated into the site design so as to minimize the impact on adjacent residential areas. Mitigation of these aspects shall include landscaping and fencing treatments.
- 4) The design shall make use of all land contained in the site. All of the site shall be related to the multiple family use, parking, circulation, recreation, landscaping, screening, building, storage, etc., so that no portion remains undeveloped.
- 5) Exterior garbage storage. Except with townhouses and multiple family dwellings of four (4) or less units, no exterior trash or garbage disposal or storage shall be permitted. In the case of row housing and multiple family dwellings of four (4) units or less all storage shall be completely enclosed by walls and/or roof.

703. Manufactured Home Parks

703.01. Purpose

It is the purpose of this Section to permit the development of manufactured home parks in a manner that will promote and improve the general health, safety, convenience and welfare of the citizens by minimizing any adverse effects of such development. This section is further intended to be used in conjunction with existing ordinances in regulating mobile home parks and manufactured homes.

703.02. Location

A manufactured home park may be established in the Single and Two-Family (R-1) Districts.

703.03. Permit Required

A Conditional Use Permit is required to establish and operate a manufactured home park within the County.

703.04. Application Requirements and Procedures

All applications for a conditional use permit shall be submitted to the Zoning Administrator and approved by the City Council following the procedures established in Section 504.04 of this Ordinance. The application for a conditional use permit shall be accompanied by plans including the following information.

- 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 an overhead street lighting system shall be submitted for approval by the City Council.
- 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 from all road construction within the park or directly related to park operation.
- 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 Planning Commission and/or the City Council.

703.05. Construction and Installation Standards

All manufactured homes within a park shall be subject to and meet the construction, plumbing, electrical and mechanical standards as prescribed by the State of Minnesota, U.S. Department of Housing and Urban Development, and the American National Standards Institute identified as ANSI A119.1 or the provision of the National Fire Protection Association identified as NFPA 501B and any revisions thereto and shall be certified to these standards by a seal affixed to the manufactured home.

703.06. Performance Standards for Manufactured Home Parks

- 1) All manufactured homes shall be properly connected to the community water system and sanitary sewer system in conformance to standards adopted by the Minnesota Pollution Control Agency. All water and sewer systems shall be constructed in accordance with plans and specifications approved by the MPCA.

- 2) Each manufactured home park shall maintain a hard surfaced off-street, overload parking lot for guests of occupants in the amount of one (1) space for each five (5) 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 City Council, and there shall be no overhead wires or support poles except those essential for street or other lighting purposes. The MPCA shall approve plans for the disposal of surface storm water.
- 4) A properly landscaped area shall be adequately maintained around each 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. 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 a material that shall be generally uniform through the entire manufactured home park, 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) Each manufactured home park 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) 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.
- 9) Each manufactured home park shall have at least ten (10) percent of the land area developed for recreational use. The City Planning Commission shall approve development of such recreational land and the cost and maintenance shall be at the owner/operator's expense.
- 10) Each manufactured home park shall have one (1) or more central community buildings to serve primarily as an emergency weather shelter which shall be provided with central heating which must be maintained in a safe, clean and sanitary condition. Said buildings shall be adequately lighted during all hours of darkness.
- 11) All structures being placed in the park shall require a permit.

703.07. 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 lots so that there shall be at least ten (10) feet from the side lot line, the front lot line, and the rear lot lines.
- 3) The area occupied by a manufactured home shall not exceed fifty (50) percent of the total area of a manufactured home site; land may be occupied by a manufactured home, a

vehicle, a building, a cabana, a carport, an awning, and storage closet. The yards shall be landscaped except for necessary driveway and sidewalk needs which shall not exceed one-half (½) the width of the site.

- 4) Each manufactured home lot shall have hard-surfaced off-street parking space for at least two (2) automobiles. Each space shall be ten (10) feet by twenty (20) feet minimum.
- 5) No more than two (2) motor vehicles shall be stored or kept on any manufactured home lot. No vehicle shall be dismantled, nor shall mechanical work, except for very minor repairs, be done on any vehicle on a manufactured home lot; nor shall any automotive vehicle that is not in an operable condition be parked, stored or kept on a manufactured home lot or in a manufactured home park, except a vehicle that became inoperable when it was in the manufactured home park, and then it shall not be parked in that condition for a period of more than seven (7) days.
- 6) The corners of each manufactured home lot shall be clearly marked and each site shall be numbered.
- 7) Each site shall be properly landscaped with trees and grass.

703.08. Manufactured Home Stands

- 1) 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 super-structure against uplift, sliding, rotation, and over-turning.
- 2) 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.
- 3) 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.
- 4) 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 Uniform Manufactured Home Standards Code, whichever is more restrictive.

703.09. Park Management

- 1) The person to whom a permit for a manufactured home park is issued shall operate the park in compliance with this Ordinance and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair in a clean and sanitary condition.
- 2) Each park shall have an office for the use of the operator distinctly marked "OFFICE" and such marking shall be illuminated during all hours of darkness.
- 3) The operator of every manufactured home park shall maintain a registry in the office of the manufactured home park indicating the name and address of each permanent resident. Each manufactured home site shall be identified by number and letter also.
- 4) The limits of each manufactured home lot shall be clearly marked on the ground by permanent flush stakes, markers or other suitable means.
- 5) A map of the manufactured home park shall be displayed at the manufactured home park

office and be illuminated during all hours of darkness.

- 6) No public address or loudspeaker system shall be permitted.
- 7) Dogs and animals shall not be permitted to run at large within the manufactured home park.
- 8) No persons shall erect, place, construct, reconstruct, relocate, alter, maintain, use or occupy a cabana or structure in a manufactured home park without the written consent of the owner or operator of the manufactured home park.
- 9) The park management shall provide for the weekly collection and disposal of garbage, waste and trash as approved by the county.

704. Accessory Buildings and Structures

704.01. In Residential Districts

- 1) An accessory building including carports, decks and breezeways attached to the principal building on a lot, shall be made structurally a part thereof and shall comply in all respects with the requirements of this ordinance applicable to the principal building. Decks shall not be included in the lot coverage requirements of this Ordinance.
- 2) No accessory building shall exceed one (1) story or fifteen (15) feet in height and shall not occupy more than ten (10) percent of the lot area.
- 3) All detached accessory buildings shall be located in the side or rear yards. When located within ten (10) feet of the side or rear wall of the principal building they shall comply with all yard requirements applicable to the principal building in the district. Where such accessory buildings are to be located in the rear yard, more than ten (10) feet from the rear wall of the principal building, they shall not be located closer than four (4) feet from the side or rear lot line; provided, however, that when such accessory building is a garage with the vehicle entrance door located parallel to an alley the minimum setback shall be not less than ten (10) feet from the rear lot line.
- 4) No private garage used or intended for the storage of passenger automobiles or motor vehicles, recreation vehicles, boats, etc. 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.
- 5) Accessory buildings shall not be constructed prior to or in lieu of the principal building.
- 6) Pole structures allowable as an accessory use are subject to screening and appearance standards, which require exterior roofing and construction materials similar to those dominant in the area, and require approval of the appropriate City Council or County Zoning Administrator.

704.02. In Commercial and Industrial Districts

- 1) In business and manufacturing districts, accessory buildings and uses may occupy any of the ground area that the principal building is permitted to occupy. Accessory buildings such as buildings for parking attendants, guard shelters, gate houses and transformer buildings, may be located in the front or side yard in I-1 Districts. Parking of automobiles and other motor vehicles is permitted in the front and side yards in I-1 Districts if screened by a greenbelt eight (8) feet in width.
- 2) Accessory buildings may be located any place to the rear of the principal buildings, subject to the building code and the fire zone regulations except where prohibited by

other sections of the Ordinance.

- 3) Accessory buildings shall not be constructed prior to or in lieu of the principal building.

705. Private Sewer Systems – *REPEALED December 3, 2013, See SSTS Ordinance*

706. Home Occupations

706.01. General

Home occupations shall be allowed as accessory uses in the residential, Ag and RA districts subject to the following standards:

- 1) Not more than twenty-five (25) percent of the total floor area of the dwelling shall be used for this purpose.
- 2) No articles for sale shall be displayed so as to be visible from any street.
- 3) The occupation is to be conducted solely by members of the household residing on the premises, except that one (1) person necessary to the occupation may be employed.
- 4) No mechanical or electrical equipment is used if the operation of such equipment interferes un-reasonably with the desired quiet residential environment of the neighborhood or if the health and safety of the residents is endangered.
- 5) No outside storage of material or equipment or display of merchandise shall be allowed.
- 6) No sign shall be allowed other than one (1) non-illuminated nameplate measuring not more than one (1) by one and one-half (1½) feet in area attached near the building entrance.
- 7) The home occupations shall conform to the standards in the State Fire Code, SSTS and any other applicable State, Local and Federal codes.

707. Dwelling Units Prohibited

No basement, garage, tent, trailer, recreational camping vehicles or accessory building shall be used as a permanent dwelling. 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. All dwellings in the RA and R-1 districts shall have a minimum width of twenty (20) feet and placed on a permanent foundation with the exception of manufactured homes.

708. Relocating Structures

708.01. Permits Required

Individuals moving any structure shall, in each and every instance, before raising, holding up or moving any structure, obtain a Moving Permit from the County Engineer and a Land Use Permit from the Zoning Administrator if the structure is to be located in Fillmore County.

708.02. Moving Permit Requirements

All applicants who apply for a Moving Permit must fill out an application for a Moving Permit in the County Engineers Office. The Moving Permit must be issued before a move may take place. The moving permit must be obtained for structures that are over length, over height, or over width.

708.03. Regulations and restrictions

The following regulations and restrictions shall apply to all applicants who apply for a Moving Permit.

- 1) The mover must furnish a vehicle with enough axles to meet existing nine (9) ton road limitations.
- 2) The mover must be licensed and bonded if moving a habitable dwelling.
- 3) A sheriff must escort the move if the structure can not be moved at highway speeds or is over width or over length.
- 4) A utility company representative must accompany the move if the structure is over height.
- 5) All moves must be during daylight hours.
- 6) All movers must obtain permits from all units of government that have jurisdiction over each road used in the move.

708.04. Further regulations and restrictions

The County Engineer may also:

- 1) Modify any moving plan as being proposed.
- 2) Alter any route to mitigate adverse effects to roads and bridges.
- 3) Impose any other requirements on a Moving Permit necessary to protect the health, safety, and general welfare of the citizens of Fillmore County.

SECTION 709. Solar Energy Systems, Accessory

709.01. Permitted Use

Solar energy systems less than 40 kW are a permitted accessory use in all Primary Zoning Districts. The principal use of energy generated by the Accessory Solar Energy System must be to serve the structures and facilities associated with an individual permitted or conditional use in the zoning district in which it is located. Ground-mounted solar energy systems are considered an accessory structure and are prohibited from locating within the Floodplain Overlay Zoning District. Ground-mounted solar energy systems require a Land Use Permit.

709.02. Conditional Use

Ground-mounted accessory solar energy systems which exceed 40 kW, or cover greater than one-half (1/2) acre of land require a Conditional Use Permit and are subject to the administrative

process of Section 504.

709.03. Performance Standards

- 1) **Height** - Active solar energy systems are subject to the following height requirements:
 - a. Building or roof-mounted solar energy systems shall not exceed the maximum allowed height in any zoning district.
 - b. Ground or pole mounted solar systems shall not exceed twenty (20) feet in height when oriented at maximum tilt.
- 2) **Setbacks** - Solar energy systems are considered an accessory structure and must meet the setbacks for the zoning district in which it is located.
 - a. **Roof-Mounted Systems** - In addition to the building setback, the collector surface and mounting devices for roof-mounted solar energy systems that are parallel to the roof surfaces shall not extend beyond the exterior perimeter of the building on which the system is mounted or built. The collector and racking for roof-mounted systems that have a greater pitch than the roof surface shall be set back from all roof edges by at least two (2) feet. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of building on side yard exposure.
 - b. **Ground-Mounted Solar Systems** – Ground-mounted solar energy systems may not extend into the side-yard, rear, or road right-of-way setback when oriented at minimum design tilt.
 - c. **Large Ground-Mounted Solar Systems** - Ground-mounted solar energy systems that result in the creation of one (1) or more acres of impervious surface, must comply with MPCA’s Construction Stormwater Permit requirements.
- 3) **Maximum Coverage** - Roof or building mounted solar energy systems, excluding building-integrated systems, shall not cover more than eighty percent (80%) of the south-facing or flat roof upon which the panels are mounted. The total collector surface area or pole or ground-mount systems in a non-agricultural district shall not exceed one percent (1%) of the lot area.
- 4) **Approved Solar Components** - Electric solar energy system components must have an Underwriter Laboratory (UL) listing.
- 5) **Compliance with State Electrical Code** - All photovoltaic systems shall comply with the Minnesota State Electric Code.
- 6) **Utility Notification** - No grid-intertie photovoltaic system shall be installed until evidence has been given to the Fillmore County Zoning Office that the owner has notified the utility company of the customer’s intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement.
- 7) **Nuisance Abatement** - No owner, occupier or person in control of property shall allow vegetation or structures to be placed or grow so as to cause a shadow on a solar energy

system which is greater than the shadow caused by a hypothetical wall ten (10) feet high located along the boundary line of said property between the hours of 9:30 a.m. to 2:30 p.m. Central Standard Time on December 21st, provided however, this standard shall not apply to vegetation or structures which cause 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. A violation of this standard shall constitute a private nuisance, and any owner or occupant whose solar energy system is shaded because such violation, so that performance of the system is impaired, may have in tort for damages sustained thereby and may have such nuisance abated. As a means of evidencing existing conditions, the owner of a solar energy system may file notarized photographs of the affected area with the County Zoning Administrator prior to installation of said system.

710. Recreation Vehicles, Boats, Campers and Equipment (within City limits)

710.01. Location

Recreation vehicles, boats, campers and equipment shall not be parked or occupied on the premises of any occupied dwelling or any residential lot; except, the parking of one vehicle in the rear yard of any district may be allowed, provided that no permanent living quarters (occupancy exceeding ten (10) days) shall be maintained or business practiced in the vehicle.

710.02. Public Property

Recreation trailers, boats, campers or associated equipment shall not be allowed on any public street for over forty-eight (48) hours except in those public areas specifically designed for overnight stops, or en-route stops.

711. Recreational Camping, Campground Regulations

711.01. Conditional Use Permit

The establishment or expansion of a campground requires a conditional use permit.

711.02. General Provisions

- 1) Every person, organization or community establishing or having control of a campground shall locate such camp on an adequate site. An adequate site is any site that will allow a developer to establish a campground that will meet all rules and regulations for campgrounds. Each camp shall be provided with satisfactory water supply, toilet and refuse disposal facilities as defined by State Statutes and Minnesota Department of Health Rules.
- 2) An applicant for a campground conditional use permit shall submit a general development plan and map for the proposed campground including the following:
 - a. The proposed site and existing development.

- b. Proposed size, location and arrangement of buildings.
- c. Parking areas and stall arrangements.
- d. Entrance and exit drives.
- e. Proposed sewer system, water system, and storm water runoff plan.
- f. Recreation areas.
- g. A map showing the location and breakdown of the total number of recreational camping vehicle sites, tent sites, and camping cabins, whether seasonal or daily, including the location of available utilities.
- h. Emergency plan.

711.03. Regulations

- 1) All campgrounds located in Fillmore County must be closed at least during the months of December, January and February. During the time a campground is closed, no person shall occupy any recreational camping vehicle, tent, or camping cabin.
- 2) All recreational camping vehicles parked on a campsite on a daily, weekly, monthly or yearly basis must have all its wheels left on the vehicle. All recreational camping vehicles must have current licenses attached at all times and, if applicable, must have its hitch properly attached to the camper at all times. All recreational camping vehicles must be road-ready and legal to move without special permitting at all times.
- 3) No wastewater from recreational camping vehicles shall be deposited on the surface of the ground.
- 4) All buildings used in the establishment and operation of a campground shall be located outside the Floodplain Area of Fillmore County as designated by Section 610 of this Ordinance.
- 5) Camping cabins must be constructed on cement slabs. Basements are not allowed.
- 6) Camping cabins will not be allowed in any portion of the floodplain as designated by Section 610 and must have a minimum setback of one-hundred (100) feet from the edge of any portion of the floodplain, shoreland, and toe or shoulder of the bluff impact zone.
- 7) If a campground's existence ceases, all camping cabins must be removed and the property cannot be subdivided if not in accordance with other provisions of the Fillmore County Zoning Ordinance within six (6) months.
- 8) Camping cabins must have two (2) parking spaces per cabin, located adjacent to the cabin or in a designated parking area off all roads and accesses.
- 9) Camping cabins may be up to four hundred (400) square feet in size and no more than eighteen (18) feet in height. Decks may be allowed provided adequate space is provided for parking.
- 10) All campsites in a new or expanded campground where recreational camping vehicles are allowed to park shall be outside the floodplain. Tent campsites in a campground may be located in a floodplain.
- 11) The owners and operators of all campgrounds must follow all State and Local Regulations.
- 12) All new campgrounds must meet a setback of one thousand (1,000) feet from any existing dwellings unless part of an incorporated city.
- 13) Sites designated as tent sites must be used as tent sites and not used for RCV sites.

711.04. EAW

An EAW (Environment Assessment Worksheet) will be required for all new campgrounds of fifty (50) or more campsites or expansion of existing campgrounds to a total of fifty (50) or more campsites. The County Board of Commissioners may, at their discretion, require an EAW for any new campground or expansions of existing campgrounds, regardless of size.

711.05. Performance Standards

- 1) No new dwelling unit may be located within one thousand (1,000) feet of a campground, unless it is part of the campground.
- 2) No new campground may be located within one thousand (1,000) feet of an existing dwelling.
- 3) No new campground may be located within one thousand (1,000) feet of any rock or sand extraction sites.
- 4) No new campground may be located within one thousand (1,000) feet of any registered feedlot.

712. Exterior Storage

712.01. Storage

In all 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 pick-up trucks and fire wood. Boats and unoccupied campers are permissible. In all districts, any storage of equipment or material shall be prohibited in road or street right-of-ways.

712.02. Junkyards

All junk yards and auto storage areas shall be completely screened from all right-of-ways or developed areas, with a solid fence eight (8) feet or more in height and landscaped with suitable plantings. The height requirement may be modified by the Planning Commission and County Board to take into account local terrain features.

712.03. Conditional Uses Required

In all districts, the County may require a Conditional Use Permit for any exterior storage if it is 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 threat to living amenities.

712.04. General Fencing

No fence shall exceed eight (8) feet nor be less than three (3) feet in height; and in the case of grade separation such as the division of properties by a retaining wall, the height shall be determined on the basis of measurement from the average point between highest and lowest grade.

Except as provided in Section 712, fences may be erected on any part of a lot, which is behind the front line of the principal building. Fences along side lot lines shall be setback one (1) foot from the property line to allow for maintenance.

713. Nuisances

713.01. 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.

713.02. 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. All MPCA regulations relating to toxic or noxious matter shall be followed.

713.03. 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.

713.04. Miscellaneous Nuisances

- 1) Passenger vehicles and trucks in an inoperative state shall not be parked in residential districts for a period exceeding fourteen (14) days, seven (7) days in mobile home parks per section 703.07(5); inoperative shall mean incapable of movement under their owner power and in need of repairs. No person may store or keep any vehicle of a type requiring a license to operate on the public highways that does not have a current license, attached whether such vehicle be dismantled or not, outside of an enclosing building in a residential district.

- 2) No person may create or maintain a junkyard or vehicle-dismantling yard except as provided in this Ordinance.
- 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, or 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.

714. 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 flood lights or from high temperature processes such as combustion or welding, 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 (This is not intended to apply to normal street lighting). Any light or combination of lights, which cast light on a residential property, shall not exceed 0.4 candles (meter reading) as measured from said property.

715. Landscaping and Screening

715.01. Landscaping

- 1) In all districts where setbacks exist or are required, all developed uses shall provide a landscaped yard, including grass or decorative stones, or shrubs and trees, along all streets. This yard shall be kept clear of all structures, storage and off-street parking. Except for driveways, the yard shall extend along the entire frontage of the lot, and along both streets in the case of a corner lot; such yard shall have a depth of at least ten (10) feet.
- 2) In all districts, all structures and areas requiring landscaping and fences shall be maintained so as not to be unsightly or present harmful health or safety conditions.
- 3) All vacant lots, tracts or parcels shall be properly maintained in accordance with their natural or existing character.
- 4) The screening required in this section may consist of a fence, trees, shrubs and berms, but shall not extend within fifteen (15) feet of any street or driveway. The screening shall be placed along property lines or in case of screening along a street, twenty (20) feet from the street right-of-way with landscaping between the screening and pavement. Planting of a type approved by the Zoning Administrator may also be required in addition to or in lieu of fencing.
- 5) In all commercial and industrial districts adjacent to residential districts there shall be

provided along the abutting property lines an eight (8) foot wide planting strip composed of grass, trees, and shrubs. Trees at least one and one-half (1 ½) inches in diameter shall be planted not more than forty (40) feet apart. Shrubs shall be planted not more than five (5) feet apart and shall be at least five (5) feet in height after five (5) full growing seasons, and shall attain a height of eight (8) feet at maturity.

- 6) Where a commercial or industrial district is adjacent to a residential district and divided by an alley, a privacy fence not less than five (5) feet in height may be substituted for the aforesaid mentioned greenbelt upon approval of the Planning Commission.
- 7) A decorative masonry wall not less than five (5) feet in height and not less than eight (8) inches in thickness may be substituted for the aforesaid greenbelt upon approval of the Planning Commission.
- 8) The greenbelt or wall area shall be maintained in an attractive condition at all times.

716. Traffic Control and Sight Distance

Intersection with Traffic Controls. On any corner lot at a street intersection which has some form of traffic control (stop or yield signs), there shall be no obstruction to traffic visibility within the clear sight triangle which is formed by the intersection of the center line of two intersection streets and a straight line joining the two said center lines at points fifty-five (55) feet distance from their point of intersection, all obstructions must also conform to the side yard setback requirements.

717. Preservation of Natural Drainageways

717.01. Waterways

- 1) Every effort shall be made to retain the natural drainage systems in the county including existing wetlands and ponds. Aboveground runoff disposal waterways may be constructed to augment the natural drainage system.
- 2) The width 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 permanent vegetation.
- 5) The banks of the waterway should not exceed four (4) 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 bend of the waterway should be protected with turf, sod or concrete. If turf or sod will not function properly, riprap may be used. Riprap shall consist of quarried limestone, fieldstone (if random rip rap is used) or construction materials of concrete. The riprap shall be no smaller than two (2) inches square or 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.

717.02. Sediment Control of Waterways

- 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 a temporary sediment control feature 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, de-silting basins or silt traps) and shall be utilized to remove sediment from runoff prior to its disposal in any permanent body of water.

718. Parking

718.01. Surfacing and Drainage

All parking areas shall be so graded and drained as to dispose of all surface water accumulation within the area. Open sales lots for cars, trucks, and other equipment shall also be graded, drained, and dust free but the interior landscaping is not required. 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 principal use served and may include driveways.
- 2) Spaces accessory to the multiple family dwellings on the same lot as the principal use served or within three hundred (300) feet of the main entrance to the principal building served.
- 3) There shall be no off-street parking space within five (5) feet of any street right-of-way.
- 4) No off-street open space 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

718.02. 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 five (5) feet to any side or rear lot line.
- 2) Each parking space shall not be less than nine (9) feet wide and twenty (20) feet in length.
- 3) Control of off-street parking facilities. When required, accessory off-street parking facilities are provided elsewhere than 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/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 of goods or for the storage of vehicles, which are inoperable, or for sale or rent.
- 5) Parking of automobiles and other motor vehicles is permitted in the front and side yards of manufacturing districts if screened by a greenbelt eight (8) feet in width.
- 6) Parking shall not be allowed in areas not designated for off-street parking. Loading spaces shall not be construed as supplying off-street parking space.
- 7) In all zoning districts, with the exception of allowed uses in B-1 Districts, off-street parking facilities for the storage of self-propelled motor vehicles for the use of occupants, employees and patrons of the buildings or structures hereafter erected, altered or extended after the effective date of this Ordinance, shall be provided and maintained as herein prescribed.
- 8) When units or measurements used in determining the number of required parking spaces result in requirement of a fractional space any fraction up to and including one-half (1/2) shall be disregarded and fraction over one-half (1/2) shall require one (1) parking space.
- 9) Whenever a use requiring off-street parking is increased in floor area, and such use is located in a building existing on or before the effective date of this Ordinance, additional parking space for the additional floor area shall be provided and maintained in amounts hereafter specified for that use.
- 10) For the purpose of this section, "Floor Area," in the case of offices, merchandising or service types of uses, shall mean the gross floor area used or intended to be used for services to the public as customers, patrons, clients or patients as tenants, including areas occupied for fixtures and equipment used for display or sale of merchandise.
- 11) The location of required off-street parking facilities for other than dwellings shall be within three hundred (300) feet of the building they are intended to serve, measured from the nearest point of the off-street parking facilities and the nearest point of the building or structure.
- 12) Where a use is not specifically mentioned, off-street parking requirements shall be the same as for a similar use.
- 13) Nothing in this section shall be construed to prevent collective provisions of off-street parking facilities for two (2) or more buildings or uses provided, collectively, such facilities shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with the table.
- 14) Nothing in this section shall prevent the extension of, or an addition to a building or structure into an existing parking area which is required for the original building or structure when the same amount of space taken by the extension or addition is provided by an enlargement of the existing parking area, or an additional area within three hundred (300) feet of such building.

718.03. 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 thirty (30) feet in width and shall be so located as to cause the least interference with traffic movement.

- 2) Curbing and Landscaping. All open off-street parking areas designed to have head-in parking along the property line shall provide a bumper curb not less than five (5) feet from the side property line or a guard of normal bumper heights not less than three (3) feet from the side property line.
- 3) Parking space of six (6) or more cars. When a required off-street parking space for six (6) cars or more is located adjacent to a Residential District, a fence approved by the Zoning Administrator shall be erected along the Residential District property line.

718.04. Off-Street Space Required

(One space equals 300 sq. ft.)

1) One and two-family Residence	Two (2) spaces per dwelling unit
2) Multiple Dwellings	One and one-half (1½) spaces per dwelling unit
3) Business & Professional Office	One (1) space for each 200 sq. ft. of gross floor area
4) Medical and Dental Clinic	One (1) space for each 200 sq. ft. of gross floor area.
5) Hotel or Motel	One (1) space per rental unit plus one (1) space per full-time employee.
6) Schools	
(a) Elementary Schools	Two (2) spaces for each classroom.
(b) High School	At least one (1) parking space for each four (4) students based on design capacity, plus one (1) additional space for each classroom.
7) Colleges	At least one (1) space for every two (2) employees plus one (1) space for every car permitted to students by the college.
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 (15) sq. ft. of gross floor space in building allocated to drive-in operation.
10) Bowling Alley	Six (6) spaces for each alley, plus additional spaces as may be required herein for related uses such as a restaurant.
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 (100) sq. ft. of gross floor area.
13) Restaurants, Cafes, Bars	At least one (1) space for each three (3)

14) Undertaking Establishments	seats based on capacity design. Eight (8) spaces for each chapel or parlor plus one (1) space for each funeral vehicle maintained on the premises; Aisle space shall also be provided for the street of making up a funeral procession.
15) Theaters, auditoriums, arenas, dance halls, other places	Spaces equal in stadiums, number to one-third of the capacity in of assembly persons.
16) Churches	Spaces equal in number to one-third (1/3) of the capacity in persons of the main sanctuary or auditorium plus provision for supplementary parking space needs for other portions of the church facilities as determined by final site and building plans when reviewed by the Planning Commission.
17) Industrial, Warehouse, Bulk Goods	At least one (1) space for each employee on maximum shift or one (1) space for each two thousand (2,000) sq. ft. of gross floor area, whichever is larger.
18) Uses not Specifically Mentioned	As determined by the mentioned County Board following review by the Planning Commission, to be set based upon listed similar uses.

718.05. 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 and fifty (50) feet in depth exclusive of aisle and maneuvering space.
- 3) Required Loading Spaces. The number of required loading spaces shall be 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 that 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, inoperable vehicles or be included as a part of the space requirements necessary to meet the off-street parking area.
- 7) 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) Where noise from loading or unloading activity is audible in a residential district, the activity shall terminate between the hours of 7:00 p.m. and 7:00 a.m. except for the loading and unloading of grain.

719. Access Drives and Access

- 1) Access drives onto county roads shall require a review and approval by the County Engineer or the Assistant County Engineer in the absence of the Engineer, the Zoning Administrator and the County Board of Commissioners.
- 2) The County Highway Engineer or the Assistant County Engineer in the absence of the Engineer shall approve the location of each access drive based on sight distances, road speeds and other factors.
- 3) Access drives to principal structures that traverse wooded, steep or open field areas shall be constructed and maintained to a width and base material depth sufficient to support access by emergency vehicles. The County Highway Engineer or the Assistant County Engineer in the absence of the Engineer shall review all access drives (driveways) for compliance with accepted State Aid Standards. All driveways shall have a minimum width of twelve (12) feet with road strength capable of supporting emergency and fire vehicles.
- 4) All lots or parcels shall have a direct adequate physical access for emergency vehicles along the frontage of the roadway, or an existing private roadway approved by the County Board.
- 5) Upon the building of a new county road or the regrading of any County road, all accesses must adhere to the provisions of the Fillmore County Zoning Ordinance.

720. Signs

720.01. Approval of Plans

A permit shall be required to erect any sign in the county except as allowed in Section 720.03. No sign shall be erected by any person until the plan for the proposed sign has been reviewed and approved by the Fillmore County Zoning Administrator. All signs over thirty-two (32) square feet and located in a Commercial or Industrial District shall be required to obtain a Conditional Use Permit except as allowed under Section 720.03.

720.02. Prohibited Signs

No sign shall be permitted:

- 1) In a location which would interfere with the view of any traveler on any roadway of approaching vehicles or of traffic control devices on signs for a distance of five hundred (500) feet.
- 2) On rocks, trees or other perennial plant or on any public utility pole.
- 3) Containing a rotating beam or beam of light resembling an emergency vehicle.
- 4) Which simulates any official, directional or warning sign erected or maintained by the state, county, municipality, or other governmental subdivision or which incorporates or makes use of light simulating or resembling traffic signals or control signs.

- 5) Which casts a distracting or confusing ray of light onto, or visible from, a public roadway.
- 6) Which interferes with public facilities or the maintenance thereof.
- 7) Which obstructs any window, door, fire escape, stairway, or opening essential to the provision of light, air, ingress, or egress from any building.
- 8) Which contains more than two surface areas or facings.
- 9) Within the right-of-ways of any public road, except as erected by an official unit of government for the direction of traffic or necessary public information.

720.03. Temporary Signs

The following signs will be permitted in all districts subject to the specific standards indicated:

- 1) Real Estate Signs- not to exceed sixteen (16) square feet in area which advertise the sale, rental or lease of the premise upon which the sign is temporarily located.
- 2) Name, Occupation and Warning Signs - not to exceed sixteen (16) square feet in area located on the premises.
- 3) Official Signs- such as traffic control, directional signs, parking restrictions, information and notices.
- 4) Political Signs- are allowed in any district on private property with the consent of the owner of the property. Such signs must be removed within seven (7) days following the date of the election or elections to which they applied.
- 5) Construction Signs- not exceeding thirty-two (32) square feet of area shall be allowed in all zoning districts during construction. Such signs shall be removed when the project is completed.
- 6) Ag Uses Products Sign- provided that they are located within three hundred (300) feet of the Ag lot residents' property and relate to Ag products, merchandise or services sold, produced, manufactured or furnished on such Ag lot, and provided further that no such devices shall exceed twenty-five (25) square feet in area.
- 7) For Sale or For Rent Signs- not to exceed sixteen (16) square feet in area that advertises property as being for sale or for rent.
- 8) Residential Signs- signs which either identify personal property or residents and provided that they are affixed flat thereto and do not contain more than two (2) square feet in area.
- 9) Miscellaneous Signs- signs or posters of a miscellaneous character that advertise temporary events, provided they are self supporting and not tacked, posted, painted or otherwise affixed to walls of buildings, trees, fences or poles. Said signs shall be removed forty-eight (48) hours after the culmination of the special event.

720.04. Non-Conforming Signs

Signs lawfully existing at the time of the adoption of this Ordinance may be continued although the use, size or location does not conform to the provisions of the Ordinance. However, it shall be deemed a non-conforming use.

720.05. Sign Maintenance

- 1) Painting: The owner of any sign shall be required to have such sign properly painted at

least once every two (2) years, if needed, including all parts and supports of the sign, unless such supports are galvanized or otherwise treated to prevent rust.

- 2) Area Around Sign: The owner or lessee of any sign or the owner of the land on which the sign is located shall keep the weeds, or other growth cut and the area free from the refuse between the signs and the street and also for a distance of six (6) feet behind and at the ends of said sign.

720.06. Obsolete Signs

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

720.07. Unsafe and Dangerous Signs

Any sign, which in the opinion of the Zoning Administrator becomes structurally unsafe or endangers the public safety, shall be taken down and removed by the owner, agent, or person having the beneficial use of the building, or land upon which the sign may be found within ten (10) days after written notice from the Zoning Administrator.

720.08. Size of Sign

Maximum Square Feet of Advertising Surface (Sq. Ft.)

Road Ownership

	Township Road	County Road	State Road
Ag District	32	32	32
Rural Residential	32	32	32
Residential	32	32	32
Commercial	32	32	250
Industrial	32	32	250

The construction of signs over thirty-two (32) square feet in the Commercial and Industrial District along a State Road must have the approval of the Planning Commission and County Board.

720.09. Sign Height

Sign height in the Commercial and Industrial District along State Roads shall be regulated by State Statute not to exceed fifty (50) feet. All other signs shall not exceed twenty (20) feet in height.

720.10. Location of Signs

All directional signs shall be installed in the road right-of-way by the County Engineer's Office. All other signs shall meet structure setback requirements for the zoning district in which the sign is proposed.

721. Excavation and Mining of Construction Minerals

721.01. Conditional Use Permit Required

No person shall dig, excavate, enlarge, make, maintain or allow to be maintained, upon property owned or used by any individual or group, any open pit, rock quarry, sand pit, excavation or any impounded water, without first making an application for and obtaining from the County Board a Conditional Use Permit except as otherwise allowed in Section 721.04.

721.02. Definitions

- 1) The terms excavation and mining include but are not limited to (i) any process or method of digging, excavating, mining, drilling, blasting, tunneling, dredging, stripping, or removing metals, minerals, or materials from the land surface or underground, (ii) the processing, washing, cleaning, screening, filtering, sorting, stockpiling and storage of all excavated or mined metals, minerals and materials, and (iii) the removal of all excavated and mined construction minerals. The terms excavation and mining apply to all activity occurring at excavation or mining sites, including sites identified as quarries and sand pits.
- 2) The term "construction minerals" includes natural common rock, stone, aggregate, gravel and sand that is produced and used for local construction purposes, including road pavement, unpaved road gravel or cover, concrete, asphalt, building and dimension stone, railroad ballast, decorative stone, retaining walls, revetment stone, riprap, mortar sand, construction lime, agricultural lime and bedding sand for livestock operations, sewer and septic systems, landfills, and sand blasting. The term "construction minerals" does not include "industrial minerals and metals".

721.03. Activities included in a Conditional Use Permit

A Construction Minerals Conditional Use Permit shall specify the permitted activity. A conditional use permit for a materials and minerals excavation or mining site shall permit the related activities of overburden removal, soil boring, blasting, rock crushing, stockpiling, and hauling.

Separate rock crushing activities or operation of asphalt and concrete plants not located on the site of an existing rock quarry or sand pit shall require a separate conditional use permit. A separate conditional use permit is not required for temporary rock crushing activities or asphalt plants located on the site of an existing rock quarry or sand pit that holds a valid Conditional Use Permit.

721.04. Prohibited Activity

The following excavation and mining activity is prohibited, and will not be allowed under the terms or conditions of any Construction Minerals Conditional Use Permit:

- 1) The excavation and mining of any construction minerals using any process or method that injects, drills with, applies or uses any chemical or toxic substance.
- 2) The excavation and mining of any construction minerals that causes or results in any chemicals, metals, minerals or materials leeching, spilling or flowing into any water resource, including aquifers, water tables, rivers, springs, streams or other underground or surface waters.
- 3) The excavation and mining of any construction minerals underground using tunneling, augering, shafting, hydraulic dredging, or any similar methods.
- 4) The processing of excavated or mined construction minerals with the use of any chemicals, flocculants, or additives, unless permitted by the Minnesota Pollution Control Agency and biodegradable, consisting of natural origin biopolymers. Only construction minerals excavated or mined onsite are allowed to be washed onsite unless there are contiguous properties without the use of public roads.
- 5) The excavation and mining of any industrial minerals or metals, as defined and regulated in Section 736. If the holder of a Conditional Use Permit to excavate or mine intends to excavate and mine industrial minerals or metals at the permitted excavation or mining site, the permit holder must first obtain an Industrial Minerals Conditional Use Permit, pursuant to Section 736. If the holder of a Conditional Use Permit to excavate or mine construction minerals excavates or mines more than ten (10) tons of industrial minerals or metals from such mining site without first obtaining an Industrial Minerals Conditional Use Permit, such holder will be in violation of Section 736 and will be subject to a cease and desist order and all other remedies available to the county.

721.05. Excavation and Mining Site Classifications

- 1) New Excavation or Mining Site - To be classified as a new excavation or mining site, the site must not have a valid Materials and Minerals Conditional Use Permit to operate.
- 2) Existing Excavation or Mining Site - To be classified as an existing materials and minerals excavation or mining site, the property owner and/or mining operator must (i) have a current valid Conditional Use Permit to excavate and mine, and (ii) be currently excavating or mining non-industrial materials and minerals at such site.

721.06. Exceptions

No conditional use permit shall be required for:

- 1) The excavation of earth necessary for the construction of a structure permitted by the Zoning Office.
- 2) The impounding of water in an open pit or pond designed for agricultural uses, but not

for mining or other industrial excavation.

- 3) The excavation of earth for essential services or public utility work.
- 4) Excavation used for personal or farming practices on the same property up to one (1) acre.
- 5) Any water used for residential or agricultural use.

721.07. Application Requirements for a Conditional Use Permit

The County Board, as a prerequisite to the granting of a Conditional Use Permit, shall require the applicant to whom such Conditional Use Permit is to be issued and the owner and user of the real estate on which the excavation and mining activity described in Section 721.01 are located, to:

- 1) The applicant of any excavation or mining site is required to provide Fillmore County a map and legal description of the excavation or mining. The legal description and map shall at a minimum include:
 - a. The legal surveyed boundaries as projected for the life of the excavation or mining site.
 - b. A map showing all homes that exists within one thousand (1,000) foot of the legal boundaries of the quarry.
- 2) Provide proof of all required Federal and State licenses and permits;
- 3) Provide proof of appropriate insurance coverage;
- 4) Provide proof of an ownership or leasehold interest to the Zoning Administrator;
- 5) Submit proposed plans for any known future expansion;
- 6) Provide a description of the proposed locations and volumes of onsite stockpiling;
- 7) Provide a description of the types of materials to be excavated, types of processing that will be utilized, the expected volume of the materials, and the projected lifetime of the use;
- 8) Provide a Reclamation Plan;
- 9) Submit a proposed fencing, screening, and sloping plan necessary to minimize noise, dust, erosion and other adverse effects of the activity;
- 10) All structures used to impound water except those used for agricultural purposes must be designed by a professional engineer registered in the State of Minnesota;
- 11) For all new and existing excavation and mining sites:
 - a) Applicant must provide a geologic survey.
 - b) Applicant must submit a Karst Investigation.

The County Board may require any additional information deemed necessary to protect the general health, safety, and welfare of the public or deemed necessary to determine the adverse impact or effects of the activity described in Section 721.01.

721.08. Operational Requirements for Rock Quarries and Sand Pits

All excavation and mining sites which receive a conditional use permit shall comply with the following requirements:

- 1) All blasting must comply with Bureau of Mines Standards and as described in 721.09.
- 2) There must be a one thousand (1,000) foot setback from the approved surveyed boundary and any dwelling unless the dwelling is owned by the applicant or landowner.
- 3) There must be a fifty (50) foot setback from the property lines.

- 4) A seismograph must be used during all blasting.
- 5) An approved reclamation plan must be on file in the Zoning Office and it must be implemented when the quarry or pit is exhausted or abandoned.
- 6) All excavation and mining sites adjacent to dwelling occupants and land occupiers, shall provide, within one-half (½) mile as determined by the Fillmore County Assessor's Office and the surveyed boundary, annual notification from the excavation and mining operator of their right to receive notice of a specific blasting event. Notice of a specific blasting event must then be given by the excavation and mining operator to those dwelling occupants and land occupiers within one-half (½) mile who have requested notice of the specific blasting event. The dwelling occupant or land occupier must provide the excavation and mining operator the name and address to which the notice must be sent. Notice of the specific blasting event shall be provided at least 72 hours prior to the specific blasting event. Any municipality within one-half (½) mile of the surveyed boundary of an excavation and mining site shall have the City Clerk receive the notice in lieu of individual notices sent to residents in the municipality.
- 7) An inspection and certification fee in an amount to be set by the County Board must be paid annually.
- 8) All roads used for the transportation of excavation and mining materials or minerals must be maintained to the satisfaction of the local road authority.
- 9) Excavation and mining operators will assure that all loading and unloading of trucks and equipment occurs on-site and not on the public road. Trucks and equipment cannot park on the public road, and must park on site. No truck or equipment shall be driven on a public road unless its load is securely covered according to Minnesota law and DOT requirements.
- 10) All excavation and mining operators must provide proof of an active insurance policy.
- 11) All operators must work with the SWCD to ensure all stockpiles and overburden piles are maintained so as not to cause erosion.
- 12) Properly guard and maintain the property so that it does not become a danger or nuisance.

Any conditions may be added to the Conditional Use Permit which are intended to protect the health, safety, and general welfare of the public and to reduce the adverse impact of the conditional use being permitted.

721.09. Blasting Activity at Excavation and Mining Sites

Blasting is the use of explosives and blasting agents to loosen, penetrate, move or shatter masses of solid materials, as a part of excavation and mining operations. No blasting activity will be conducted at excavation and mining sites, unless expressly approved in the conditional use permit that authorizes excavation and mining activity. All blasting activity must comply with the provisions of this section and all applicable federal and state statutes and regulations. The blaster-in-charge of each blasting event must be currently licensed by the Minnesota Department of Public Safety.

Pre-Blasting Survey. Any mining operator who intends to conduct authorized blasting at an excavation and mining site will first perform a pre-blasting survey to determine and map the specific location and general condition of all dwellings, buildings, monuments, wells, utilities, and other structures within a half (½) mile radius of the blasting site.

Blasting Notification. At least 72 hours prior to the initial blasting event at an excavation and mining site, the mining operator shall make a reasonable effort to notify all residents and land occupiers, within a radius of ½ mile of the excavation and mining site, of the impending blasting event. Thereafter, the mining operator will be required to develop and maintain a blasting call list of adjacent residents and land occupiers, who request that they be notified at least 72 hours prior to a blasting event. At least 72 hours prior to all blasting events at the mining site, the mining operator will use the call list to contact all residents and land occupiers requesting blasting notification by written notice, phone call, email or verbally in person. Prior to any blasting event at the excavation and mining site, the mining operator will also give general public notice of the impending blasting event by displaying a fluorescent flag and legible sign within 100 feet of all public roads bordering the blasting site. Additionally, a distinctive warning signal shall be sounded by horn immediately prior to the blasting event.

Control of Adverse Effects. The mining operator is obligated to take all reasonable actions necessary to control and minimize adverse effects of blasting events, including flyrocks, airblasts, ground vibrations and seismic damage to adjacent wells, dwellings, buildings, monuments and structures. An airblast shall not exceed 133 peak dB at the location of any dwelling, buildings, monuments, wells, utilities or other structures. All flyrocks will remain within the excavation and mining site.

The Zoning Administrator has the authority to investigate complaints that blasting activity is damaging dwellings, utilities, structures, or water wells or injuring people or livestock, and to order the mining operator to suspend blasting activity at the excavation and mining site until (i) the alleged damage is verified, (ii) the blasting activity as the cause of such damage is verified, and (iii) a solution is approved to prevent future blasting damage. The Zoning Administrator's monitoring and investigation of blasting activity relates only to permit enforcement, and not to determining potential civil or criminal liability of the mining operator for the consequences of any blasting activity.

Blasting Log. The mining operator shall maintain an accurate and complete blasting log of each blasting event occurring at an excavation and mining site. The blasting log will be maintained at the excavation and mining site for not less than five (5) years, and will be furnished to the Zoning Administrator upon request. Each blasting log shall include the following information: (i) Name and license number of each blaster in charge, (ii) blast location, (iii) date and time of blasting event, (iv) weather conditions at time of the blasting event, (v) diagram and cross section of blast hole layout, (vi) blast hole depth, spacing and diameter, (vii) total pounds and type of explosives used, (viii) distance to nearest inhabited dwelling, and (ix) seismic recordings of vibration and air blast levels.

Storage of Explosives. The mining operator will not store any explosives or blasting agents at the excavation or mining site.

721.10. Reclamation of Excavation and Mining Sites

A property owner and excavation/mining operator applying for a Construction Minerals Conditional Use Permit will submit a detailed reclamation plan identifying all proposed steps that will be taken to return the mining site to its natural condition as much as possible and to prevent the occurrence of any adverse environmental effects. No mining or excavation activity

shall begin until the County Board has approved the reclamation plan as a condition of issuing a Construction Minerals Conditional Use Permit.

The reclamation plan map shall show the adjacent area within five hundred (500) feet to the proposed excavation or mining. The map shall include (i) final grade of proposed site showing elevations and contour lines at five (5) foot intervals, (ii) location and species of vegetation to be replanted, (iii) location and nature of any structures to be erected as part of the reclamation plan. The reclamation plan shall include the following: (i) a reclamation time schedule, (ii) the method used to plug any exploratory or drill holes, (iii) the method of grading, back filling and contouring the mining site and access road, (iv) the method of waste management and disposal, including liquid and solid wastes and tailings, and (iv) the method of re-vegetation of the site. Top soil and overburden must remain at the excavation site to be used for reclamation.

If during excavation or mining operations the operator finds the characteristics of the mining area to be different than what was previously determined, changes may be made in the original reclamation plan by mutual consent of the operator and the Zoning Administrator. Such changes shall preserve, as substantially as possible, the original reclamation plan, and shall also provide for the newly discovered variations in the excavation or mining site.

721.11. Bonds May Be Required

The County Board may require either the applicant or the owner or user of the property on which the open pit or excavation of impounded waters is located to post a bond, in such form and sum as the Planning Commission or County Board may determine, with sufficient surety running to the County, conditioned to pay the County the extraordinary cost and expense of repairing, from time to time, any highways, streets, or other public ways where such repair work is made necessary by the special burden resulting from hauling and gravel, in removing materials from any pit, excavation, or impounded waters, the amount of such cost and expense to be determined by the County Engineer, and conditioned further to comply with all the requirements of this subdivision and the particular permit, and to pay any expense the County may incur by reason of doing anything required to be done by any applicant to whom a permit is issued.

722. Sinkhole Dumping Abatement

722.01. Purpose

It is the purpose of this Subdivision to provide the citizens of Fillmore County with a program necessary to abate sinkhole and ravine dumping and to provide penalties for those who do not comply. It is also the purpose of this subdivision to remove the threats of contamination to groundwater by cleaning up and maintaining the areas in and around sinkholes and ravines.

722.02. Prohibitions

The dumping of refuse, garbage, sewage, barnyard waste, carcasses, chemicals, hazardous waste, construction debris (except fill dirt, cut brush, trees, and similar unprocessed wood, rock, brick, cement block and cement), or any other organic or inorganic waste in sinkholes and ravines is

prohibited.

722.03. Permitted Fill

Fill dirt, cut brush, trees, and similar unprocessed wood, rock, brick, cement block and cement are the only materials that may be placed in a sinkhole or ravine and only after obtaining written permission from the Zoning Administrator, or his/her designee, may these materials be deposited in a sinkhole or ravine. Such permission will expire seven (7) days after it is granted.

722.04. SWCD Approval

The filling in of a sinkhole or ravine involving five hundred (500) cubic yards of dirt or more shall only be done with the approval of and under the supervision of the Fillmore County Soil and Water Conservation District.

722.05. Removal Requirements

All material currently classified as hazardous, under any State and/or Federal law or regulation, previously deposited in a sinkhole or a ravine, shall be removed within six (6) months from the date of enactment of this ordinance. Any material so classified in the future shall also be so removed within six (6) months of such new classification.

722.06. Cleanup Responsibility

The Primary or Initial Responsibility of cleaning up sinkholes or ravines shall fall on the party or parties who have deposited or who are depositing prohibited materials into a sinkhole or ravine. In the event that a Primary or Initial Responsible Party or Parties cannot be determined, it shall be the responsibility of the land occupier to clean up the sinkholes and ravines on the property owned by land occupier.

722.07. County Board Authority

The Fillmore County Board may order the clean out of any sinkhole or ravine that is deemed to contain hazardous or unpermitted materials.

722.08. Financial Assistance

Any land occupier may apply to Fillmore County for financial assistance for such clean up when the clean-up was ordered by the county. The Fillmore County Board of Commissioners may review each such request on an individual basis and grant assistance based upon its internal rules and regulations.

722.09. Drain Tile Prohibition

No drain tile may be allowed to drain directly into a sinkhole.

722.10. Investigations

It shall be the responsibility of the Fillmore County Zoning Administrator or his duly appointed representative to investigate all complaints alleging violation of this Ordinance and to consult with appropriate Township board during such investigation.

722.11. Written Notification

Any party or land occupier found in violation of this Ordinance will be given no more than thirty (30) days upon receipt of a written notification from the Zoning Administrator to correct the violation.

722.12. Violations

Refusal to comply with request for compliance with this Section of the Fillmore County Ordinance shall be a misdemeanor. Each day of violation shall constitute a separate violation.

723. Essential Service Regulations

The installation of all essential services in the County road right-of-way and under the road surface including waterlines and sewer lines must have the approval of the county engineer prior to installation. Waterlines placed under the traveled portion of the road must be placed in a large protective pipe.

724. Tile Drainage

Tile lines will be permitted to outlet into county road right of way provided they meet the following criteria:

- 1) The outlet will be made into the back slope of the road ditch at a ninety (90) degree angle to the road for a minimum distance of forty (40) feet.
- 2) No tile shall be placed closer than forty (40) feet to the right of way, except for outlets or inlets placed perpendicular to the right of way.
- 3) Outlets will only be permitted within one hundred (100) feet of a centerline culvert or a township or county road approach culvert.

Tile crossings will be allowed under county roads provided they meet the following criteria:

- 1) Tile crossings will require a design developed by the Fillmore County Soil and Water Conservation District and approved by the County Engineer.
- 2) Aggregate surface roads may be crossed with an open trench. Hard surfaced roads will require borings at the required elevations.

- 3) The minimum requirements for road crossings require plastic sewer or water lines with the following ratings: SD35, Schedule 40, or 100 PSI pipe or heavier grades of pipe.
- 4) The road-crossing pipe shall be the next size larger than the tile line and extend from right of way line to right of way line at ninety (90) degrees to the roadway.

All tile lines crossing or discharging into county road rights of way will require design by the Fillmore County Soil and Water Conservation District and approval by the County Engineer.

725. Watercraft

All persons who operate motorboats on public waters in Fillmore County shall adhere to the following regulations:

- 1) Definitions: The terms used in the ordinance are as defined in M.S. 86B.005.
- 2) No person shall exceed slow-no wake speed at any time.
- 3) Law Enforcement, resource management, and emergency personnel are exempt from this ordinance when in the performance of their duties.
- 4) Primary enforcement of this ordinance shall rest with the Fillmore County Sheriff's Department. This, however, shall not preclude its enforcement by other licensed peace officers.
- 5) The county shall be responsible for notification of the public of this restriction, including the placement of signs or buoys, as necessary, on, in or adjacent to public waters.

726. Sawmills

- 1) Any sawmill doing sawing for other than a rural home based business shall be required to obtain a Conditional Use Permit. All sawmills requiring a Conditional Use Permit shall have a sawmill activity and by-product plan on file in the Zoning Office. The plan must include:
 - a. A map showing a measured perimeter, all buildings, parking areas, loading and unloading areas, traffic flow, and sawmill stacking plan. All sawmill activity shall be contained within the measured perimeter of the sawmill.
 - b. A timetable for the removal of slab bundles, sawdust, and boards.
- 2) The operation of a sawmill shall provide for off road loading and unloading in all weather conditions. The loading and unloading of logs, sawed wood, slab bundles, sawdust or any other log byproduct on any part of a road right of way is prohibited.
- 3) The piling or stacking of logs, bundled slab, or sawed wood shall be back of the right-of-way line and/or property line.
- 4) The open burning of slab wood and sawdust derived as a byproduct of a sawmilling or woodworking activity is prohibited except as part of a camping activity or for personal use in heating and cooking.

727. Sale of Dwellings

Any dwelling located within the Ag district, and located within one thousand (1,000) feet of a registered feedlot may be split off a larger parcel if the owners or majority shareholder of a family farm corporation of said dwelling and feedlot are one in the same, related by first, second,

third, or fourth degree kindred, provided all other regulations in the Zoning Ordinance are met.

728. Bed and Breakfast Establishments

All Bed and Breakfast Establishments must obtain a Bed & Breakfast permit, and adhere to the regulations found in this section:

- 1) 1 to 5 rooms available for guests.
- 2) Meals provided to overnight registered B&B guests only.
- 3) The owner of the Bed and Breakfast Establishment must obtain a license from the Minnesota Department of Health in order to operate.
- 4) All Bed and Breakfast Establishments must be constructed according to plans on file in the Zoning Office.

729. Country Inns

729.01. Conditional Use Permit Required

All Country Inns shall obtain a Conditional Use Permit prior to construction and operation. Any Bed and Breakfast Establishment in operation desiring to convert to a Country Inn must also obtain a Country Inn Conditional Use Permit.

729.02. Requirements

All Country Inns must adhere to the regulations found in this section.

- 1) The Country Inn may have 1 to 5 rooms available to guests.
- 2) The Country Inn may not be authorized on any lot less than three (3) acres.
- 3) The owner of the Country Inn must obtain a license from the Minnesota Department of Health in order to operate as per MDH rules and regulations.
- 4) All Country Inns must be operated according to plans on file in the Zoning Office.
- 5) Individual rooms that are rented by paying occupants shall not contain cooking facilities.
- 6) Except as provided for number seven (7) below, shall serve meals served only to customers who are actually using the Country Inn accommodations overnight or their guests.
- 7) In addition to providing meals as allowed, a Country Inn may provide facilities and catering for banquets, weddings, receptions, reunions, and similar events for invited guests.
- 8) The use of the property as a Country Inn shall be shown by the owner not to be detrimental to the neighborhood.
- 9) In the unincorporated areas of the county, adequate off road parking shall be provided for all guests.

730. Farmers Markets

A farmers market shall adhere to the following requirements:

- 1) The permit shall have listed the legal description of the site where the farmers market is

- to be located.
- 2) Off road parking must be provided for all persons in attendance at the Farmers Market.
 - 3) Signs for the Farmers Market may be prominently displayed but shall not be located on a road right of way unless installed by the local road authority. All signs shall adhere to State and Local regulations.
 - 4) Provide adequate hand washing and toilet facilities.

731. Privately owned Airports

All privately owned airports in Fillmore county having submitted to the *Federal Aviation Administration (FAA)* a Form 7480-1, “Notice of Landing Area Proposal” and having subsequently provided a copy of the FAA airspace determination listing no objections by the Fillmore County Zoning Office, shall be protected from towers and other tall structures which are greater than one hundred fifty (150) feet in height above the established airport elevation within one (1) statute mile measured from the closest point of the closest runway at that airport. From one to three (1-3) statute miles of the airport, that height shall increase in a proportion of one hundred (100) feet for each additional mile up to a maximum of three hundred fifty (350) feet above the airport elevation at three (3) miles. (Hence: A tower or other tall structure shall not be greater than two hundred (200) feet above the airport elevation at one and one-half (1 ½) miles, two hundred fifty (250) feet above the airport elevation at two (2.0) miles, three hundred (300) feet above the airport elevation at two and one-half (2 ½) miles, and three hundred fifty (350) feet above the airport elevation at three (3) miles.)

A tall structure shall also not penetrate an approach or departure surface applied to each end of each runway. That surface is defined as a trapezoid centered on the runway of two hundred fifty (250) feet wide at the inner edge expanding uniformly to a width of one thousand two hundred fifty (1,250) feet. The approach and departure surface shall extend for a horizontal distance of three thousand (3,000) feet from the end of the runway at a slope of 20:1. (At three thousand (3,000) feet from the runway, a slope of 20:1 becomes coincident with the one hundred fifty (150) feet limit described above.)

NOTIFICATION

Fillmore County shall notify private airport owners of proposed towers in a timely matter allowing the airport owners to make their concerns known at public hearings according to the following schedule:

Tower Height (AGL)

- | | |
|-----------------|-------------------------------------------------------------------|
| <199' | Notify all private airports within three miles of the tower site. |
| ≥ 200' to <499' | Notify all private airports within five miles of the tower site. |
| ≥ 500' AGL | Notify all private airport owners in Fillmore County. |

732. Large Assemblies, *REPEALED April 6, 2010*

733. Telecommunication Facilities

733.01. Purpose

The purpose of this Section is to provide a uniform and comprehensive set of standards for the development and installation of telecommunications towers, antennas and facilities. The regulations contained herein are designed to protect and promote public health, safety, community welfare and the aesthetic quality of Fillmore County as set forth within the Fillmore County Zoning Ordinance and Fillmore County Comprehensive Land Use Plan, while at the same time not unduly restricting the development of needed telecommunications facilities. It is intended that Fillmore County shall apply these regulations to accomplish the following:

- 1) Minimize adverse visual effects of telecommunications towers, antennas and facilities through design and siting standards.
- 2) Maintain and ensure that a non-discriminatory, competitive and broad range of telecommunications services and high quality telecommunications infrastructure consistent with the Federal Telecommunications Act of 1996 are provided to serve the community, as well as serve as an important and effective part of the Fillmore County law enforcement, fire and emergency response network.
- 3) Provide a process for obtaining necessary permits for telecommunications facilities while at the same time protecting the interests of Fillmore County citizens.
- 4) Protect environmentally sensitive areas of Fillmore County, including the protection of migratory birds, by regulating the location, design and operation of telecommunications towers, antennas and facilities. The following aspects of this ordinance are promoted based on recommendations contained within U.S. Fish and Wildlife Service Guidelines on the Siting, Construction, Operation and Decommissioning of Communication Towers (September 14, 2000): the commitment to exhausting co-location opportunities before allowing new towers, the placement of a maximum height limitation on new towers, the effective prohibition of guyed tower structures, and the prohibition of towers in key habitat areas such as wetlands, shorelands and floodplains.
- 5) Encourage the use of alternative support structures, co-location of new antennas on existing telecommunications towers, and construction of towers with the ability to locate four or more providers.

733.02. Exemptions

- 1) Exempt from review under this Section will be: television antennas, satellite dishes one (1) meter (or thirty nine (39) inches) in diameter or less, satellite dishes used commercially and three (3) meters in diameter or less, receive only antennas, amateur radio facilities, and mobile services providing public information coverage of news events or of a temporary or emergency nature.
- 2) Exempt from the conditional use permit requirements of this chapter will be: satellite dishes less than one (1) meter in diameter, ground mounted antennas not exceeding one hundred (100) feet in height, building mounted antennas not exceeding twenty five (25) feet above the highest part of the building to which they are attached, utility pole mounted antennas not exceeding twenty five (25) feet above the highest part of the utility pole to which they are attached and antennas co-located on an existing telecommunications facility structure. These structures shall be authorized with a land use permit.
- 3) Exempt structures under this Subsection are subject to all other applicable provisions of

the zoning code and Airport Height Ordinance.

733.03. Areas Where Telecommunications Facilities May Be Allowed Or Prohibited

- 1) Telecommunications facilities may be permitted as a Conditional Use in the following zoning districts, subject to public hearing and approval by the Planning Commission:
 - a. Agriculture
 - b. Commercial
 - c. Industrial
- 2) Telecommunication facilities, except exempt facilities, shall not be allowed in the following areas due to potential harm to the environment:
 - a. Shoreland
 - b. Floodplains
 - c. Blufflands
- 3) Telecommunication facilities, except exempt facilities, shall not be allowed in the following areas due to potential conflict with other uses of the land:
 - a. Historic sites and districts listed on the National Register of Historic Places
 - b. Habitat areas of threatened or endangered species
 - c. Residential Districts

733.04. Conditional Use Permit Required

A conditional use permit is required for all telecommunication facilities, except exempt facilities. The Zoning Administrator shall review a Conditional Use Permit application for compliance with the provisions of this Subsection, and the Planning Commission shall complete a Conditional Use Criteria decision form to record their decision in writing. The Fillmore County Board of Commissioners shall render a final decision whether or not to issue a Conditional Use Permit for the Tower or Structure.

In addition to the information required by Section 733.06, the application shall include the following:

- 1) A legal description of the facility site.
- 2) A plat of survey showing the parcel boundaries, lease boundaries, tower, accessory structures, ancillary facilities, location, access, landscaping and fencing.
- 3) An original signature of the applicant, landowner, lessees and holders of easements.
- 4) The name addresses and telephone number of the officer, agent or employee responsible for the application.
- 5) A description of the telecommunications services that the applicant offers or provides to persons, firms, businesses or institutions. In the case of a leased site, a lease agreement or binding lease memorandum, which shows on its face that it does not preclude the facility owner from entering into leases on the tower with other provider(s) and the legal description and amount of property leased.
- 6) Copies of co-location search letters and responses as defined by Section 733.05.
- 7) A tabular and map inventory of all the applicant's existing telecommunications facilities located within Fillmore County and including all of the applicants' existing telecommunications facilities within one (1) mile of the county boundary.
- 8) Federal Communication Commission (FCC) license numbers and registration numbers, if

applicable.

- 9) Copies of Finding of No Significant Impacts (FONSI) statement from the Federal Communication Commission (FCC) or Environmental Impact Study (EIS), if applicable.
- 10) Copies of the determination of no hazard from the Federal Aviation Administration (FAA) including any aeronautical study determination or other findings from the Minnesota Department of Transportation Bureau of Aeronautics if applicable.
- 11) Photo simulations of the proposed facilities from points of interest as identified by the Zoning Administrator or Planning Commission. A photo simulation shall be no smaller than eight (8) inches by ten (10) inches.
- 12) An alternatives analysis, prepared and signed by a radio frequency engineer, shall be submitted by the applicant or on behalf of the applicant by its designated technical representative, except for exempt facilities, for review by the Zoning Office and the Planning Commission. The analysis shall identify all reasonable, technically feasible, alternative locations or facilities which could provide the proposed telecommunications service within three (3) miles of the proposed site. The analysis shall include:
 - a. Propagation maps showing the existing and proposed signal of the carrier or service provider within all of Fillmore County and within at least five (5) miles of the county boundary. Propagation maps shall include areas served through roaming agreements with other service providers if applicable.
 - b. An explanation of the feasibility of co-locating the proposed telecommunication service on all existing facilities within the three (3) mile radius.
 - c. An explanation of the feasibility of locating the proposed telecommunication service on an alternative support structure within the three (3) mile radius.
 - d. An explanation of the rationale for the site that was selected in view of the relative merits of any of the feasible alternatives.
 - e. A report prepared by a structural engineer licensed by the state of Minnesota certifying the structural design of the tower and its ability to accommodate at least three additional antennas.
 - f. Proof of liability coverage. Fillmore County shall be a certificate holder in this policy.
 - g. Proof of financial security for tower removal as defined in Section 733.09.
 - h. Such other information as the Zoning Administrator or Planning Commission may reasonably require.

The Zoning Administrator, with the approval of the County Board of Commissioners, may employ on behalf of Fillmore County an independent technical expert to review technical materials submitted by the applicant or to prepare any technical materials required but not submitted by the applicant. The applicant shall pay the reasonable costs of such review and/or independent analysis, and shall pay the estimated cost of such services before they are rendered. All invoices, fees, and charges shall be paid in full before the issuance of a conditional use permit.

733.05. Co-location

Co-location shall be the preferred method for establishing new telecommunications facilities. Every effort shall be made to co-locate the proposed facility on existing telecommunications facilities or other similar facilities or alternative support structures.

Any applicant requesting permission to install a new telecommunications tower shall provide evidence of written contact with all wireless service providers who supply service within three (3) miles of the proposed facility.

The applicant shall inquire about potential co-location opportunities at all technically feasible locations.

The contacted providers shall be requested to respond in writing to the inquiry within thirty (30) days. The applicant's letter(s) as well as response(s) shall be presented to the Zoning Administrator as a means of demonstrating the need for a new tower. Supporting evidence of the need for a new tower may consist of any of the following conditions:

- 1) No existing towers or alternative support structures are located within the geographic area required to meet the applicant's engineering requirements.
- 2) Existing towers or alternative support structures are not of sufficient height to meet the applicant's engineering requirements.
- 3) Existing towers or alternative support structures do not have sufficient strength to support the applicant's proposed antenna and related equipment.
- 4) The applicant's proposed system would cause electromagnetic interference with the system on the existing tower or alternative support structure, or the system on the existing tower or alternative support structure would cause electromagnetic interference with the applicant's proposed system.
- 5) The fees, cost or contractual provisions required by the owner to share an existing tower or alternative support structure or to adapt an existing tower or alternative support structure for co-location are unreasonable. Costs are considered reasonable if they conform to contractual terms standard in the industry within southeast Minnesota area or do not exceed the cost of new tower development.
- 6) The applicant demonstrates that there are other limiting factors that render existing towers or alternative support structures unsuitable.

Telecommunications facility structures permitted under this Section shall allow other users to lease space on the structure up to the maximum number of users allowed by permit. The owner/operator of the facility shall make space available at market rates and with contractual terms standard in the industry within the north-central Minnesota area. The owner/operator may refuse to lease space on the telecommunications facility structure if the proposed system would cause electromagnetic interference with the system(s) on the existing telecommunications facility structure, or the system(s) on the siting telecommunications facility structure would cause interference with the proposed system, subject to verification by the Zoning Office.

The response of the owner(s)/operator(s) of existing telecommunications facilities to requests for co-location will be considered during the review process established by this section. Unreasonable responses to requests for co-location shall be grounds for revocation of a conditional use permit.

County and local government agencies shall have the right to reserve space upon any new tower or upon any tower being substantially modified. Reservation of the accommodation upon the structure shall be acquired during the permit approval process through good faith negotiations with the applicant.

733.06. Design Requirements

Lattice towers may be allowed if all other requirements of this Section are met.

Monopole structures may be allowed if all other requirements of this Section are met.

Guyed structures are discouraged and may only be allowed if the applicant demonstrates to the satisfaction of the Planning Commission and County Board that no other type of telecommunications facility structure will provide an equivalent level of service. Economic considerations shall not be used in determining whether a guyed structure may be used.

Height of all telecommunications towers shall be limited to no more than three hundred (300) feet above original grade, unless the applicant can demonstrate to the satisfaction of the Planning Commission and County Board that a greater height is necessary to provide coverage meeting the minimum requirements of the Federal Communication Commission (FCC) license(s) and that no feasible alternative exists to provide coverage, such as co-locating on existing telecommunications towers or alternative support structures, constructing a new tower in a different location or constructing multiple towers of a shorter height.

New towers shall be designed structurally and electrically to accommodate the applicant's antennas and comparable antennas for at least three (3) additional users (minimum of four (4) total users required for each telecommunications facility structure). Towers must also be designed to allow for future rearrangement of antennas on the tower and to accept antennas mounted at different heights. The requirement for construction to allow a minimum of three (3) additional users may be waived by the Planning Commission and County Board if evidence is provided that a special circumstance exists that would prevent the proposed telecommunications facility structure from feasibly supporting additional users and antennas.

733.07. Performance Standards

Monitoring and Reporting. The applicant shall monitor the telecommunications facility to ensure full compliance with Federal Communication Commission (FCC) regulations. A report shall be submitted to the Zoning Office within one (1) month of activation of the facility. Additional reports shall be submitted, as needed in conformance with Section 733.03.

Security for Removal. The applicant or owner of the telecommunications facility shall provide a bond, irrevocable letter of credit or other suitable financial guarantee as determined by the Planning Commission and County Board to ensure the removal of the facility and restoration of the site to its pre-construction state when use of the facility has been discontinued as defined by Section 733.09. The amount of financial guarantee shall be no less than thirty thousand (\$30,000) dollars. Fillmore County shall be a certificate holder in the financial guarantee.

Security. All telecommunications facilities shall be reasonably protected against unauthorized access. The bottom of all towers from the ground level to twelve (12) feet above ground shall be designed to preclude unauthorized climbing and shall be enclosed with a minimum of a six (6) foot high chain link fence with a locked gate. Guy anchors of guyed towers shall be similarly protected.

Signs. Signs shall be mounted on the fenced enclosure on or adjacent to the gate prohibiting entry without authorization, warning of the danger from electrical equipment and unauthorized climbing of the tower, and identifying the owner of the tower and telephone number for contact in case of emergency. The sign shall be no larger than six (6) square feet. No commercial advertising signs may be located on a telecommunications facility site.

Lighting. Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by Federal Aviation Administration permits and regulations, Red strobe lights are preferred for night-time illumination to reduce impacts on migrating birds. Red pulsating incandescent lights are discouraged.

Access. Access shall be provided by all-weather gravel or paved driveway.

Setbacks. The following minimum setback distances shall apply:

- 1) No telecommunications facility structure shall be located within five hundred (500) feet of any residence.
- 2) No telecommunications tower shall be located less than one (1) times the approved height of the tower from any property boundary.
- 3) Setbacks required for telecommunications towers shall be measured from the center of the tower structure.

Lot Size. When a new lot is created for the purpose of locating a telecommunications facility, the minimum lot size for that zoning district shall apply.

Facility Construction. All telecommunications facilities approved with a conditional use permit shall be completely constructed and in operation within six (6) months of the date of approval. An extension of time, not to exceed six (6) months, may be granted by the Zoning Administrator due to inclement weather or other extenuating circumstances. There is no additional fee for an extension.

733.08. Pre-existing Telecommunications Towers and Facilities

Existing, legal, nonconforming telecommunications towers and facilities may add to, move or replace antennas or other transmitting or receiving devices only if these alterations do not increase the nonconformity of the existing facility, and only after submitting an information report similar to those required by Section 733.07. Alterations not listed in this section or listed as exempt under Section 733.02 shall be prohibited unless the facility is brought into conformance with the provisions of this Section including the issuance of a Conditional Use Permit.

733.09. Removal of Abandoned Telecommunications Facilities

It is the express policy of Fillmore County that telecommunications facilities be removed and their sites restored to their pre-construction state once they are no longer in use and not a functional part of providing telecommunications service.

Removal and restoration of such facilities is the responsibility of the owner of the facility.

The telecommunications facility(s) shall be removed when use of the facility(s) has been discontinued or the facility not been used for its permitted purpose for twelve (12) consecutive months. Mere intent to continue use of the facility(s) shall not constitute use. The applicant/owner shall demonstrate through facility(s) lease(s) or other similar instruments that the use will be continued without a lapse of more than twelve (12) consecutive months to constitute actual use. If the applicant cannot demonstrate actual use, the facility shall be considered abandoned and shall be removed.

This restoration shall include removal of any subsurface structure or foundation, including concrete, used to support the telecommunications facility.

Nothing in this section prevents the removal of the facility prior to expiration of the twelve (12) month period.

733.10. Fees

Permit fees for telecommunications facilities shall be set by County Board of Commissioners and become part of the Zoning Office fee schedule.

734. Rural Home Based Business

A Rural Home Based Business is a non-agricultural activity conducted in the Ag District. Non-agricultural activities shall be allowed in the Ag District provided they are conducted under the following conditions;

- 1) The activity must be conducted on an existing building site with a dwelling.
- 2) The person conducting the activity must be a permanent full time resident of the dwelling.
- 3) The activity may employ no more than one (1) non-family employee equivalent to one (1) FTE.
- 4) The activity must be conducted solely on the building site and not in any portion of the floodplain.
- 5) The activity must be confined to an area not larger than one (1) acre.
- 6) All activities shall be subject to environmental or nuisance regulations as found in Section 713 of this Ordinance and any other State or Federal regulations.

A permit will be required for non-agricultural activities. Any non-agricultural activity conducted in the Ag District not adhering to the conditions above is prohibited.

735. Extraction of Water for Water Bottling Purposes

- 1) No person shall establish a water bottling business in Fillmore County without receiving a Conditional Use Permit.
- 2) Any business extracting water for water bottling purposes shall adhere to all regulations established by the Minnesota Departments of Health, Agriculture, and Natural Resources. A letter from each of these departments stating that no adverse effects will be realized

from such water bottling activities must be submitted to the Planning Commission and County Board as part of the Conditional Use Permit application.

736. Excavation and Mining of Industrial Minerals and Metals

736.01. Purpose

The purpose of this section on excavation and mining is to (i) protect natural landscapes from excessive excavation and mining activity, (ii) protect water resources, aquifers, streams, and rivers from excessive contamination and appropriation, (iii) minimize soil erosion, (iv) protect agricultural land and farming activity, (v) monitor and control the extraction and mining of industrial minerals and metals, and (vi) minimize land use conflicts.

736.02. Definitions

- 1) The terms excavation and mining include but are not limited to (i) any process or method of digging, excavating, mining, drilling, blasting, tunneling, dredging, stripping, or removing metals, minerals, or materials from the land surface or underground, (ii) the processing, washing, cleaning, screening, filtering, sorting, stockpiling and storage of all excavated or mined metals, minerals and materials, and (iii) the removal of all excavated and mined metals, minerals and materials. The terms excavation and mining apply to all activity occurring at excavation or mining sites, including sites identified as quarries and sand pits.
- 2) The term “construction minerals” includes natural common rock, stone, aggregate, gravel and sand that is produced and used for local construction purposes, including road pavement, unpaved road gravel or cover, concrete, asphalt, building and dimension stone, railroad ballast, decorative stone, retaining walls, revetment stone, riprap, mortar sand, construction lime, agricultural lime and bedding sand for livestock operations, sewer and septic systems, landfills, and sand blasting. The term “construction minerals” does not include “industrial minerals and metals”, which are defined and regulated in section 736.
- 3) The terms “industrial minerals and metals” include (i) all natural stone, silica sand, quartz, graphite, diamonds, gemstones, kaolin, and other similar minerals used in industrial applications, but excluding construction minerals as defined in Section 736.02, subp. 2, (ii) all petroleum, gases, fluids, (iii) subsurface water from any source related to excavation and mining, and (iv) all metallic minerals, including nickel, tin, silver, titanium, vanadium, cadmium, molybdenum, chromium, manganese, cobalt, copper, zirconium, beryllium, thorium, uranium, aluminum, radium, tantalum, niobium, gold, lead, platinum, or palladium.
- 4) New Industrial Excavation or Mining Site - To be classified as a new excavation or mining site, the site must not have a valid Industrial Minerals and Metals Conditional Use Permit to operate.
- 5) Existing Industrial Excavation or Mining Site - To be classified as an existing industrial minerals and metals excavation or mining site, the property owner and/or mining operator

must (i) have a current valid Conditional Use Permit to excavate and mine, and (ii) be currently excavating or mining industrial minerals and metals at such site.

736.03. Industrial Minerals and Metals Conditional Use Permit Required

No person shall excavate or mine industrial minerals or metals on any property, without first applying for and obtaining from the County Board an Industrial Minerals and Metals Conditional Use Permit. If the holder of a conditional use permit or Construction Minerals Conditional Use Permit to excavate or mine construction minerals intends to excavate and mine industrial minerals or metals at the permitted excavation or mining site, the permit holder must first obtain an Industrial Minerals Conditional Use Permit, pursuant to Section 736.

736.04. Prohibited Activity

The following excavation and mining activity is prohibited, and will not be allowed under the terms or conditions of any Industrial Minerals and Metals Conditional Use Permit:

- 1) The excavation and mining of any industrial or construction minerals or metals using any process or method that injects, drills with, applies or uses any chemical or toxic substance.
- 2) The excavation and mining of any industrial or construction minerals or metals that causes or results in any chemicals, metals, minerals or materials leeching, spilling or flowing into any water resource, including aquifers, water tables, rivers, springs, streams or other underground or surface waters.
- 3) The excavation and mining of any industrial or construction minerals or metals underground using tunneling, augering, shafting, hydraulic dredging, or any similar methods.
- 4) The washing or application of any chemicals or flocculants to excavated or mined industrial minerals or metals at the mining site is prohibited. Mining operators will be entitled to dry screen and sort industrial minerals or metals at the mining site, but must transport all excavated, mined, and/or screened industrial minerals or metals to sites outside of Fillmore County for further processing or washing.
- 5) Any materials brought back to the site that have been processed with chemicals or flocculants is prohibited. Any material is subject to testing at the owner and/or operators expense.

736.05. Exceptions

No conditional use permit shall be required for:

- 1) The excavation of earth necessary for the construction of a structure permitted by the Zoning Office.
- 2) The impounding of water in an open pit or pond designed for agricultural uses, but not for mining or other industrial excavation.
- 3) The excavation of earth for essential services or public utility work.
- 4) Excavation used for personal or farming practices on the same property up to one (1)

acre.

- 5) Any water used for residential or agricultural use.

736.06. Activities Included in an Industrial Minerals and Metals Conditional Use Permit

An Industrial Minerals and Metals Conditional Use Permit shall specify the permitted industrial minerals and metals excavation or mining activity. An Industrial Minerals and Metals Conditional Use Permit for an excavation or mining site may also permit (i) the excavation or mining of construction minerals, and (ii) the related activities of overburden removal, soil boring, blasting, rock crushing, materials removal, stockpiling, and hauling.

Separate rock crushing activities or operation of asphalt and concrete plants not located on the site of an existing rock quarry or sand pit shall require a separate conditional use permit. A separate conditional use permit is not required for rock crushing activities, or asphalt or concrete plants located on the site of an existing rock quarry or sand pit that holds a valid conditional use permit.

736.07. Siting and Location Requirements

Any new or expanded site excavating or mining industrial minerals or metals must comply with the following siting and location requirements:

- 1) No excavation or mining site shall exceed more than fifty (50) acres in size.
- 2) No excavation or mining site shall be located within one-thousand (1,000) feet of any existing dwelling from the surveyed boundary of the excavation or mining site unless the dwelling is owned by the applicant or landowner.
- 3) No excavation or mining site shall be located within any portion of the shoreland or floodplain district, as indicated on the Fillmore County Shoreland Overlay and FEMA FIRM maps, respectively.
- 4) There must be a fifty (50) foot setback from the surveyed boundary lines of any excavation or mining site.
- 5) There shall be no more than five (5) excavation or mining sites in Fillmore County. A site shall be considered the surveyed boundary. No new sites permitted under Section 736 will be considered once five (5) sites are in existence unless an existing site has been closed, reclaimed, and verified by the Fillmore County Zoning Administrator. Closed sites must be recorded showing the Conditional Use Permit is no longer valid, filed with the Fillmore County Recorder's Office on a form provided by the Fillmore County Attorney.

736.08. Application Requirements for an Industrial Minerals or Metals Conditional Use Permit

An applicant (includes both the property owner and mining operator) for an Industrial Minerals and Metals Conditional Use Permit will prepare and submit an application to the Zoning Administrator. The application will include the following information:

- 1) The applicant of any excavation or mining site is required to provide Fillmore County a

map and legal description of the excavation or mining site. The legal description and map shall at a minimum include:

- a. The legal surveyed boundaries as projected for the life of excavation or mining site.
 - b. A map showing all dwellings that exist within one thousand (1,000) feet of the legal boundaries of the quarry.
 - c. A wetland delineation.
- 2) Provide proof of all required Federal, state and local licenses and permits;
 - 3) Provide a mining operation plan;
 - 4) Provide proof of appropriate insurance coverage;
 - 5) Provide proof of an ownership or leasehold interest to the Zoning Administrator;
 - 6) Provide a description of the proposed locations and volumes of onsite stockpiling;
 - 7) Provide a description of the types of industrial minerals or metals to be excavated, the expected volume of the materials, and the projected lifetime of the use;
 - 8) Provide a reclamation plan, identifying proposed land use after reclamation activities are completed, showing detailed proposals to reclaim the site both during and following mining operations. Review and approval of the reclamation plan will be conducted by a technical evaluation panel comprised of the Zoning Administrator, County Highway Engineer, and science representatives from the Fillmore County Soil & Water Conservation District (SWCD), Minnesota Department of Natural Resources (DNR), and Minnesota Board of Water & Soil Resources (BWSR). The proposed reclamation plan will include an analysis of the pre-mining conditions at the site, including:
 - a. Soil type and depth of topsoil.
 - b. Hydrology.
 - c. Vegetation cover type and species.
 - d. Wetlands (soils, vegetation, and hydrology).
 - e. Wildlife habitat.
 - 9) Submit a proposed fencing, screening, and sloping plan necessary to minimize noise, dust, erosion, and other adverse effects of the activity; and
 - 10) For all new excavation and mining sites, and expansions of existing excavation and mining sites:
 - a. Provide a geologic survey.
 - b. Provide a karst features survey.

The Zoning Administrator or County Board may require an applicant to submit any additional information, including an environmental assessment worksheet (EAW), deemed necessary to protect the general health, safety, and welfare of the public or deemed necessary to determine the adverse impact or effects of the activity described in Section 736.06. An EAW may be required to be submitted even for mining or excavation projects that are below the state mandatory thresholds for environmental review. If applicant's responses to an EAW are determined by the Zoning Administrator to be inadequate, the Zoning Administrator may require applicant to prepare and submit additional responses in the EAW. Applicant's responses to a submitted EAW may be the basis for the County Board (i) denying the application for a conditional use permit, (ii) imposing conditions on the proposed mining activity, or (iii) approving the conditional use permit application without conditions.

736.09. Mining Operation Plan

The mining operation plan submitted by an applicant for an Industrial Minerals or Metals Conditional Use Permit to the Zoning Administrator will include the following information:

- 1) Dates of the planned commencement of the excavation and mining operation.
- 2) The sequence or phasing of operations.
- 3) A reclamation plan as identified in Section 736.13.
- 4) Estimated volume of material to be extracted annually and over the life of the mining operations.
- 5) Proposed location on site of all buildings, structures, equipment, stockpiles, storage and parking areas.
- 6) Traffic plan, including:
 - a. Identifying all proposed off-site trucking routes for transporting extracted materials from the site;
 - b. An analysis of all intersections of local roads and county or state highways affected by traffic generated from the proposed excavation or mining operations;
 - c. Proposed traffic safety and intensity solutions; and
 - d. Excavation or mining site plan, including parking layout and loading/staging areas.
- 7) List of all hazardous materials, including fuel supplies and chemicals that would be stored on site.
- 8) Road maintenance agreement as provided in Section 736.11.
- 9) A scale on location and the weight/amount loaded per truck reported to the Fillmore County Zoning Office quarterly.

736.10. Operational Requirements for Excavation and Mining Sites

All excavation and mining site operators/owners which receive an Industrial Minerals or Metals Conditional Use Permit shall comply with the following requirements:

- 1) Mining operators will not mine vertically closer than a depth of ten (10) feet to an existing groundwater table.
- 2) Mining operators will not cause a significant reduction of surface water within two (2) miles of the mining site which serve as a water supply for agricultural, municipal or recreational uses.
- 3) An approved reclamation plan must be on file in the Zoning Office and it must be fully implemented as required by the County Board.
- 4) An inspection will occur annually and more often if needed and a certification fee in an amount to be set by the County Board must be paid annually.
- 5) All roads used for the transportation of industrial or construction minerals or metals must be maintained to the satisfaction of the local road authority as discussed in 736.11.
- 6) Mining operators will assure that all loading and unloading of trucks and equipment occurs on-site and not on the public road. Trucks and equipment cannot park on the public road, and must park on site. No truck or equipment shall be driven on a public road unless its load is securely covered when loaded and complies with according to Minnesota law and DOT requirements.
- 7) Mining operations times at the site will be restricted to Monday through Friday, 6:00 am to 8:00 pm Central Daylight Time (CDT) and Monday through Friday, 7:00 am to 5:00 pm Central Standard Time (CST). Operations may also occur year-round on Saturdays, 7:00 am to 3:00 pm. Mining operations will not be conducted on federally observed

holidays or on Sundays. Hours of operation may be further restricted through the Conditional Use Process.

- 8) All stockpiles will be stored at least fifty (50) feet from the right-of-way of a public road.
- 9) All excavation and mining operators must provide a certification of insurance showing current liability insurance coverage on the premises and operation.
- 10) All operators must work with the SWCD so the site including all stockpiles and overburden piles are maintained so as not to cause erosion.
- 11) Properly guard and maintain the property so that it does not become a danger or nuisance.
- 12) Silent or white noise back-up alarms must be installed on all motorized excavation vehicles.

Any conditions may be added to the conditional use permit that are intended to protect the health, safety, and general welfare of the public and to reduce the adverse impact of the conditional use being permitted.

736.11. Road Maintenance Agreement

All new or expanded excavation and mining operators will be required to enter into road maintenance agreements with Fillmore County. The road maintenance agreements will provide for:

- 1) A roundtrip hauling route for the shipping of industrial minerals and metals from the excavation or mining site to a targeted delivery location.
- 2) Mining operator's agreement to pay a road pavement impact fee, as decided by the County Highway Engineer and County Commissioners, to reimburse Fillmore County for the projected costs of repairing and replacing road pavement damage by the hauling of industrial minerals and metals from an excavation or mining site. If excavation and mining minerals or materials are hauled back to the site the road pavement impact fee will be assessed. The fee established at the time of application will be reviewed every two (2) years.

All excavation and mining site access points must abut a blacktop or concrete road and all haul route trucks must enter and leave at the access point. The use of any gravel or unpaved County or Township roads for the haul route is prohibited, unless an exception is applied for by the operator and approved. The operator must show a lower road impact by use of the gravel or unpaved road without jeopardizing public safety. If an exception is approved, the mining operator must maintain the roads to the satisfaction of the local road authority, provide dust control, and still enter into a road maintenance agreement with the County and/or township.

Any proposed route change requires a new road impact agreement and public hearing through the Planning Commission with recommendation to the Fillmore County Commissioners.

736.12. Blasting Activity at Excavation and Mining Sites

Blasting is the use of explosives and blasting agents to loosen, penetrate, move or shatter masses of solid materials, as a part of excavation and mining operations. No blasting activity will be conducted at excavation and mining sites, unless expressly approved in the conditional use

permit that authorizes excavation and mining activity. All blasting activity must comply with the provisions of this section and all applicable federal and state statutes and regulations. The blaster-in-charge of each blasting event must be currently licensed by the Minnesota Department of Public Safety.

Pre-Blasting Survey. Any mining operator who intends to conduct authorized blasting at an excavation and mining site will first perform a pre-blasting survey to determine and map the specific location and general condition of all dwellings, buildings, monuments, wells, utilities, and other structures within a ½ mile radius of the blasting site.

Blasting Notification. At least 72 hours prior to the initial blasting event at an excavation and mining site, the mining operator shall make a reasonable effort to notify all residents and land occupiers, within a radius of ½ mile of the excavation and mining site, of the impending blasting event. Thereafter, the mining operator will be required to develop and maintain a blasting call list of adjacent residents and land occupiers, who request that they be notified at least 72 hours prior to a blasting event. At least 72 hours prior to all blasting events at the mining site, the mining operator will use the call list to contact all residents and land occupiers requesting blasting notification by written notice, phone call, email or verbally in person. Prior to any blasting event at the excavation and mining site, the mining operator will also give general public notice of the impending blasting event by displaying a fluorescent flag and legible sign within 100 feet of all public roads bordering the blasting site. Additionally, a distinctive warning signal shall be sounded by horn immediately prior to the blasting event.

Control of Adverse Effects. The mining operator is obligated to take all reasonable actions necessary to control and minimize adverse effects of blasting events, including flyrocks, airblasts, ground vibrations and seismic damage to adjacent wells, dwellings, buildings, monuments and structures. An airblast shall not exceed 133 peak dB at the location of any dwelling, buildings, monuments, wells, utilities or other structures. All flyrocks will remain within the excavation and mining site.

The Zoning Administrator has the authority to investigate complaints that blasting activity is damaging dwellings, utilities, structures, or water wells or injuring people or livestock, and to order the mining operator to suspend blasting activity at the excavation and mining site until (i) the alleged damage is verified, (ii) the blasting activity as the cause of such damage is verified, and (iii) a solution is approved to prevent future blasting damage. The Zoning Administrator's monitoring and investigation of blasting activity relates only to permit enforcement, and not to determining potential civil or criminal liability of the mining operator for the consequences of any blasting activity.

Blasting Log. The mining operator shall maintain an accurate and complete blasting log of each blasting event occurring at an excavation and mining site. The blasting log will be maintained at the excavation and mining site for not less than 5 years, and will be furnished to the Zoning Administrator upon request. Each blasting log shall include the following information: (i) Name and license number of each blaster in charge, (ii) blast location, (iii) date and time of blasting event, (iv) weather conditions at time of the blasting event, (v) diagram and cross section of blast hole layout, (vi) blast hole depth, spacing and diameter, (vii) total pounds and type of explosives used, (viii) distance to nearest ~~inhabited~~ dwelling, and (ix) seismic recordings of vibration and air blast levels.

Storage of Explosives. The mining operator will not store any explosives or blasting agents at the excavation or mining site.

736.13. Reclamation of Excavation and Mining Sites

A property owner and excavation/mining operator applying for an Industrial Minerals or Metals Conditional Use Permit will submit a detailed reclamation plan identifying all proposed steps that will be taken to return the mining site to its natural condition as much as possible and to prevent the occurrence of any adverse environmental effects. No mining or excavation activity shall begin until the County Board has approved the reclamation plan as a condition of issuing a conditional use permit. To the fullest extent possible, the reclamation plan will provide for phased reclamation of the site during and throughout mining operations and immediately following the end of mining operations. Phased reclamation is best implemented by having no more than twenty-five (25) acres operational at any given time.

The reclamation plan map shall be drawn at a scale of one (1) inch to one hundred (100) feet and shall show the adjacent area within five hundred (500) feet to the proposed excavation. The map shall include (i) final grade of proposed site showing elevations and contour lines at five (5) foot intervals, (ii) location and species of vegetation to be replanted, (iii) location and nature of any structures to be erected as part of the reclamation plan. The reclamation plan shall include the following: (i) a reclamation time schedule, (ii) the method used to plug any exploratory or drill holes, (iii) the method of grading, back filling and contouring the mining site and access road, (iv) the method of waste management and disposal, including liquid and solid wastes and tailings, and (v) the method of re-vegetation of the site. Top soil and overburden must remain at the excavation site to be used for reclamation.

If during excavation or mining operations the operator finds the characteristics of the mining area to be different than what was previously determined, changes may be made in the original reclamation plan by mutual consent of the operator and the Zoning Administrator. Such changes shall preserve, as substantially as possible, the original reclamation plan, and shall also provide for the newly discovered variations in the excavation or mining site.

736.14. Assignment of Conditional Use Permits

If the property owner and/or mining operator seeks to assign, delegate or transfer their excavation or mining permit rights, duties or responsibilities, the proposed transferee will disclose to the Zoning Administrator the capability of fulfilling all financial, reclamation and operational provisions of the mining permit. The transferee will take over all previous conditional use permit conditions to include, but not limited to reclamation. If any property owner and/or mining operator assigns, delegates or transfers any portion of their excavation or mining permit rights, duties or responsibilities, without first obtaining the written approval of the Zoning Administrator, the excavation or mining permit will be automatically terminated without further action.

736.15. Reclamation Assurance Bond

Applicant will deliver to the county a reclamation assurance bond issued by an insurance carrier acceptable to the county, in an amount determined by the County Board, to assure that sufficient funds will be available to fulfill all required elements of the reclamation plan. The reclamation assurance bond will be valid and enforceable throughout the excavation or mining operation period and for a period of at least one year following the end or abandonment of excavation or mining. The county will be entitled to claim such reclamation assurance bond at any time when required elements of the reclamation plan are to be performed.

The mining operator will be at all times responsible for paying in full and in a timely manner the full cost or premium of the reclamation assurance bond. The reclamation assurance bond shall provide that it may not be cancelled by the surety or issuer, except after not less than a ninety (90) day notice to the county in writing by registered or certified mail. If the surety or issuer attempts to cancel the reclamation assurance bond, the mining operator shall deliver to the county a replacement proof of reclamation assurance bond. In the absence of this financial replacement assurance, all mining at the site shall cease.

736.16. Bonds May Be Required

The County Board may require either the applicant or the owner or user of the property on which the excavation or mining operation located to post a financial assurance bond, in such form and amount as the Planning Commission or County Board may determine, with sufficient surety running to the County, conditioned to pay the County the cost and expense of repairing, from time to time, any highways, streets, or other public ways where such repair work is made necessary by the special burden resulting from hauling and gravel, in removing materials from any pit, excavation or impounded waters, the amount of such cost and expense to be determined by the County Engineer; and conditioned further to comply with all the requirements of this subdivision and the particular permit, and to pay any expense the County may incur by reason of doing anything required to be done by any applicant to whom a permit is issued.

737. Farm Winery

737.01 Purpose

This subsection addresses performance standards for the establishment and operation of Farm Wineries. Owner/operators must comply with all requirements in Minnesota State Statute 340A.315.

737.02 Production Capacity

The annual production capacity of a farm winery may not exceed 50,000 gallons as stated by Minnesota State Statute 340A.315.

737.03 Uses

The following uses may be permitted at a farm winery upon the granting of a conditional use permit:

1. Aging, processing and storage of wine in bulk.

2. Bottling, storage, and wholesaling of bottled wine.
3. Crushing of grapes inside and/or outside a structure.
4. Displays, in compliance with the Fillmore County Sign Ordinance.
5. Indoor/Outdoor Live Music.
6. Wine making classes.
7. Office use associated with the winery.
8. Tours.
9. Retail sale of glassware, wine literature and accessories, apparel, cheese and cheese spreads, other wine related food items (fruit, olives, etc.), and items directly related to wine.
10. Retail sale (on-sale or off-sale) of wine fermented and bottled in Fillmore County.

737.04 Prohibited Uses

The following uses may not be allowed at a Farm Winery:

1. The off-sale retail sale of beer.
2. Retail sale of items that are not permitted under the Minnesota Farm Winery License.

737.05 Standards

The following standards shall apply to all Farm Wineries:

1. To qualify as a Farm Winery under this ordinance, the owner/operator must produce a minimum of 200 gallons of wine per year. This ordinance does not apply to owners/operators producing less than 200 gallons of wine per year, but owners/operators under 200 gallons of wine per year must abide by all other Fillmore County Zoning regulations.
2. All other applicable licenses and permits shall be obtained from the appropriate agencies to include, but not limited to Fillmore County, the Minnesota Department of Health, and the Minnesota Pollution Control agency, and maintained in association with the operation of the winery.
3. Any proposed changes to a winery to add or modify food or beverage sales, or to amend other services and activities offered, shall be brought back before the Fillmore County Planning Commission and County Board for review.
4. Outdoor music shall be permitted during the hours of 12:00 p.m. and 12:00 a.m. on Friday and Saturday, and from 12:00 p.m. to 9:00 p.m. on Monday, Tuesday, Wednesday, Thursday, and Sunday. Indoor music is permitted during any day of the week.
5. The farm winery must comply with the provisions in the Fillmore County Zoning Ordinance Section 718 Parking regulations.
6. The total gross receipts of the sale of non-wine related items including food, beverages other than wine, glassware, wine literature and accessories, shall not exceed 35 percent of the total retail sales of the winery.

The SSTS and all associated components shall be maintained in accordance with MPCA SSTS standards. The SSTS of a winery shall be separate from residential use associated with the property.

738. Commercial Outdoor Recreation Area

738.01 Purpose

This subsection would allow through a Conditional Use Permit a commercial outdoor recreation area.

738.02 Uses

Uses can include paintball, laser tag, and airsoft ranges and/or courses. If associated with a range or course the following is allowed onsite: paintball marker repair, paintball product supply and sales, airsoft products and supply sales, laser tag products and supplies, rental gear and equipment, and concessions.

738.03 Standards

1. The shooting areas shall be at least set back one hundred (100) feet from all property lines.
2. The shooting areas shall be at least set back one hundred (100) feet from any road right-of-way.
3. Landscaping and screening as needed to prevent paintball and airsoft rounds from leaving the premise when fired from a paintball or airsoft gun.
4. The site must have either an approved septic system design by a licensed septic professional and can include holding tanks provided a pumping contract is in place or porta-potties must be provided.
5. Hours of operation: ½ hour after sunrise and ½ hour before sunset. This may be further restricted as a condition of the permit depending on the location or the proposed site.
6. Season of operation: Season of operation shall be limited from April 1 to October 15.
7. Paintballs used shall be non-toxic and of a type non-harmful to the environment.
8. Certificate of liability insurance shall be provided to the Fillmore County Zoning Office prior to the start of operations and updated on an annual basis.
9. An annual fee, as set by the Fillmore County Board of Commissioners, will be assessed every year. A yearly inspection of the site will be conducted by Fillmore County.

739. Agricultural Tourism Business

739.01 – Agricultural Tourism Business, permitted.

An agricultural tourism business may be permitted in the Agricultural or Urban Reserve Districts

on an agricultural use property, meeting the following requirements:

1. The Agricultural Tourism Business is clearly incidental and subordinate to the agricultural use of the property.
2. The onsite Agricultural tourism business occurs no more than 6 times per year.
3. There is adequate provision for parking of vehicles so that there is not parking on public roads and adequate setbacks from adjacent properties are maintained. Parking areas must be a minimum of 10 feet from all property lines and appropriately screened from neighboring properties.
4. Light sources shall be directed downwards and shielded to prevent light being directed off the premises.
5. Outside activities must be completed during daylight hours.
6. Any on-site preparation and handling of food or beverages must comply with all applicable Federal, State, and Local Standards.
7. Non-agricultural celebration events, not exceeding two consecutive days per event, shall be limited to the following: wedding ceremonies, receptions, non-profit benefits and fundraisers, reunions, retirement celebrations, graduations, birthdays, barn dances, harvest festivals and food/product/produce tasting and sales events.
8. The permitted Agricultural Tourism Business shall not host an event having more than 250 visitors onsite.

739.02 - Agricultural Tourism Business, conditional.

An agricultural tourism business may be a conditional use in the Agricultural or Urban Reserve District on an agricultural use property, meeting the following requirements:

1. The Agricultural Tourism Business is clearly incidental and subordinate to the agricultural use of the property.
2. There is adequate provision for parking of vehicles so that there is not parking on public roads and adequate setbacks from adjacent properties are maintained. Parking areas must be a minimum of 10 feet from all property lines and appropriately screened from neighboring properties.
3. Light sources shall be directed downwards and shielded to prevent light being directed off the premises.
4. Any on-site preparation and handling of food or beverages must comply with all applicable Federal, State, and Local Standards.
5. Non-agricultural celebration events, not exceeding two consecutive days per event, shall be limited to the following: wedding ceremonies, receptions, non-profit benefits and fundraisers, reunions, retirement celebrations, graduations, birthdays, barn dances, harvest festivals and food/product/produce tasting and sales events.

Section 740. Solar Energy Farms

740.01. Conditional Use

Solar Energy Farms require a Conditional Use Permit issued under the procedures of Section 504.

740.02. Permit Requirements

- 1) **Lot Size** - The lot parcel/tract upon which a Solar Energy Farm is located shall adequately handle the stormwater produced by the impervious surface of the panels, but no less than the minimum lot size of the zoning district in which it is located.
- 2) **Stormwater Management and Erosion and Sediment Control** - Stormwater management and erosion and sediment control shall meet the requirements of the appropriate permit issued by the Minnesota Pollution Control Agency.
- 3) **Foundations** - The manufacturer's engineer or another qualified engineer shall certify that the foundation and design of the solar panels are within accepted professional standards, given local soil and climate conditions.
- 4) **Other Standards and Codes** - All solar energy farms shall be in compliance with any applicable local, state and federal regulatory standards, including the State of Minnesota's Uniform Building Code, as amended; and the National Electric Code, as amended.
- 5) **Power and Communication Lines** - Power and communication lines running between banks of solar energy panels and to electric substations or interconnection with building shall be buried under ground. Power and communication lines for the purpose of transporting energy from the solar farm are considered Essential Service Lines and are regulated under Section 723.
- 6) Solar Energy Farms shall not be permitted in areas where glare or reflection poses a risk to passing traffic.
- 7) **Vegetation Management** - Vegetation planned for the solar energy farm area shall be planted and managed to promote successful establishment and to prevent and control the spreading of weeds to surrounding properties.

740.03. Discontinuation, Decommissioning and Restoration

- 1) **Discontinuation** – A solar energy farm shall be considered a discontinued use after one (1) year without production of energy, unless a plan is developed and submitted to the Fillmore County Zoning Administrator outlining the steps and schedule for returning the solar energy farm to service.
- 2) **Decommissioning Period** - All panels, arrays and accessory facilities shall be removed within six (6) months of the discontinuation of use.
- 3) **Decommissioning and Restoration Requirements** – Decommissioning and site restoration include:
 - a. Dismantling and removal of all arrays;
 - b. Removal of underground cables;

- c. Removal of accessory structures, fencing and other ancillary facilities;
- d. Removal of foundations to a depth of four (4) feet below grade; and
- e. Restoration and reclamation to the same general topography that existed just prior to the beginning of construction of the solar array. Areas disturbed by the construction of the solar farm and decommissioning activities must be graded, top-soiled and re-seeded according to USDA Natural Resources Conservation Service (NRCS) or Soil and Water Conservation District (SWCD) technical recommendations.

4) **Decommissioning and Restoration Plan** – All solar energy farms shall submit a Decommissioning and Restoration Plan as part of the project application. The plan shall include the following information:

- a. The manner in which the project will be decommissioned and the site restored.
- b. The anticipated life of the project.
- c. The method and schedule for updating the cost of decommissioning and restoration. The cost of decommissioning shall be updated and provided upon request by Fillmore County.
- d. The Decommissioning and Restoration Plan shall identify the party financially responsible for carrying out the requirements of the Decommissioning and Restoration Plan. The plan shall include a description of how the financially responsible party plans to pay for the decommissioning and restoration.

5) **Decommissioning Financial Assurance**

- a. After issuance of the CUP and prior to construction, the permittee shall submit a Performance Bond in the amount of \$25,000 per MW of the proposed solar energy farm. The performance bond shall be set up as “continuous until cancelled” and automatically renewed on an annual basis for the life of the project. Fillmore County shall receive annual notification upon renewal.
- b. In the event a Performance Bond cannot be issued for the project, the Fillmore County Board shall require an escrow account to be established to assure that Decommissioning and Restoration can be accomplished according to the approved plan.

Failure to Decommission – If the financially responsible party of a solar energy farm does not complete the Decommissioning and Restoration Plan, Fillmore County may take such action as may be necessary to complete decommissioning, including but not limited to, requiring forfeiture of the performance bond or assessment of the cost of decommissioning against the land. The issuance of the Conditional Use Permit shall constitute agreement and consent by all parties to the agreement, including their respective heirs, successors, and assigns, that Fillmore County may take such action as may be necessary to decommission the solar farm and adequately restore the site, including the exercise by the county, county staff, and their contractors, of the right of ingress and egress for the purpose of decommissioning the solar farm and restoring the property.

SECTION 8

Enforcement

801. Violations and Penalties

801.01. Violations

The violation of any provisions of this Ordinance or the violation of the conditions or provisions of any permit issued pursuant to this Ordinance shall be a misdemeanor, and upon conviction thereof, the violator shall be subject to a fine, imprisonment or both, plus in either case, the cost of prosecution.

801.02. Penalties

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

801.03. 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.

801.04. 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.

SECTION 9
Separability, Supremacy and Effective Date

901.01. 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.

901.02. 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 impose 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 provision of any private agreement, the provisions of this Ordinance shall prevail.

901.03. Effective Date

This Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

Passed and approved this 27th day of November, 2012 by the Fillmore County Board of Commissioners.

Chairman, Board of Commissioners: _____

ATTEST: _____
Board of Commissioners Clerk

VOTING AYE

Commissioners

Amunrud Bakke Dahl Kaase Prestby

VOTING NAY

Commissioners

Amunrud Bakke Dahl Kaase Prestby

STATE OF MINNESOTA
COUNTY OF FILLMORE

I, Karen Brown, Clerk of the Fillmore County Board of Commissioners, State of Minnesota, do hereby certify that the foregoing resolution is a true and correct copy of a resolution duly passed at a meeting of the Fillmore County Board of Commissioners held on the 27th day of November, 2012.

Witness my hand and official seal at Preston, Minnesota the 27th day of November, 2012.

SEAL

Karen Brown, Coordinator/Clerk
Fillmore County Board of Commissioners