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OFFICE OF COUNTY RECORDER
WADENA COUNTY, MINNESOTA

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415 SOUTH JEFFERSON STREET
WADENA, MN 56482

State of Minnesota)

County of Wadena)

I, Heather Olson, Auditor/Treasurer, in and for the County of Wadena, Minnesota, hereby certify the attached is a true and correct copy of the Wadena County Zoning Ordinance #1, as adopted September 1, 2020.

Dated at Wadena, Minnesota, this 8th day of September 2020.

Heather Olson

Auditor/Treasurer

Wadena County, Minnesota

RESOLUTION TO AMEND THE ZONING ORDINANCE #1

Commissioner Hofer moved that the following resolution be adopted:

RESOLVED: That the County Board orders the amendment of the Zoning Ordinance No. 1 as follows:

See **EXHIBIT B** attached

Commissioner Stearns seconded the motion and the same carried unanimously.

THE WADENA COUNTY BOARD OF COMMISSIONERS

IN TESTIMONY WHEREOF THE WADENA COUNTY BOARD OF COMMISSIONERS has caused this resolution to be adopted this 1st day of September, 2020.

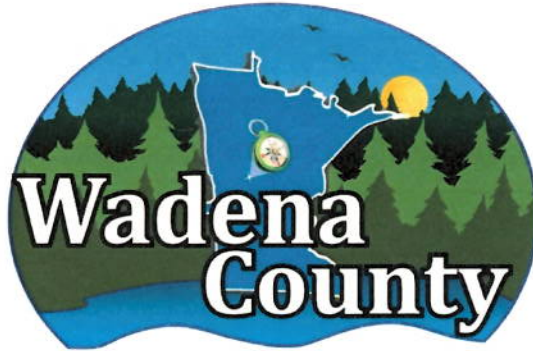
ATTEST:

WADENA COUNTY BOARD OF COMMISSIONERS

Ryan Odden
Ryan Odden, Coordinator

BY Charles K. Horsager
Charles Horsager, Board Chair

Board Action Tracking Number:



WADENA COUNTY

ZONING ORDINANCE

#1

AMENDED: September 1, 2020

TABLE OF CONTENTS

PREFACE.....	8
<i>ZONING ORDINANCE FOR WADENA COUNTY, MINNESOTA</i>	
SECTION 1: PURPOSE.....	10
SECTION 2: TITLE	10
SECTION 3: JURISDICTION, SCOPE, AND INTERPRETATION.....	10
A. Jurisdiction	10
B. Scope	10
C. Interpretation	10
SECTION 4: RULES AND REGULATIONS	11
A. Rules.....	11
1. Word Usage.....	11
2. Permitted Uses	11
3. Conditional Uses	11
B. Definitions	11
SECTION 5: CLASSIFICATION OF DISTRICTS	19
A. Districts	19
B. Zoning Map	19
C. District Boundaries	20
D. Future Detachment	20
E. Shoreland Classification System.....	20
1. Lakes	20
2. Rivers and Streams.....	21
SECTION 6: A-1 TRANSITIONAL AGRICULTURAL DISTRICT	22
A. Purpose	22
B. Permitted Uses	22
C. Conditional Uses.....	23
D. Permitted Accessory Uses	24
E. Height, Yard, Area and Lot Width and Depth Regulations	24
1. Height Regulations	24
2. Front Yard Regulations	24
3. Side Yard Regulations.....	24
4. Rear Yard Regulations	24
5. Lot Area Regulations	24
6. Lot Width and Depth Regulations.....	24
F. General Regulations	25
SECTION 7: A-2 MIXED AGRICULTURE-FORESTRY DISTRICT.....	25
A. Purpose	25
B. Permitted Uses	25
C. Conditional Uses.....	25
D. Permitted Accessory Uses	26
E. Height, Yard, Area and Lot width and Depth Regulations	26
1. Height Regulations	26
2. Front Yard Regulations	26
3. Side Yard Regulations.....	27

4. Rear Yard Regulations	27
5. Lot Area Regulations	27
6. Lot Width and Depth Regulations.....	27
7. Contiguous Parcels.....	27
F. General Regulations	27
SECTION 8: A-3 GENERAL AGRICULTURE DISTRICT	27
A. Purpose	27
B. Permitted Uses	27
C. Conditional Uses.....	28
D. Permitted Accessory Uses	28
E. Heights, Yard, Area and Lot Width and Depth Regulations.....	29
F. General Regulations	29
SECTION 9: DELETED	29
SECTION 10: R-1 SUBURBAN RESIDENCE DISTRICT	29
A. Purpose	29
B. Permitted Uses	29
C. Conditional Uses.....	29
D. Permitted Accessory Uses	30
E. Height, Yard, Area, and Lot Width and Depth Regulations	30
1. Height Regulations.....	30
2. Front Yard Regulations	30
3. Side Yard Regulations.....	30
4. Rear Yard Regulations	30
5. Lot Area, Width and Depth Regulations	30
6. Contiguous Parcels.....	31
F. Residential Subdivision Unit Projects.....	31
1. Purpose.....	31
2. Regulations.....	31
G. General Regulations	32
SECTION 11: B-1 HIGHWAY SERVICE BUSINESS DISTRICT	32
A. Purpose	32
B. Permitted Uses	32
C. Conditional Uses.....	33
D. Permitted Accessory Uses	33
E. Height, Yard, and Lot Width and Coverage Regulations.....	33
1. Height Regulations.....	33
2. Front Yard Regulations	33
3. Side Yard Regulations.....	33
4. Rear Yard Regulations	33
5. Lot Width & Depth Regulations	33
6. Lot Coverage Regulations.....	33
F. General Regulations	33
SECTION 12: B-2 GENERAL BUSINESS DISTRICT.....	34
A. Purpose	34
B. Permitted Uses	34
C. Conditional Uses.....	35
D. Accessory Uses.....	35
E. Height and Yard Regulations.....	35
1. Height Regulations.....	35
2. Front Yard Regulations	35
3. Side Yard Regulations.....	35

4. Rear Yard Regulations	35
5. Lot Width and Depth Regulations	35
F. General Regulations	35
SECTION 13: I-1 GENERAL INDUSTRY DISTRICT	35
A. Purpose	35
B. Permitted Uses	36
C. Conditional Uses	36
D. Accessory Uses	36
E. Height, Yard and Lot Width and Building Coverage Regulations	37
1. Height Regulations	37
2. Front Yard Regulations	37
3. Side Yard Regulations	37
4. Rear Yard Regulations	37
5. Lot Width Regulations	37
6. Lot Coverage Regulations	37
F. General Regulations	37
SECTION 13A: RA RECREATIONAL DISTRICT	37
A. Purpose	37
B. Permitted Uses	37
C. Conditional Uses	38
D. Permitted Accessory Uses	38
E. Height, Yard, Area and Lot, Width and Depth Regulations	38
F. General Regulations	38
SECTION 14: S-1 SHORELAND OVERLAY DISTRICT	38
A. Purpose	38
B. Applicability	38
C. Permitted Uses	38
D. Conditional Uses	39
E. Accessory Uses	40
F. Lot Area and Width Standard	40
1. Unsewered Lakes	40
2. Sewered Lakes	40
3. River/Stream Lot Width Standards	41
4. Additional Special Provisions	41
5. Placement, Design, and Height of Structures	41
6. Design Criteria for Structures	42
7. Height of Structures	44
G. Side Yard Regulations	44
H. Road Setback Regulations	44
I. Variances to the Setback Requirements of SECTION 14F may be allowed by Board of Adjustment	44
J. Shoreland Alterations	44
1. Vegetation Alterations	44
2. Topographic Alterations/Grading and Filling	45
K. Placement and Design of Roads, Driveways, and Parking Areas	46
L. Stormwater Management	46
1. General Standards	46
2. Specific Standards	47
M. Special Provisions for Commercial, Industrial, Public/Semipublic, Agricultural, Forestry and Extractive Uses and Mining of Metallic Minerals and Peat	47
1. Standards for Commercial, Industrial, Public, and Semipublic Uses	47
2. Agriculture Use Standards	48
3. Forest Management Standards	48

4. Extractive Use Standards	48
5. Mining of Metallic Minerals and Peat.....	49
N. Conditional Use Evaluation Criteria and Conditions	49
1. Evaluation Criteria	49
2. Conditions Attached to Conditional Use Permits.....	49
O. Water Supply and Sewage Treatment.....	50
1. Water Supply.....	50
2. Sewage Treatment.....	50
P. Planned Unit Developments (PUD's)	50
1. Types of PUD's Permissible	50
2. Processing of PUD's	50
3. Application for a PUD	50
4. Site "Suitable Area" Evaluation.....	50
5. Residential and Commercial PUD Density Evaluation.....	51
6. Maintenance and Design Criteria	53
7. Conversions.....	55

SECTION 15: GENERAL REGULATIONS 56

A. Parking and Loading Regulations.....	56
1. Minimum Size Regulations.....	56
2. Reduction and Use of Parking and Loading Space	56
3. Computing Requirements.....	56
4. Yards	56
5. Buffer Fences and Planting Screens.....	56
6. Access	57
7. Location of Parking Facilities	57
8. Combined Facilities	57
9. Construction and Maintenance.....	57
10. Lighting	57
11. Required Site Plan.....	57
12. Application of Parking and Loading Regulations	57
13. Required Number of On-Site Parking Spaces	57
14. Required Loading Area	59
B. Sign Regulations - DELETED BY THE COUNTY BOARD 7/14/75	59
C. Extraction of Materials and Minerals, Open Pits and Impounding of Waters	59
1. Definitions.....	59
2. Permitting Requirements.....	59
3. Conditions of Permit	60
4. Bond May Be Required.....	61
5. Reclamation Plan	61
6. Temporary Borrow Pit	61
D. Performance Standards.....	62
1. Standards.....	62
2. Compliance	63
E. Additional Requirements, Exceptions and Modifications.....	63
1. Height Regulations.....	63
2. Yard Regulations.....	63
3. Storage of Materials	64
4. Area Regulations.....	64
5. Accessory Uses	64
6. Accessory Buildings.....	64
F. Buffers On Water Resources	64
1. Definitions as used in this Section	64
2. Standards	65
3. Exemptions	65
4. Alternative practices	66

5. Non-conformity	66
6. Compliance	66
7. Enforcement	67

SECTION 16: TELECOMMUNICATIONS TOWERS, ANTENNAS, AND RELATED FACILITIES..... 67

A. Purpose and Intent	67
B. Definitions	68
C. Permit Requirements	68
D. Performance Standards	70
E. Lighting.....	70
F. Exterior Finish.....	70
G. Fencing	71
H. Landscaping	71
I. Accessory Buildings and Equipment	71
J. Signage	71
K. Types of Towers	71
L. Tower Materials.....	71
M. Equipment Housing	71
N. Removal of Towers or Telecommunication Facilities.....	71
O. Maintenance	71
P. Assignment of Rights.....	72
Q. Failure to Comply; Permit Revocation.....	72
R. No Permits Required	72
S. Right-of-Way	73
T. Effective Date	73

SECTION 17: SUB-SURFACE SEWAGE TREATMENT SYSTEMS 73

A. Sub-surface Sewage Treatment Systems (SSTS) – General Construction Requirements.....	73
B. Non-Conforming Individual SSTS – Requirements for Update, Repair, & Replacement	75
C. Requirements and Allowances for Installation of Complete Individual Onsite Sewage Treatment.....	77
D. Management Plans & Maintenance Requirements	77
E. Operating Permits	77
F. Additional Provisions Related to Discharge and Placement of SSTS.....	77
G. Class V Injection Wells	78
H. Variances	78

SECTION 18: WIND ENERGY CONVERSION SYSTEMS (WECS) 78

A. Purpose	78
B. Permitted Systems.....	78
C. Systems Requiring Application for Conditional Use	80
D. Commercial SWECS	80
E. Abandonment.....	81

SECTION 19: SOLAR ENERGY SYSTEMS 81

A. Definitions – as they pertain to this section.....	81
B. Permit Applications for Solar Energy Systems	82
1. Exempt from Permitting.....	82
2. Land Use Permits Required.....	82
3. Conditional Use Permits Required.....	82
a. Application Requirements	83
4. Setback Requirements - Solar Energy Farm Approved as a Conditional Use...	83
5. Other Standards & Codes.....	83

SECTION 20: Adult Use/Sexually Oriented Businesses	84
A. Purpose	84
B. Authorization and Implementation	84
C. Definitions Relating to Section 20	85
D. Permitting and Licenses	88
E. Operations	91
F. Permitted Locations For Adult Use/Sexually Oriented Business.....	91
G. Locations Ineligible for Adult Use/Sexually Oriented Business.....	91
H. Hours of Operation	92
I. Sign Regulations for Adult Use/Sexually Oriented Businesses	92
J. Adult Cabaret Regulations	92
K. Viewing Booths	92
L. Adult Use – Accessory Regulations.....	93
SECTION 21: CONDITIONAL USE PERMITS.....	93
A. Application	93
B. Notification and Public Hearing	93
C. Report to County Board.....	93
D. Findings	94
E. Approval	94
F. Fees	94
G. Compliance.....	95
SECTION 22: NON-CONFORMING USES	95
A. Nonconformity's	95
1. Existing Non-conforming lots in Shoreland Areas	95
2. Additions/expansions to non-conforming structures.....	96
3. Non-conforming sewage treatment systems.....	96
B. Non-Conforming Junk Yards	97
C. Discontinuance	97
D. Alterations	97
E. Residential Alterations.....	97
F. Restoration	97
SECTION 23: BUILDING PERMIT, CERTIFICATE OF ZONING COMPLIANCE AND UTILITY PERMITS	98
A. Building Permit	98
B. Certificate of Zoning Compliance	99
C. Utility Permit	99
SECTION 24: ADMINISTRATION AND ENFORCEMENT	99
A. Zoning Administrator	99
B. Enforcement.....	99
SECTION 25: BOARD OF ADJUSTMENT	100
A. Creation and Membership	100
B. Powers	100
C. Appeals.....	101
D. Findings.....	101
E. Procedure	101
SECTION 26: PLANNING COMMISSION	102
A. Creation and Membership	102

SECTION 27: AMENDMENT.....	103
A. Application	103
B. Public Hearing	103
C. Authorization	103
D. Fees.....	103
SECTION 28: VIOLATIONS, PENALTIES AND ENFORCEMENT	104
A. Violations and Penalties	104
B. Enforcement.....	104
SECTION 29: VALIDITY	104
SECTION 30: DATE OF EFFECT	105
A. Date of Effect	105

PREFACE

The Zoning Ordinance is intended as an officially sanctioned regulatory code to guide the development of land uses within its area of jurisdiction. The primary function is to ensure an orderly and effective use of land which will follow the development scheme of the Comprehensive Development Plan.

The Zoning Ordinance accomplishes land use controls by establishing a number of districts, each having a certain nature of character, which will permit or restrict land uses within its boundaries.

In addition to regulating the type of use that may locate in a particular area, the Zoning Ordinance provides requirements for minimum lot areas and stipulates yard and set back measurements which will ensure an orderly and aesthetic appearance.

The provisions established in the Zoning Ordinance are designed in a manner which allows a reasonable and practical use of land. It encourages a logical sequence of development, and so is permissive rather than restrictive. In most cases, the principal and accessory uses permitted within a district are those which would naturally situate there in any event and prohibited uses are those that would be incompatible with the nature and purpose of the district. There is an added flexibility provided with the Conditional Use Permit. With this permit, it becomes possible to allow certain uses to situate within a district provided they agree to those conditions which may be attached by the reviewing authority.

It should be noted that certain sections of this Ordinance are cross-referenced, and it will be necessary to refer to the additional sections indicated in order to determine the complete requirements for the district in question. This is done to eliminate lengthy repetition of requirements applicable in several districts.

ZONING ORDINANCE FOR WADENA COUNTY, MINNESOTA

SECTION 1: PURPOSE

The purpose of this Ordinance is to promote the health, safety, morals, and general welfare throughout Wadena County by lessening congestion in the public rights-of-way; securing safety from fire, panic and other dangers, providing adequate light and air; facilitating the adequate provision of water, sewage and other public requirements; conserving the value of properties and encourage the most appropriate use of the land; pursuant to “an act authorizing county planning and zoning activities, establishing a Board of Adjustment and authorizing the enactment of official controls and providing penalties for the violation thereof, “passed by the Legislature of the State of MN Chapter 559, Laws of 1959, as amended.

The shoreland overlay district provisions of this Ordinance are adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F, Minnesota Regulations, parts 6120.2500 - 6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 394. The uncontrolled use of shoreland of Wadena County, Minnesota affects the public health, safety and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interest of the public health, safety and welfare to provide for the wise subdivision, use and development of shoreland of public waters. The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shoreland of public waters and thus 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. This responsibility is hereby recognized by Wadena County.

SECTION 2: TITLE

This Ordinance shall be known as the “Wadena County Zoning Ordinance”; when referred to herein, it shall be known as “this Ordinance”.

SECTION 3: JURISDICTION, SCOPE AND INTERPRETATION

A. Jurisdiction

The jurisdiction of this Ordinance shall apply to all the area of Wadena County outside the incorporated limits of municipalities, and in the incorporated limits of municipalities for those municipalities choosing not to adopt an ordinance, which complies with Minnesota Statutes Chapter 115.55.

B. Scope

From and after the effective date of this Ordinance, the use of all land and every building or portion of a building erected, altered in respect to height and area, added to or relocated, and every use within a building or use accessory thereto in Wadena County shall be in conformity with the provisions of this Ordinance. Any existing building or structure and any existing use of properties not in conformity with the regulations herein prescribed shall be regarded as non-conforming, but may be continued, extended or changed, subject to the special regulations herein provided with respects to non-conforming properties or uses. The use of any shoreland public waters; the size and shape of lots; the use, size, type and location of structures on lots; the installation and maintenance of water supply and waste treatment systems, the grading and filling of any shoreland area; the cutting of shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of this ordinance and other applicable regulations.

C. Interpretation

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare. It is not intended by this Ordinance to repeal, abrogate, or impair any existing easement, covenants, or deed restrictions. Where the provisions of any statute, other ordinance or regulations shall be controlling and shall

be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.

SECTION 4: RULES AND REGULATIONS

A. Rules

1. Word Usage:

For the purpose of this Ordinance, words used in the present tense shall include the future; words in the singular shall include the plural, and the plural the singular; the word “building” shall include the word “structure”; the word “lot” shall include the word “plot”, and the word “shall” is mandatory and not discretionary.

2. Permitted Uses:

Permitted uses of land or buildings, as hereinafter listed, shall be permitted in the districts indicated under the conditions specified. No building or land shall be devoted to any use other than a use permitted hereinafter in the zoning district in which such building, structure or land shall be located, except for the following exceptions:

- a. Uses lawfully established prior to the effective date of this Ordinance.
- b. Conditional uses allowed in accordance with Paragraph 3 of this SECTION.

3. Conditional Uses:

Conditional uses of land or buildings, as hereinafter listed, may be allowed in the district indicated, subject to the issuance of Conditional Use Permits, in accordance with the provisions of SECTION 21. Whenever a conditional use is named as a major category, it shall be deemed to include all and only those itemized uses listed.

B. Definitions

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

For the purpose of this Ordinance, certain items and words are defined as follows:

Acceptable Pre-existing Septic System – A system installed prior to April 1, 1996, that may not meet all the requirements of MN Rules Chapter 7080 or 7081, as written upon the date of this amendment (September 1, 2008), has a sealed septic tank, has a soil treatment area that is not surfacing or discharging in any other manner above ground or to surface waters, and meets one of the following criteria: 1) the only deficiency is the system’s improper setback from the Ordinary High Water Level; or, 2) the system was constructed prior to April of 1996 and has a separation distance from the bottom of the system to indications in the soil of seasonal high water that is less than 3 feet, but not less than 2 feet, and is located outside of an S-1 Shoreland Overlay District, a well head protection area, or is an SSTS providing sewage treatment for food, beverage, or lodging establishments; or, 3) if the system was installed after the date above referenced and has a separation distance from the bottom of the system to indications in the soil of seasonal high water that is reduced by not more than 15% of the actual required separation distance.

Accessory Building Structure or Facility - A subordinate building or portion of the main building, the use of which is clearly incidental to the use of the main building.

Aggregated Wind Energy Conversion System – Projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also included as part of the aggregated project.

Agriculture - Cultivating the soil and activities incident thereto; the growing of soil crops in the customary manner on open tracts of land; the accessory raising of livestock and poultry; farming. The term shall include incidental retail selling by the produce of products raised on the premises, provided that space necessary for parking of vehicles of customers shall be furnished off the public right-of-way.

Animal Unit - A unit of measure in the production of animal manures. Uses as a standard amount of manure produced on a regular basis by a slaughter steer or heifer. Animal units shall be measured in accordance with the measurements listed in the most current version of MN Rule Chapter 7020 as it pertains to feedlots.

Automobile Wrecking - See Junk Yards.

Bed & Breakfast – A single family dwelling occupied by the owner but where guest rooms are rented on a nightly basis customarily for less than one week and where one or more meals per day may be provided in connection to the sleeping accommodations. (Amended 9-1-2020)

Block - An area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a river or lake.

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

- 1) Part or all of the feature is located in a shoreland area;
- 2) The slope rises at least 25 feet above the Ordinary High Water Level of the waterborne;
- 3) The grade of the slope from the toe of the bluff to a point 25 feet or more above the Ordinary High Water Level averages 30 percent or greater; and
- 4) The slope must drain toward the waterbody.

Boathouse - Means a structure designed and used solely for the storage of boats or boating equipment.

Building - Any structure for the shelter, support or enclosure of persons, animals, chattel, or property of any kind; and when separated by party walls without openings, such portion of such buildings so aerated shall be deemed a separate building.

Building, Agricultural - All buildings, other than dwellings which are incidental to a farming operation.

Building Height - The vertical distance from the average of the highest and lowest point of that portion of the lot covered by the building to the highest point of the roof, to the deck line of Maynard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

Building Line - Means that line measure across the width of the lot at a point where the main structure is placed in accordance with setback provisions.

Bunkhouse – Any structure incidental to the primary dwelling which accessory use is for overnight sleeping accommodations on a transient basis only and which structure is not accommodated with running water or other indoor plumbing or bathroom facilities. (Amended 9-1-2020)

Camper Trailer - Any manufactured structure with wheels affixed smaller than 320 square feet is a camping trailer, park model, or recreation vehicle.

Cluster Development - Means a pattern of subdivision development which places housing units into compact groupings while providing a network of commonly owned or dedicated open space.

Commercial Planned Unit Developments - Are typically uses that provide transient, short term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example, hotel/motel

accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are commercial planned unit developments.

Commercial Use - Means the principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.

Commissioner - Means the Commissioner of the Department of Natural Resources.

Community Water and Sewage Systems - 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 MN.

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

Corner Lot - A lot situated at the junction of and fronting on two or more roads or highways.

Deck - Means a horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site.

Depth of Lot - The mean horizontal distance between the mean front street centerline and the mean rear lot line. The greater front of a corner lot as its depth, and its lesser frontage is its width.

Depth of Rear Yard - The mean horizontal distance between the rear line of the building and the centerline of an alley, where an alley exists, otherwise a rear lot line.

District - A section of the county for which the regulations governing the height, area, use of buildings and premises are the same.

Dog Kennel – Residential Use – Facility for housing four (4) or less adult dogs all owned by the property owner on whose land the kennel is situated. (Amended 9-1-2020)

Dog Kennel – Commercial Use – Facility for housing greater than four (4) adult dogs, whether the animals belong to the owner of the property or not, for the purpose of boarding, breeding, sale, or other profit. (Amended 9-1-2020)

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

Dwelling - Any building or part thereof which is designed or used exclusively for residential purposes by one or more human beings, either permanently or transiently.

Dwelling, One Family Detached - A dwelling designed for or occupied exclusively by one (1) family in a single building.

Dwelling, Multiple - A dwelling designed for or occupied by two (2) or more families.

Dwelling Site - Means a designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicles sites.

Dwelling Unit - Means any structure or portion of a structure, or other shelter designated as short- or long-term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.

Easement - A grant by a property owner for the use of a strip of land for the purpose of constructing and maintaining utilities, including but not limited to sanitary sewers, water mains, electric lines, telephone lines, storm sewer or storm drainage ways and gas lines.

Exempt Accessory Building Structure or Facility – An accessory building, structure, or facility in an Agricultural Zoning District not intended for habitation by humans or animals, not more than one hundred (100) square feet, having no permanent foundation, and that can be moved or removed easily. (Amended July 8, 2014)

Extractive Use - Means the use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes, Sections 93.44 to 93.51.

Family - Any number of individuals living together on the premises or a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house or hotel.

Farming - The cultivation of the soil and all activities incidental thereto; agriculture feedlot.

Feedlot, Agricultural - An uncovered enclosure, or a covered enclosure for the purpose of feeding animals or poultry less than 500 animal units at any one time, an accessory use incidental to a farming operation occupying less than five (5) percent of the land area of the farm.

Feedlot, Commercial - An uncovered enclosure, or a covered enclosure with greater than 500 animal units at any one time for the purpose of feeding of animals or poultry, not an accessory use incidental to a farming operation.

Final Plat - A drawing or map of a subdivision, meeting all the requirements of the county and in such form as required by the county for purposes of recording.

Floor Area - The sum of the gross horizontal areas of the several floors of a building measured from the interior walls.

Forest Land Conversion - Means the clear cutting of forested lands to prepare for a new land use other than re-establishment of a subsequent forest stand.

Garage Private - A garage which is erected as an accessory building.

Garage Public - Any premises, 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.

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

Highway - Any public thoroughfare or vehicular right-of-way with a Federal or State numerical route designation; any public thoroughfare or vehicular right-of-way with a Wadena County numerical route designation.

Home-Based Business – an occupation or business conducted by the resident of a property within an existing dwelling or accessory structure on the property with the business being limited in extent, and, incidental, or secondary, to the use of the dwelling for residential purposes, and which does not change the residential character of the dwelling unit or site. The resident or members of the resident's family who reside on the premises are the only employees of the business. (Amended 9-1-2020)

Home Occupation - Any occupation of a service nature, whether performed onsite or off, and which is secondary to the main use of the premises as a place of dwelling. Services performed onsite may only be

conducted or carried on by the persons residing on the premises, and the outward appearance of the property must not exude the characteristics of a street front type business. (Amended 9-1-2020)

Industrial Use - Means the use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

Intensive Vegetation Clearing - Means the complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

Junk Yard - Land or buildings where waste, discarded or salvaged materials are bought, 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 other vehicles.

Livestock Waste Lagoon - A diked enclosure for disposal of livestock wastes by natural process.

Lot - Means a parcel of land designated by plat, metes and bounds, registered land survey, auditor plat, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.

Lot Area - The lot area is the land area within the lot lines.

Lot Area per Family - The lot area per family is the lot area required by this Ordinance to be provided for each family in a dwelling.

Lot, Double Frontage - An interior lot having frontage on two streets.

Lot, Interior - A lot other than a corner lot.

Lot Lines - The lines bounding a lot, as defined herein. When a lot line abuts a road, street, avenue, park or other public property, except an alley, such line shall be known as a street line, and when a lot abuts on an alley, it shall be known as an alley line.

Lot Width - Means the shortest distance between lot lines measured at the midpoint of the building line.

Lot Depth - The mean horizontal distance between the mean front road and the mean rear lot line. The greater frontage of a corner lot is its depth, and its frontage is its width.

Maintenance - Normal upkeep of a structure to include the replacement or addition of windows, siding, external roof surfaces, or exterior finish such as paint or stain. This does not involve structural alterations in length, width, or height. (Amended July 8, 2014)

Motel - A building or group of buildings used primarily for the temporary residence of motorists or travelers.

Manufactured Homes - Any mobile home larger than 320 square feet shall be a manufactured house, a single family residence, and used as a dwelling.

Meteorological Towers - Towers which are erected primarily to measure wind speed and directions as well as other data relevant to siting WECS and are temporary in nature.

Municipal Waste Lagoon - A diked enclosure for disposal of municipal waste.

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

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.

Offset Transit Lines - A line parallel with, measured at right angles to, and convenient distance from a transit line, as to prolong the transit through obstacles thereon.

Ordinary High Water Level - Means the boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly terrestrial. For watercourses, the Ordinary High Water Level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the Ordinary High Water Level is the operation elevation of the normal summer pool.

Parking Space, Automobile - A space containing a minimum area of not less than three hundred (300) square feet, including access drives, a width of not less than nine (9) feet, and depth of not less than twenty (20) feet.

Persons - Any individual, firm, partnership, corporation, company, association, joint stock association of body politic; includes any trustee, receiver, assignee, or other similar representative thereof.

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

Plot - A tract other than one unit of a recorded plat or subdivision and occupied and used or intended to be occupied and used as an individual site and improved or intended to be improved by the erection thereon of buildings and having a frontage upon a public road or highway or upon a traveled or used road and including as a minimum such open spaces as required under this Ordinance.

Practical Difficulty – as defined by Minnesota Statute 394.27 Subd. 7 (*"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.*)(Amended 9-1-2020)

Preliminary Plat - A tentative drawing or map of a proposed subdivision meeting requirements herein enumerated.

Premises - A lot or plot with the required front, side and rear yards for a dwelling or other use as allowed under this Ordinance.

Primitive Dwelling Structure – A dwelling which does not have the amenity of running water and which does not exceed one thousand (1,000) square feet in size. (Amended July 8, 2014)

Public Waters - Means any waters as defined in MN Statutes, Section 105.37, Subdivisions 14 and 15.

Random Transit Line - A line which is run from point toward point, but is located where it is easy to survey.

Residential Planned Unit Development - Means a use where the nature of residency is nonresident and the major or primary focus of the development is not service oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential planned unit developments. To qualify as a residential planned unit development, a development must contain at least five dwelling units or sites.

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.

Running Water – Water that is plumbed into a building or structure and that can flow to locations within the building or structure either by pressure or by gravity. (Amended July 8, 2014)

Seasonal Dwelling Structure – A dwelling structure not intended as a primary residence and occupied on a seasonal basis only. (Amended July 8, 2014)

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

Setback - Means the minimum horizontal distance between a structure, sewage treatment system, or other facility and an Ordinary High Water Level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.

Sewage Treatment System - Means a septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Section 15 of this Ordinance.

Sewer System - Means pipelines or conduits, pumping stations, and force main, and all other construction, devices appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

Shore Impact Zone - Means land located between the Ordinary High Water Level of public water and a line parallel to it at a setback of 50 percent of the structure setback.

Shoreland - Means land located within the following distances from public waters: 1,000 feet from the Ordinary High Water Level of a lake, pond, or flowage; and 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The limits of shoreland may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner.

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

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

Story - That portion of a building included between the surface of any floor and the surface of the next floor above it, or, if there is no floor above it, the space between the floor and the ceiling next above it.

Story, Half - That portion of a building under a gable, hip or gable roof, the wall plates of which, on at least two opposite exterior walls are not more than two feet above the floor of each story.

Structure - Anything constructed or erected, the use of which requires location on the ground or attachment to something having a location on the ground.

Structural Alterations -Any change in the supporting members of a building, such as bearing walls, columns, beams or girders.

Subdivision - Means land that is divided for the purpose of sale, rent, or lease, including planned unit developments.

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

Survey and Resurveyed Lines - Offset, random and traverse transit lines shall be used as often and when possible to save trees.

Toe of the Bluff - Means the lower point of a 50 foot segment with an average slope exceeding 18 percent.

Transfer of Ownership – The conveyance of part or all rights to a parcel of property to another party or parties through the recording of a legal document. (Amended May 3, 2016)

Transit Line - A line run in the field, to determine angles and distance and elevations, relating to engineering and survey work.

Traverse Transit Line - (MEANDER) A line which is a series of connected lines the lengths of which it is or may be occupied or maintained.

Use - The purpose for which land or premises or a building thereon is designated, arranged or intended, or for which it is or may be occupied or maintained.

Use, Accessory - A use clearly incidental or accessory to the principal use of a lot or a building located on the same lot as the accessory use.

Variance - Means the same as that term is defined or described in Minnesota Statutes, Chapter 394.

Vacation Rental Home – Any single family dwelling where the dwelling is regularly rented out by the owner for periods of less than 30 days and is not occupied by its owner during rental period. (Amended 9-1-2020)

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

Water Supply Purpose - Includes any uses of water for domestic, commercial, industrial or agricultural purposes.

Wetland - Means a surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 edition).

Wind Energy Conversion System (WECS) – means a device such as a wind charger, windmill, or wind turbine and associated facilities that converts wind energy to electric energy.

- **Commercial Wind Energy System (CWECS)** – a WECS greater than 100 kilowatts of combined name plate capacity.
- **Residential Wind Energy System (RWECS)** – a WECS 100 kilowatts or less of combined name plate capacity.
- **Small Wind Energy Conversion Systems (SWECS)** – means a system wind energy conversion system or combinations of systems that is less than 5,000 kilowatts of combined nameplate capacity.

Yard Front – The area left open from the nearest point of a building/structure and running parallel and adjacent to the road from which the property is accessed. (Amended July 8, 2014)

Yard, Rear – The area left open from the nearest point of any building/structure to the rear property line which runs parallel with the road from which the property is accessed, except when the property does not run parallel with the access road, then the rear yard shall be the area left open from the nearest point of the rear of the building to any property lines located to the rear of the building. (Amended July 8, 2014)

Yard, Side – The area left open from the nearest point of a building/structure to the property lines running perpendicular to the road from which the property is accessed. (Amended July 8, 2014)

SECTION 5: CLASSIFICATION OF DISTRICTS

A. Districts

For the purpose of this Ordinance, Wadena County is hereby divided into classes of districts, which shall be designated as follows:

1. AGRICULTURE DISTRICTS:

- A-1 TRANSITIONAL AGRICULTURE DISTRICT
- A-2 MIXED AGRICULTURE DISTRICT
- A-3 GENERAL AGRICULTURE DISTRICT

2. FLOOD PLAIN DISTRICTS - DELETED

SHORELAND RECREATION-CONSERVATION DISTRICTS - DELETED

3. RESIDENCE DISTRICTS:

- R-1 SUBURBAN RESIDENCE DISTRICT

4. BUSINESS DISTRICTS:

- B-1 HIGHWAY SERVICE BUSINESS DISTRICT
- B-2 GENERAL BUSINESS DISTRICT

5. INDUSTRY DISTRICT:

- I-1 GENERAL INDUSTRY DISTRICT

6. S-1 SHORELAND OVERLAY DISTRICT

B. Zoning Map

The location and boundaries of the districts established by this Ordinance are hereby set forth on the Zoning Map, and said map is hereby made a part of this Ordinance; said map shall be known as the “County Zoning Map”. Said map and all notations, referenced and data shown thereon are hereby incorporated by reference into this Ordinance and shall be as much a part of it as if all were described herein. It shall be the responsibility of the Zoning Administrator to maintain said map, and amendments thereto shall be recorded

on said Zoning Map within thirty (30) days after official publication of amendments. The official Zoning Map shall be kept on file in the County Courthouse.

C. District Boundaries

The boundaries between districts are, unless otherwise indicated, the centerlines of highways, roads, streets, alleys or railroad rights-of-way or such lines extended or lines parallel or perpendicular thereto; or plot lines or lot lines; or section, half-section, quarter-section, quarter-quarter section or the fractional section lines of United States public land surveys, as established by law. Where figures are shown on the Zoning Map between a road and a district boundary line, they indicate that the district boundary line runs parallel to the road centerpiece at a distance there from equivalent to the number of feet so indicated, unless otherwise indicated.

D. Future Detachment

Any land detached from an incorporated municipality and placed under the jurisdiction of this Ordinance in the future shall be placed in the A-1 TRANSITIONAL AGRICULTURAL DISTRICT until placed in another district by action of the Board of County Commissioners after recommendation of the County Planning Commission.

E. Shoreland Classification System

The public waters of Wadena County have been classified below consistent with the criteria found in Minnesota Regulations, part 6120.3300, and the Protected Water Inventory Map for Wadena County, Minnesota. The shoreland area for the waterbodies listed as follows shall be as defined in Section 4 and as shown on the official Zoning Map.

1. LAKES

A. Natural Environmental Lakes	Protected Waters Inventory I.D. #
Radabaugh	80002
Simon	80003
Lovely	80004
Unnamed	80005
Unnamed	80008
Unnamed	80010
Sand	80011
Grinning	80012
Strike	80013
Unnamed	80015
Unnamed	80016
Unnamed	80017
Burgeon	80018
Round	80019
Unnamed	80020
Yaeger	80022
Unnamed	80026
Jim Cook	80027
Finn	80028
Unnamed	80029
Unnamed	80032
Bill	80033
Unnamed	80036
Farnham (boundary's)	11513
Dry Sand (boundary's)	11514
North Twin (boundary-Hubbard)	29157
	Protected Waters

B. Recreational Development Lakes

South Twin
Blueberry
Stocking
Duck

Inventory I.D. #

80030
80034
80037
29142

C. General Development Lakes

Spirit (Menahga - Municipal Code 80045)

Protected Waters**Inventory I.D. #**

80039

2. RIVERS AND STREAMS**A. Remote Rivers****Legal Description**

None

B. Forested River**Legal Description**

Crow Wing

T-138-N, R-33-W, Sections 4, 5, 7, 8, 18, 19
T-138-N, R-34-W, Sections 24, 25, 36
T-137-N, R-34-W, Sections 1, 12
T-137-N, R-33-W, Sections 7, 8, 9, 16, 17, 20, 21,
28, 29, 32
T-136-N, R-33-W, Sections 3, 4, 5, 10, 15, 23, 24,
25, 26, 35
T-135-N, R-33-W, Sections 2, 11, 14
T-134-N, R-33-W, Sections 24, 25
T-134-N, R-32-W, Section 30, 31, 32, 33

Shell

T-138-N, R-35-W, Sections 2, 4, 9, 10
T-138-N, R-34-W, Sections 1, 2, 3, 6, 7, 8, 9
T-138-N, R-33-W, Section 6

C. Transition Rivers**Legal Description**

Crow Wing

T-135-N, R-33-W, Sections 24, 25, 35, 36
T-134-N, R-33-W, Sections 1, 2, 11, 12, 13, 14, 15

Leaf

T-135-N, R-35-W, Section 30
T-135-N, R-34-W, Sections 19, 20, 25, 26, 27, 28
T-135-N, R-33-W, Sections 20, 21, 28, 29, 30, 33,
34
T-134-N, R-33-W, Sections 2, 3, 10, 11

Red Eye

T-136-N, R-34-W, Sections 26, 27, 35
T-135-N, R-33-W, Section 2, 11, 12, 13, 24
T-135-N, R-33-W, Section 19

Cat

T-137-N, R-34-W, Sections 20, 21, 27, 28, 34, 35,
36
T-136-N, R-34-W, Sections 1, 2
T-136-N, R-33-W, Sections 5, 6

D. Agricultural Rivers**Legal Description**

Leaf	T-135-N, R-35-W, Sections 23, 24, 26, 27, 28, 29
Red Eye	T-135-N, R-35-W, Sections 28, 29, 30, 31, 33, 35, 36 T-137-N, R-35-W, Sections 31, 32 T-136-N, R-34-W, Sections 4, 5, 9, 10, 15, 22
Cat	T-137-N, R-35-W, Sections 10, 11, 12, 13
Wing	T-137-N, R-34-W, Section 18 T-134-N, R-35-W, Sections 24, 25, 26, 35 T-134-N, R-34-W, Sections 5, 7, 8, 18, 19 T-135-N, R-34-W, Sections 28, 29, 32
Partridge	T-134-N, R-34-W, Sections 25, 26, 35 T-134-N, R-33-W, Sections 15, 16, 19, 20, 21, 29, 30

E. Urban Rivers

None

Legal Description**F. Tributary Streams**

Blueberry
Kettle
Cat
Kitten
Hay
Union
Whiskey
Hayden
Famham
Beaver
Little Swamp
Big Swamp

*All protected watercourses in Wadena County shown on the Protected Waters Inventory Map for Wadena County not given a classification in Items A-E above shall be considered "Tributary".

SECTION 6: A-1 TRANSITIONAL AGRICULTURAL DISTRICT***A. Purpose***

The intent of the A-1 TRANSITIONAL AGRICULTURAL DISTRICT is to provide a district that will: (1) provide a buffer between communities and general agricultural land uses; (2) provide for orderly urban development and expansion in conjunction with the approved Wadena County Comprehensive Plan; (3) prevent scattered, non-farm growth; and (4) secure economy in governmental expenditures for public services, utilities and schools.

B. Permitted Uses

The following uses shall be permitted in the A-1 TRANSITIONAL AGRICULTURAL DISTRICT:

1. Agriculture, including farm dwellings and agricultural buildings.

2. Public and private parks, recreational areas, hunting or fishing camps, wildlife areas, boat clubs, beaches, landings, docks, piers, summer camps, game refuges and forest preserves owned or operated by governmental agencies.
3. Farm drainage systems, flood control and watershed structures, erosion control.
4. Golf courses; except club houses, miniature courses and driving tees operated for commercial purposes.
5. Forests and production of woodland products including portable sawmills for cutting timber grown primarily on the premises.
6. Utilities within right-of-way and within ten (10) feet of public roads. Before any underground or aboveground utility, such as power lines, sanitary or storm sewer lines, water lines, gas lines, fire lines, etc., is installed in any County Highway, County State Aid Highway, or township road, a permit shall be obtained from the Wadena County Highway Engineer. The application for the utility permit shall be accompanied by such plans, drawings and as-built drawings as deemed necessary by the County Highway Engineer.
7. One family dwellings on a platted lot in a platted area of which the recorded plat was approved by the County Board of Commissioners prior to enactment of the Wadena County Zoning Ordinance. (Amended 9-1-2020)
8. One single family detached dwelling per parcel of property as shown on the County tax rolls and second farm dwellings, but not including residential subdivision unit projects.
9. A single unit mobile home for dwelling purposes may be permitted, except that no single unit mobile home shall be allowed to be attached to another mobile home for the purpose of adding living space for the occupants. Any additions in living space will be of onsite construction. (Added 05/02/06)
10. In-home Child Daycare with the following provisions: 1) compliance inspection on the existing septic system 2) design submitted for increase in septic system capacity, if necessary, to be installed within one year of the date of the permit 3) copy of licensure with Wadena County submitted to Wadena County Zoning Department once complete. (Amended 9-1-2020)
11. Vacation Rental Homes with the following provisions: 1) a compliance inspection on the septic system serving the property will be required to be submitted at the time of permitting; 2) home cannot be occupied by more people than bedroom space allows; 2) RV or camper use on the site shall be less than five; 3) no more vehicles parked on the property than there are parking spaces available on the property itself.
12. Bed & Breakfast with the following provision: 1) a compliance inspection on the septic system serving the property will be required to be submitted at the time of permitting. (Amended 9-1-2020)

C. Conditional Uses

The following uses may be allowed in the A-1 TRANSITIONAL AGRICULTURAL DISTRICT, subject to the provisions of SECTION 21:

1. Multiple dwellings.
2. Commercial outdoor recreation areas that are similar to public recreation areas.
3. Riding academies and stables.
4. Organized group camps.
5. Churches
6. Cemeteries, memorial gardens.
7. Water supply buildings, reservoirs, wells, elevated tanks, public sewage treatment facilities and similar essential utility and service structures, except power lines, regional pipelines, etc., constructed in public roads rights-of-way, or within ten (10) feet of rights-of-way.
8. Golf club house, country club, public swimming pool, private swimming pool serving more than one family.
9. Railroad rights-of-way, but not including railroad yards.
10. Extraction of gravel and minerals as regulated in SECTION 15.
11. Veterinary Clinic/Animal Hospital.
12. Second dwellings proposed on non-farm property may be permitted as a conditional use on the property to provide housing for immediate family members including the property owners' mother, father, grandmother, grandfather, son or daughter. Parcels on which this form of conditional use may be allowed must contain a minimum of 20 acres and must be able to meet all of the necessary setback requirements, except that the Planning Commission may allow a second family dwelling on a property

containing less than 20 acres if the dwelling added is a mobile home and the soil make up can support additional onsite sewage treatment to serve the additional dwelling. (Added 05/02/06)

13. Private airports, heliports and landing strips. (Added 05/02/06)
14. Dog Kennel – Commercial Use (Amended 9-1-2020)
15. If a use is not listed or does not have a designated type of use, the use may be allowed in the district as a conditional use.

D. Permitted Accessory Uses

The following uses shall be permitted accessory uses within the A-1 TRANSITIONAL AGRICULTURAL DISTRICT:

1. Private garage.
2. Bunk house (Amended 9-1-2020)
3. Keeping of not more than two (2) boarders or roomers by a resident family.
4. Living quarters of persons employed on the premises.
5. Home occupations – allowed use – no permit required. (Amended 9-1-2020)
6. Home-based business – allowed use – no permit required. (Amended 9-1-2020)
7. A limit of one (1) mobile home for storage purposes may be allowed on a property as long as it is located in such a manner as to be screened as much as possible from public view. (Added 05/02/06)
8. Other accessory uses customarily incident to the uses permitted in B and C of this SECTION.

E. Height, Yard, Area and Lot Width and Depth Regulations

1. Height Regulations:

- a. No height regulations shall be required for agricultural buildings.
- b. No other building hereafter erected or altered shall exceed two and one-half (2 1/2) stories or thirty (30) feet in height.

2. Front Yard Regulations:

- a. There shall be a minimum front yard setback of not less than two hundred (200) feet from the centerline of Interstate Highways; one hundred thirty (130) feet from the centerline of U.S. Highways and State Highways, and one hundred (100) feet from the centerline of all other rights-of-way.

3. Side Yard Regulations:

- a. No side yard regulations shall be required for agricultural buildings.
- b. For other buildings there shall be a side yard having a minimum width of not less than thirty (30) feet on each side of the building.

4. Rear Yard Regulations:

- a. No rear yard regulations shall be required for agricultural buildings.
- b. For other buildings there shall be a rear yard having a depth of not less than fifty (50) feet.

5. Lot Area Regulations:

Every lot or plot of land on which a one family dwelling is erected shall contain a minimum lot area of not less than 2 1/2 acres.

6. Lot Width and Depth Regulations:

Every lot or plot of land on which a one family dwelling is erected shall have a minimum width of not less than three hundred (300) feet and a minimum depth of not less than three hundred (300) feet. The foregoing minimum lot size, width and depth requirements is not to apply to any platted lot in a platted area of which the recorded plat heretofore has been approved by the County Board of Commissioners, nor to any parcel or lot now described by metes and bounds on a deed or contract for deed on record on the date of this amendment. (Amended 05/02/06)

7. New construction on property where there are contiguous parcels in the same ownership but are separate parcels of record must be situated in a manner to meet all required setbacks from the parcels adjoining the parcel where the new construction is taking place. This provision does not apply to contiguous properties that have been combined on the same parcel record with the County. (Added 05/02/06)

F. General Regulations

Additional requirements for signs, parking, sewer and water systems, and other regulations in the A-1 TRANSITIONAL AGRICULTURE DISTRICT are set forth in SECTION 15.

SECTION 7: A-2 MIXED AGRICULTURE-FORESTRY DISTRICT

A. Purpose

To establish a district suitable for livestock and cash crop farming activities, and commercial timber removal in productive forest areas; to prevent scattered non-farm development in out-county areas.

B. Permitted Uses

The following uses shall be permitted in the A-2 MIXED AGRICULTURE-FORESTRY DISTRICT:

1. Agriculture, including farm dwellings and agricultural buildings.
2. Nurseries and tree farms.
3. Farm drainage systems, flood control and watershed structures, erosion control.
4. Parks, recreation areas, wildlife areas, game refuge and forest preserves owned or operated by governmental agencies.
5. Cemeteries, memorial gardens developed in accordance with MN Statutes. (Amended 9-1-2020)
6. Public schools or private schools having a curriculum equivalent to public elementary or public high school.
7. Commercial timber operations, including sawmills.
8. Churches.
9. Golf courses: except clubhouses.
10. One family dwelling on a platted lot in a platted area of which the recorded plat was approved by the County Board of Commissioners prior to enactment of the Wadena County Zoning Ordinance.
11. One single family detached dwelling per parcel of property as shown on the County tax rolls and second farm dwellings, but not including residential subdivision unit projects. (Amended 9-1-2020)
12. A single unit mobile home for dwelling purposes may be permitted, except that no single unit mobile home shall be allowed to be attached to another mobile home for the purpose of adding living space for the occupants. Any additions in living space will be of onsite construction. (Added 05/02/06)
13. In-home Child Daycare with the following provisions: 1) compliance inspection on the existing septic system 2) design submitted for increase in septic system capacity, if necessary, to be installed within one year of the date of the permit 3) copy of licensure with Wadena County submitted to Wadena County Zoning Department once complete. (9-1-2020)
14. Vacation Rental Homes with the following provisions: 1) a compliance inspection on the septic system serving the property will be required to be submitted at the time of permitting; 2) home cannot be occupied by more people than bedroom space allows 3) RV or camper use on the site shall be less than five; 4) no more vehicles parked on the property than there are designated parking spaces available on the property itself. (Amended 9-1-2020)
15. Bed & Breakfast with the following provision: 1) a compliance inspection on the septic system serving the property will be required to be submitted at the time of permitting. (Amended 9-1-2020)

C. Conditional Uses

The following uses may be allowed in the A-2 MIXED AGRICULTURE-FORESTRY DISTRICT subject to the provisions of SECTION 21:

1. Commercial outdoor recreation areas that are similar to public recreation areas.
2. Organized group camps.

3. Extraction of gravel and minerals as regulated in SECTION 15.
4. Water supply buildings, reservoirs, wells, elevated tanks, regional pipelines and power lines, public sewage treatment facilities, dumping grounds, sanitary land fill operations and similar essential public utility and service structures.
5. Local municipal administration and service buildings.
6. Golf club house, country club, public swimming pool, private swimming pool serving more than one Family.
7. Railroad rights-of-way, but not including railroad yards.
8. Commercial animal and poultry feedlot operations as a primary use, as regulated in Subdivision C, SECTION 8, CONDITIONAL USES IN THE GENERAL AGRICULTURE DISTRICT. (Amended 5/6/03)
9. Grain storage bins as a primary use.
10. Dog Kennel – Commercial Use (Amended 9-1-2020)
11. Commercial radio or television transmitting stations and towers.
12. Second dwellings proposed on non-farm property may be permitted as a conditional use on the property to provide housing for immediate family members including the property owners' mother, father, grandmother, grandfather, son or daughter. Parcels on which this form of conditional use may be allowed must contain a minimum of 20 acres and must be able to meet all of the necessary setback requirements, except that the Planning Commission may allow a second family dwelling on a property containing less than 20 acres if the dwelling added is a mobile home and the soil make up can support additional onsite sewage treatment to serve the additional dwelling. (Added 05/02/06)
13. Private airports, heliports and landing strips. (Added 05/02/06)
14. If a use is not listed or does not have a designated type of use, the use may be allowed in the district as a conditional use.

D. Permitted Accessory Uses

The following uses shall be permitted accessory uses within the A-2 MIXED AGRICULTURE FORESTRY DISTRICT:

1. Accessory uses permitted in Subdivision D, SECTION 6, A-1 TRANSITIONAL AGRICULTURAL DISTRICT, as regulated therein.
2. Other accessory uses customarily incident to the uses permitted in Subdivision B and C of this SECTION.

E. Height, Yard, Area and Lot Width and Depth Regulations

1. Height Regulations:

- a. No height regulation shall be required for agricultural buildings.
- b. No other building hereafter erected or altered shall exceed two and one-half (2 1/2) stories or thirty (30) feet in height.

2. Front Yard Regulations:

- a. There shall be a minimum front yard setback of not less than two hundred (200) feet from the centerline of Interstate Highways; one hundred thirty (130) feet from the centerline of the U.S. Highways and the State Highways, and one hundred (100) feet from the centerline of all County State Aid Highways and County Highways.
- b. There shall be a minimum front yard setback of not less than sixty-five (65) feet from the centerline of other public rights-of-way.
- c. Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. No accessory buildings shall project beyond the front yard of either road.
- d. Within existing developed areas, the above front yard setback requirements may be adjusted to coincide with average setbacks occurring on either side of proposed building within three hundred (300) feet except that any building shall be located a minimum of twenty (20) feet from the right-of-way line.

3. Side Yard Regulations:

- a. No side yard regulations shall be required for agricultural buildings.
- b. For other buildings there shall be a side yard having a minimum width of not less than thirty (30) feet on each side of a building.

4. Rear Yard Regulations:

- a. No rear yard regulation shall be required for agricultural buildings.
- b. For other buildings there shall be a rear yard having a depth of not less than fifty (50) feet.

5. Lot Area Regulations:

Every lot or plot of land on which a one family dwelling is erected shall contain a minimum lot area of not less than 2 1/2 acres.

6. Lot Width and Depth Regulations:

Every lot or plot of land on which a one family dwelling is erected shall have a minimum width of not less than three hundred (300) feet and a minimum depth of not less than three hundred (300) feet. The foregoing minimum lot size, width and depth requirements is not to apply to any platted lot in a platted area of which the recorded plat heretofore has been approved by the County Board of Commissioners, nor to any parcel or lot now described by metes and bounds on a deed or contract for deed on record on the date of this amendment. (Amended 05/02/06)

7. Contiguous Parcels

New construction on property where there are contiguous parcels in the same ownership but are separate parcels of record must be situated in a manner to meet all required setbacks from the parcels adjoining the parcel where the new construction is taking place. This provision does not apply to contiguous properties that have been combined on the same parcel record with the County. (Added 05/02/06)

F. General Regulations

Additional requirements for parking, sewer and water systems, and other regulations in the A-2 MIXED AGRICULTURE-FORESTRY DISTRICT are set forth in SECTION 15.

SECTION 8: A-3 GENERAL AGRICULTURE DISTRICT

A. Purpose

To provide a district allowing suitable areas of Wadena County to be retained for general farming activities including cash crop products and animal husbandry; to regulate the encroachment on agricultural land by non-farm land uses.

B. Permitted Uses

The following uses shall be permitted in the A-3 GENERAL AGRICULTURE DISTRICT:

1. Any use permitted in Subdivision B, SECTION 7, A-2 MIXED AGRICULTURE-FORESTRY DISTRICT.
2. Riding academies, stables.
3. Irrigation pump houses and structures, channels and floodgates, and reservoirs.
4. One single family detached dwelling per parcel of property as shown on the County tax rolls and second farm dwellings, but not including residential subdivision unit projects. (Amended 9-1-2020)
5. A single unit mobile home for dwelling purposes may be permitted, except that no single unit mobile home shall be allowed to be attached to another mobile home for the purpose of adding living space for the occupants. Any additions in living space will be of onsite construction. (Added 05/02/06)
6. In-home Child Daycare with the following provisions: 1) compliance inspection on the existing septic system 2) design submitted for increase in septic system capacity, if necessary, to be installed within one year of the date of the permit 3) copy of licensure with Wadena County submitted to Wadena County Zoning Department once complete. (Amended 9-1-2020)

7. Vacation Rental Homes with the following provisions: 1) a compliance inspection on the septic system serving the property will be required to be submitted at the time of permitting; 2) home cannot be occupied by more people than bedroom space allows 3) RV or camper use on the site shall be less than five; 4) no more vehicles parked on the property than there are parking spaces available on the property itself. (Amended 9-1-2020)
8. Bed & Breakfast with the following provision: 1) a compliance inspection on the septic system serving the property will be required to be submitted at the time of permitting. (Amended 9-1-2020)

C. Conditional Uses

The following uses may be allowed in the A-3 GENERAL AGRICULTURE DISTRICT, subject to provisions of SECTION 21:

1. Commercial outdoor recreation areas that are similar to public recreation areas.
2. Dumping grounds, waste treatment lagoons, sanitary land fill operations and similar essential public utility and service structures.
3. Local municipal administration and service buildings and airports.
4. Commercial animal and poultry feedlots, as a primary use, subject to the following regulations:
 - a. It shall not be located within six hundred sixty (660) feet of any residence structure, other than residences owned by the property owner, or within six hundred sixty (660) feet of any business or industrial district, as defined in this ordinance and on the zoning map. It shall not be located within two (2) miles of the exterior limits of any incorporated municipality or undeveloped incorporated area. (Amended 5/6/03)
 - b. It shall in no way pollute any lake, marsh, swamp, stream or other waterway.
 - c. It shall not pollute the ground waters of the area in any way.
 - d. The uncovered enclosure containing the animals shall provide a minimum of four hundred (400) square feet per animal for cattle.
5. Grain storage bins as a primary use.
6. Dog kennels – Commercial Use (Amended 9-1-2020)
7. Radio or television transmitting stations and towers.
8. Railroad rights-of-way, but not including railroad yards.
9. Golf clubhouse, country club, public swimming pool, private swimming pool serving more than one family.
10. Water supply buildings, reservoirs, wells, elevated tanks, regional pipeline and power lines.
11. Extraction of gravel and minerals as regulated in SECTION 15.
12. Second dwellings proposed on non-farm property may be permitted as a conditional use on the property to provide housing for immediate family members including the property owners' mother, father, grandmother, grandfather, son or daughter. Parcels on which this form of conditional use may be allowed must contain a minimum of 20 acres and must be able to meet all of the necessary setback requirements, except that the Planning Commission may allow a second family dwelling on a property containing less than 20 acres if the dwelling added is a mobile home and the soil make up can support additional onsite sewage treatment to serve the additional dwelling. (Added 05/02/06)
13. Private airports, heliports and landing strips. (Added 05/02/06)
14. If a use is not listed or does not have a designate type of use, the use may be allowed in the district as a conditional use.

D. Permitted Accessory Uses

The following uses shall be permitted accessory uses within the A-3 GENERAL AGRICULTURE DISTRICT:

1. Accessory uses permitted in Subdivision D, SECTION 6, A-1 TRANSITIONAL AGRICULTURAL DISTRICT, as regulated therein.
2. Accessory uses incident to the uses permitted in B and C of this SECTION.

E. Heights, Yard, Area and Lot Width and Depth Regulations

1. The heights, yard and lot width and depths regulations for this SECTION shall be the same as those for SECTION 7, A-2 MIXED AGRICULTURE-FORESTRY DISTRICT.
2. Every lot or plot of land on which a one family dwelling is erected shall contain a minimum lot area of not less than two and one-half (2 1/2) acres.

F. General Regulations

Additional requirements for parking, sewer and water systems, and other regulations in the A-3 GENERAL AGRICULTURE DISTRICT are set forth in SECTION 15, GENERAL REGULATIONS.

SECTION 9: DELETED

SECTION 10: R-1 SUBURBAN RESIDENCE DISTRICT

A. Purpose

The R-1 SUBURBAN RESIDENCE DISTRICT is intended to provide a district that will allow low-density residential development and on-lot utilities in areas adjacent to urban development, but where municipal utilities are not available.

B. Permitted Uses

The following uses shall be permitted within the R-1 SUBURBAN RESIDENCE DISTRICT:

1. One family detached dwelling with a minimum width of 24 feet on a permanent foundation.
2. Parks and recreational areas owned or operated by governmental agencies.
3. Public schools or private schools having a curriculum equivalent to a public elementary or public high school, provided that no building shall be located within fifty (50) feet of any lot line of an abutting lot in any R-1 SUBURBAN RESIDENCE DISTRICT.
4. Golf courses, except clubhouses, miniature courses and driving tees operated for commercial purposes.
5. Churches, provided that no building shall be located within fifty (50) feet of any lot line of an abutting lot in any R-1 SUBURBAN RESIDENCE DISTRICT.
6. Truck gardening, agriculture, and farming, excluding the accessory raising of livestock, poultry, and/or kennels operated for commercial purposes.
7. Hospitals, convalescent or nursing home.
8. In-home Child Daycare with the following provisions: 1) compliance inspection on the existing septic system 2) design submitted for increase in septic system capacity, if necessary, to be installed within one year of the date of the permit 3) copy of licensure with Wadena County submitted to Wadena County Zoning Department once complete. (Amended 9-1-2020)
9. Vacation Rental Homes with the following provisions: 1) a compliance inspection on the septic system serving the property will be required to be submitted at the time of permitting; 2) home cannot be occupied by more people than bedroom space allows; 3) No camper or RV use of the property during rental times; 3) no more vehicles parked on the property than there are parking spaces available on the property itself. (Amended 9-1-2020)
10. Bed & Breakfast with the following provision: 1) a compliance inspection on the septic system serving the property will be required to be submitted at the time of permitting. (9-1-2020)

C. Conditional Uses

The following uses may be allowed in the R-1 SUBURBAN RESIDENCE DISTRICT, subject to the provisions of SECTION 21:

1. Residential subdivision unit projects, subject to the provisions of Subdivision F of this SECTION.
2. Municipal administration buildings, police and fire stations, community center buildings, public libraries, museums, art galleries, post office and other municipal service buildings, except those customarily

considered industrial in use and provided that no buildings shall be located within fifty (50) feet of any lot line of an abutting lot in any R-1 SUBURBAN RESIDENCE DISTRICT.

3. Water supply buildings, reservoirs, wells, elevated tanks and similar essential service structures, except that no structure shall be located within fifty (50) feet of any lot line of an abutting lot in any R-1 SUBURBAN RESIDENCE DISTRICT.
4. Golf club house, country club, public swimming pool, private swimming pool serving more than one family, provided that no principal structure shall be located within fifty (50) feet of any lot line of any abutting lot in any R-1 SUBURBAN RESIDENCE DISTRICT.
5. Offices of professional persons and home occupations, when such use does not exceed one-third (1/3) of the main floor space of a dwelling and is conducted only in the principal dwelling.
6. Railroad rights-of-way, but not including railroad yards.
7. Cemetery; memorial garden.
8. Keeping of not more than four (4) boarders and roomers by a resident family.
9. Child Daycare Centers (Amended 9-1-2020)

D. Permitted Accessory Uses

The following uses shall be permitted accessory uses within an R-1 SUBURBAN RESIDENCE DISTRICT:

1. Private garage.
2. Private swimming pool, when completely enclosed within a chain link or similar fence five (5) feet high.
3. Living quarters of persons employed on the premises.
4. Accessory uses customarily incident to the uses permitted in Subdivision B and C of this Section.
5. Home-Based Business – allowed use – no permit required (Amended 9-1-2020)

E. Height, Yard, Area, and Lot Width and Depth Regulations

1. Height Regulations:

- a. No building hereafter erected or altered shall exceed two and one-half (2 1/2) stories or thirty (30) feet in height.

2. Front Yard Regulations:

- a. There shall be a minimum front yard setback of not less than two hundred (200) feet from the centerline of Interstate Highways, one hundred thirty (130) feet from the centerline of U.S. Highways, and one hundred (100) feet from the centerline of all County State Aid Highways and County Highways.
- b. There shall be a minimum front yard setback of not less than sixty-five (65) feet from the centerline of all other public rights-of-way.
- c. Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. No accessory building shall project beyond the front yard line of either road.

3. Side Yard Regulations:

There shall be a side yard having a width of not less than thirty (30) feet on each side of building, except that in a plat of record *predating August 3, 1971*, a side yard shall not be less than ten (10) feet. (Amended May 3, 2016)

4. Rear Yard Regulations:

There shall be a rear yard having a depth of not less than fifty (50) feet.

5. Lot Area, Width and Depth Regulations:

- a. Every lot or plot of land on which a dwelling is erected shall contain an area of not less than eighty thousand (80,000) square feet; have a minimum width of three hundred (300) feet; have a minimum depth of two hundred (200) feet. (Amended 3/5/02)
- b. The foregoing minimum lot size, width and depth requirements are not to apply to any platted lot in a platted area of which the recorded plat heretofore has been approved by the County

Board of Commissioners, not to any parcel or lot now described by metes and bounds on a deed or contract for deed on the date thereof.

6. Contiguous Parcels

New construction on property where there are contiguous parcels in the same ownership but are separate parcels of record must be situated in a manner to meet all required setbacks from the parcels adjoining the parcel where the new construction is taking place. This provision does not apply to contiguous properties that have been combined on the same parcel record with the County. (Added 05/02/06)

F. Residential Subdivision Unit Projects

1. Purpose

The purpose of this Subdivision is to make provision for residential subdivision unit projects within the R-1 RESIDENCE DISTRICT for larger tracts of land under single or unified ownership, developed with community or public sewer and water systems; such residential subdivision unit projects allow modification of individual lot area and width requirements and allow multiple dwelling a mobile home parks. Residential subdivision unit projects shall be developed in accordance with an overall design and an integrated development plan and otherwise in accordance with the Wadena County Subdivision Regulations. Such project shall be consistent with the intent and purpose of this Ordinance and shall not adversely affect the property adjacent to the land area included in the project.

2. Regulations

- a. The minimum area of land to be included in a residential subdivision unit project shall be ten (10) acres.
- b. The residential subdivision unit projects shall be served by public or community water systems and by public or community sewer systems unless lot size is at least two hundred (200) feet in width at the building line and two hundred (200) feet in depth. Dwellings shall have a side yard of not less than thirty (30) feet. An alternative to the two hundred (200) foot depth and lot size requirement, is provided the developer furnishes community water by piping from one (1) deep well (at least 60 feet in depth) to a number of dwelling units, not to exceed 24 units per well, then lots may be platted 20,000 square feet, have a minimum depth of one hundred fifty (150) feet.
- c. With the exception of individual lot area, frontage setback and other requirements outlined in paragraph b. above, the residential subdivision unit project shall conform to the requirements of the R-1 SUBURBAN RESIDENCE DISTRICT. When the residential subdivision unit project is in the S-1 SHORELAND OVERLAY DISTRICT and the lot area, frontage, setback, or other requirements of the S-1 SHORELAND OVERLAY DISTRICT are more restrictive than those defined herein, then the more restrictive standards apply.
- d. The residential subdivision unit project served by public or community water systems and by public or community sewer systems shall have a minimum individual lot size of:
 1. A front yard as required in the R-1 SUBURBAN RESIDENCE DISTRICT.
 2. A side yard of not less than ten (10) feet.
 3. A rear yard of not less than fifty (50) feet.
 4. A width of not less than:
 - aa. One hundred (100) feet for single family and multiple family dwellings.
 - bb. Fifty (50) feet for each manufactured home or berth in a manufactured home park.
 5. An average depth of not less than:
 - aa. One hundred twenty (120) feet for single family and multiple family dwellings.
 - bb. Fifty (50) feet for each manufactured home or berth in a manufactured home park.
 6. An area of not less than:
 - aa. Twelve thousand (12,000) square feet for single family dwellings.
 - bb. Twelve thousand (12,000) square feet for the first unit plus two thousand (2,000) square feet for each additional unit in a multiple dwelling.

- cc. Five thousand (5,000) square feet for each manufactured home berth in a manufactured home park.
- 7. Restriction:

The raising of livestock other than household pets shall be prohibited in a residential subdivision unit project.
- 8. Administrative Procedure:
 - aa. The proponents of a residential subdivision unit project shall submit a preliminary subdivision plat and in the case of multiple dwellings or mobile home parks a plat plan showing building or mobile home locations, along with the application for a Conditional Use Permit to, and secure approval of, the County Planning Commission and the County Board. Such preliminary plat shall conform to the provisions of this Ordinance and the County Subdivision Regulations. In addition, such proposed preliminary plat shall clearly indicate the proposed sewer and water system.
 - bb. If the Conditional Use Permit and preliminary plat are approved, the preliminary plat is attached to and is a part of the Conditional Use Permit. Any substantial change to the preliminary plat will require a resubmission to and approval by the Planning Commission and the County Board.
 - cc. If the Conditional Use Permit is approved, the final plat shall be submitted to the County in accordance with the County Subdivision Regulations.

G. General Regulations

Additional requirements for the R-1 SUBURBAN RESIDENCE DISTRICT are set forth in SECTION 15.

SECTION 11: B-1 HIGHWAY SERVICE BUSINESS DISTRICT

A. Purpose

The intent of the B-1 HIGHWAY SERVICE BUSINESS DISTRICT is to provide a district that will: (1) allow compact and convenient limited highway-oriented business, closely related to existing urban areas in the County, and (2) provide development standards that will not impair the traffic-carrying capabilities of abutting roads and highways.

B. Permitted Uses

The following uses shall be permitted within the B-1 HIGHWAY SERVICE BUSINESS DISTRICT:
(Amended July 8, 2014)

1. Agriculture.
2. ATV Sales & Service.
3. Automobile laundries, car wash.
4. Automobile Sales – new or used.
5. Automobile service stations for the sale of gasoline, oil and accessories.
6. Bowling alleys.
7. Drive-in retail stores or service uses.
8. Drive-in restaurants or similar uses that provide goods and services to patrons in automobiles.
9. Drive-in theater.
10. Landscape nursery, garden store.
11. Marine and boat sale.
12. Miniature golf course or archery or golf driving range.
13. Motel, motor hotel or tourists' camp.
14. Motorcycle Sales & Service.
15. One family dwellings, as regulated in SECTION 10.
16. Professional office.
17. Restaurant, tea room, cafe or tavern.
18. RV &/or Travel Trailer/Trailer Sales and Service.
19. Farm Implement Sales & Service (Amended 9-1-2020)

C. Conditional Uses

The following uses may be allowed in the B-1 HIGHWAY SERVICE BUSINESS DISTRICT subject to the provisions of SECTION 21:

1. Feed and fertilizer sale and storage.
2. Other highway oriented business activities of the same general character as listed in B of this SECTION.
3. Adult Use/Sexually Oriented Businesses in compliance with Section 20 of the Zoning Ordinance.

D. Permitted Accessory Uses

The following uses shall be permitted accessory uses within a B-1 HIGHWAY SERVICE BUSINESS DISTRICT:

1. Accessory uses customarily incidental to the uses permitted in B and C of this SECTION.

E. Height, Yard, and Lot Width and Coverage Regulations

1. Height Regulations:

- a. No building shall hereafter be erected or structurally altered to exceed two (2) stories or thirty (30) feet in height.

2. Front Yard Regulations:

- a. There shall be a front yard setback of not less than two hundred (200) feet from the centerline of Interstate Highways, one hundred thirty (130) feet from the centerline of U.S. Highways and State Highways, and one hundred (100) feet from the centerline of all County State Aid Highways and County Highways.
- b. There shall be a front yard setback of not less than sixty-five (65) feet from the centerline of all public rights-of-way.
- c. Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. No accessory buildings shall project beyond the front yard line of either road.

3. Side Yard Regulations:

There shall be a side yard having a depth of not less than fifteen (15) feet on each side of building, except that no building shall be located within thirty (30) feet of any side lot line abutting a lot in any RESIDENCE DISTRICT.

4. Rear Yard Regulations:

There shall be a rear yard having a depth of not less than (15) feet, except that no building shall be located within thirty (30) feet of any rear lot line abutting a lot in any RESIDENCE DISTRICT.

5. Lot Width & Depth Regulations:

Every lot or tract shall have a width and depth of not less than two hundred (200) feet unless served by community sewer and water. If served by community sewer and water lot width shall be one hundred (100) feet and a depth of two hundred (200) feet.

6. Lot Coverage Regulations:

No more than fifty (50) percent of the lot or plat area shall be occupied by buildings.

F. General Regulations

Additional requirements for parking, sewer and water systems and other regulations in the B-1 HIGHWAY SERVICE BUSINESS DISTRICT are set forth in SECTION 15.

SECTION 12: B-2 GENERAL BUSINESS DISTRICT

A. Purpose

The intent of the B-2 GENERAL BUSINESS DISTRICT is to provide a district that will retain and allow general commercial uses in the small, unincorporated urban communities in the County.

B. Permitted Uses

The following shall be permitted within the B-2 GENERAL BUSINESS DISTRICT:

(Amended July 8, 2014)

1. Appliance store.
2. ATV Sales & Service.
3. Automobile laundries, car wash.
4. Automobile Sales – new or used.
5. Automobile service stations for the sale of gasoline, oil, and accessories.
6. Bank, savings institution.
7. Barber or beauty shop.
8. Bicycle sales and repair shop.
9. Billboard and signs, ~~as regulated in SECTION 15.2~~
10. Book or stationary store, antique or gift shop, art and school supply.
11. Bowling alleys.
12. Candy, ice cream, soft drinks or confectionery store.
13. Cabinet or carpenter shop.
14. Clothing or ready-to-wear stores, dry goods or notions store.
15. Delicatessen.
16. Drug store.
17. Drive-in restaurants.
18. Dry cleaning or laundry collection stations.
19. Frozen food lockers for industrial or family use.
20. Furniture store.
21. Garages (repair).
22. Garden store.
23. Grocery, fruit, vegetable or meat store, bakery or pastry shop.
24. General store, department store.
25. Hardware store.
26. Hotel.
27. Launderettes or self-service laundries.
28. Marine and boat sales.
29. Motel, motor hotel.
30. Motorcycle Sales & Service.
31. Municipal or government buildings.
32. Newsstand.
33. Offices, business or professional.
34. One family dwellings as regulated in SECTION 10.
35. Postal sub-station.
36. Professional offices.
37. Restaurant, tea room, café.
38. RV &/or Travel Trailer/Trailer Sales and Service.
39. Shoe store, or shoe repair shop.
40. Signs and billboards ~~as regulated in SECTION 15~~
41. Tavern.
42. Telephone booths (outside).
43. Variety store.
44. Vending machines.

C. Conditional Uses

The following uses may be allowed in the B-2 GENERAL BUSINESS DISTRICT, subject to provisions of SECTION 15.

1. Other business activities of the same general character as listed in B of this Section.
2. Adult Use/Sexually Oriented Business in compliance with Section 21 of the Zoning Ordinance.

D. Accessory Uses

The following uses shall be permitted accessory uses within the B-2 GENERAL BUSINESS DISTRICT:

1. Accessory uses customarily incidental to the uses permitted in B and C of this SECTION.

E. Height and Yard Regulations

1. Height Regulations:

No building hereafter shall be erected or structurally altered to exceed two (2) stories or thirty (30) feet in height.

2. Front Yard Regulations:

- a. There shall be a front yard setback of not less than two hundred (200) feet from the centerline of Interstate Highways.
- b. There shall be a front yard setback of not less than one hundred thirty (130) feet from the centerline of U.S. Highways and State Highways.
- c. There shall be a front yard setback of not less than eighty-five (85) feet from the centerline of County State Aid and County Highways.
- d. A front yard setback of forty-five (45) feet from the centerline shall be required on public rights-of-way.

3. Side Yard Regulations:

No side yard shall be required, except that no building shall be located within fifteen (15) feet of any rear or side lot line abutting a lot in any RESIDENCE DISTRICT.

4. Rear Yard Regulations:

No rear yard shall be required, except that no building shall be located within fifteen (15) feet of any rear or side lot line abutting a lot in any RESIDENCE DISTRICT.

5. Lot Width and Depth Regulations:

Every lot or tract shall have a width and depth of not less than two hundred (200) feet unless served by community sewer and water. If served by community sewer and water, lot width shall be one hundred (100) feet and a depth of two hundred (200) feet.

F. General Regulations

Additional requirements for parking, sewer and water systems, and other regulations in the B-2 GENERAL BUSINESS DISTRICT are set forth in SECTION 15.

SECTION 13: I-1 GENERAL INDUSTRY DISTRICT

A. Purpose

The I-1 GENERAL INDUSTRY DISTRICT is intended to provide a district that will allow compact, convenient, limited highway-oriented industry closely related to existing urban areas in the County and at standards that will not impair the traffic-carrying capabilities of abutting roads and highways. It is recognized

that industrial uses are an important part of the County's land use pattern. The regulations for this district are intended to encourage industrial development that is compatible with surrounding or abutting districts.

B. Permitted Uses (Amended 3/5/02)

The following uses shall be permitted within the I-1 GENERAL INDUSTRY DISTRICT:

1. Any production, processing, testing of materials, goods, or products which conform to other performance standards set forth hereinafter, and which shall not be injurious or offensive to the occupants of adjacent premises by reason of the emission or creation of noise, vibration, smoke, dust, or other particulate matter, toxic materials, odors, fire or explosion hazards or glare.
2. Building material sales.
3. Trucking and express facilities.
4. Contractor's, architects', and engineers' offices, shops and yards, such as building, cement, electrical, heating, ventilating, and air conditioning, masonry, painting, plumbing, refrigeration, roofing and landscaping.
5. Dwelling units, for watchmen and their families, located on the premises where they are employed in such capacity.
6. Farm implement sales, storage and repair.
7. Fuel, containerized or bulk, and ice sales and storage.
8. Grain elevators, feed and fertilizer manufacture.
9. Printing.
10. Public utility and service uses, including:
 - a.) Bus stations, bus terminals, bus turn-arounds, (off-street) bus garages, and bus lots.
 - b.) Fire stations.
 - c.) Police stations.
 - d.) Railroad passenger stations.
 - e.) Railroad rights-of-way.
 - f.) Telephone exchanges, telephone transmission equipment buildings, and microwave relay tower.
 - g.) Utility service substations - electric, gas, telephone, and water.
 - h.) Water works, reservoirs, pumping stations, and filtration plants.
11. Publishing.
12. Radio and television studios and stations.

C. Conditional Uses (Amended 3/5/02)

The following uses may be allowed in the I-1 GENERAL INDUSTRY DISTRICT, subject to the provisions of SECTION 21.

1. Junk yards, salvage yards, dumping grounds.
2. Extraction, processing or storage of sand, gravel, stone or other minerals subject to the special provisions set forth in SECTION 15.
3. Radar installations and towers.
4. Radio and television towers, transmitting and receiving.

D. Accessory Uses

The following uses shall be permitted accessory uses within an I-1 GENERAL INDUSTRY DISTRICT:

1. Accessory uses customarily incidental to the uses permitted in B and C of this SECTION.

E. Height, Yard and Lot Width and Building Coverage Regulations.

1. Height Regulations:

No building shall hereafter be erected or structurally altered to exceed four (4) stories or forty-five (45) feet in height.

2. Front Yard Regulations:

- a.) There shall be a front yard setback of not less than two hundred (200) feet from the centerline of Interstate Highways, one hundred thirty (130) feet from the centerline of U.S. Highways and State Highways, and eighty-five (85) feet from the centerline of all County State Aid and County Highways.
- b.) There shall be a front yard setback of not less than sixty-five (65) feet from the centerline of all public rights-of-way.
- c.) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road highway side of each corner lot. No accessory buildings shall project beyond the front yard of either road.

3. Side Yard Regulations:

- a.) No side yard shall be required.
- b.) Except that no building shall be located within fifty (50) feet of any side lot line abutting any RESIDENCE DISTRICT.

4. Rear Yard Regulations:

- a.) No rear yard shall be required.
- b.) Except that no building shall be located within fifty (50) feet of any rear lot line abutting a lot in any RESIDENCE DISTRICT.

5. Lot Width Regulations:

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

6. Lot Coverage Regulations:

Not more than fifty (50) percent of the total area of a lot shall be covered by buildings.

F. General Regulations

Additional requirements for signs, parking, sewer and water systems, and other regulations in the I-1 GENERAL INDUSTRY DISTRICT are set forth in SECTION 15.

SECTION 13A: RA RECREATIONAL DISTRICT

A. Purpose

To reserve appropriate areas within Wadena County for recreation areas; to retain existing recreation areas for public use; to prevent development that would adversely affect new and existing recreation areas, provided that purposes herein stated shall not restrict the use of adjoining lands classified or zoned as agricultural districts. All recreation areas created heretofore shall contain a minimum area of 20 acres.

B. Permitted Uses

The following uses shall be permitted in the RA RECREATION DISTRICT:

1. Golf courses, miniature courses, and driving tees.
2. Golf clubhouse, country club, public swimming pool.
3. Publicly owned parks.
4. Publicly owned amusement centers.

5. Public campgrounds.
6. Sportsman Club clubhouse.
7. Public ski slope.

C. Conditional Uses

The following uses may be allowed in the RA RECREATION DISTRICT, subject to the provisions of SECTION 21:

1. Rifle and pistol ranges.
2. Trap and skeet ranges.
3. Archery ranges.
4. Race tracks for dogs, horses, go carts, snowmobiles, and automobiles.
5. Privately owned campgrounds.
6. Privately owned amusement centers.
7. Retriever course and club house.
8. Riding academies and stables.
9. Zoos.

D. Permitted Accessory Uses

The following uses shall be permitted accessory uses within the RA RECREATION DISTRICT:

1. Accessory uses customarily incident to the uses permitted in Subdivision B and C of this SECTION.

E. Height, Yard, Area and Lot, Width and Depth Requirements

1. There shall be no requirements for permitted uses as listed in Subdivision B of this SECTION, or for related accessory uses.
2. All height, yard, area and lot, width and depth requirements for the conditional uses as listed in Subdivision C of this SECTION, and related accessory uses shall be as determined at the time of issuance of the Conditional Use Permit.

F. General Regulations

Additional requirements, where applicable for the RA RECREATION DISTRICT are set forth in SECTION 15 of this Ordinance.

SECTION 14: S-1 SHORELAND OVERLAY DISTRICT

A. Purpose

The intent of S-1 SHORELAND OVERLAY DISTRICT is to provide a district that will (1) allow for the wise utilization of the shoreland resources of Wadena County, and (2) provide shoreland development guidelines consistent with Minnesota Statutes, Chapter 103F, and Minnesota Regulations, parts 6120.2500 - 6120.3900.

B. Applicability

The regulations, standards and criteria of this section apply in the shoreland areas of Wadena County as defined in Section 4 Rules and Definitions. Where the specific use restrictions of an underlying zoning district as shown on the Wadena County zoning map are more restrictive than those defined herein then the more restrictive standards apply.

C. Permitted Uses

All permitted uses allowed and regulated by the applicable zoning district underlying this SHORELAND OVERLAY DISTRICT as indicated on the zoning map of Wadena County.

D. Conditional Uses

The following uses may be allowed in the S-1 SHORELAND OVERLAY DISTRICT subject to the provisions of SECTION 21, Conditional Use Permits:

1. Any conditional use and applicable attached conditions as allowed by the particular underlying zoning district as shown on the zoning map of Wadena County.
2. Planned Unit Developments (PUD's)

E. Accessory Uses

All permitted accessory uses allowed in the applicable underlying zoning district as indicated on the zoning map in Wadena County.

F. Lot Area and Width Standard

The lot area (in square feet) and lot width standards (in feet) for single, duplex, triples and quad residential lots created after the date of enactment of this Ordinance for the lake and river/stream classifications are the following: (Amended 5/6/03)

1. UNSEWERED LAKES:

a. Natural Environment:	Riparian Lots		Nonriparian Lots	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Single	80,000	300	80,000	300
Duplex	120,000	300	160,000	400
Triplex	160,000	400	240,000	600
Quad	200,000	500	320,000	800

b. Recreational Development:	Riparian Lots		Nonriparian Lots	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Single	80,000	300	80,000	300
Duplex	100,000	325	100,000	350
Triplex	120,000	350	120,000	400
Quad	160,000	375	160,000	500

c. General Development:	Riparian Lots		Nonriparian Lots	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Single	80,000	300	80,000	300
Duplex	100,000	300	100,000	300
Triplex	120,000	300	140,000	300
Quad	140,000	350	160,000	500

2. SEWERED LAKES:

a. Natural Environment:	Riparian Lots		Nonriparian Lots	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Single	40,000	125	20,000	125
Duplex	70,000	225	35,000	220
Triplex	100,000	325	52,000	315
Quad	130,000	425	65,000	410

b. Recreational Development:	Riparian Lots		Nonriparian Lots	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Single	20,000	75	15,000	75
Duplex	35,000	135	26,000	135

Triplex	50,000	195	38,000	190
Quad	65,000	255	49,000	245

c. General Development:	Riparian Lots		Nonriparian Lots	
	Area	Width	Area	Width
Single	15,000	75	10,000	75
Duplex	26,000	135	17,500	135
Triplex	38,000	195	25,000	190
Quad	49,000	255	32,500	245

3. RIVER/STREAM LOT WIDTH STANDARDS

The lot width standards for single, duplex, triplex and quad residential developments for the six-river/stream classifications are:

	Remote	Forested	Transition	Agricultural	Urban Tributary	
					No Sewer	Sewer
Single	300	200	250	150	100	75
Duplex	450	300	375	225	150	115
Triplex	600	400	500	300	200	150
Quad	750	500	625	375	250	190

4. Additional Special Provisions

- a. Residential subdivision with dwelling unit densities exceeding those in the tables in paragraphs 2. and 3. of this section can only be allowed if designed and approved as residential planned unit developments under Section 14. P. of this Ordinance. Only land above the ordinary high water level of public water can be used to meet lot area standards, and lot width standards, and lot width standards must be met at both the ordinary high water level and at the building line. The sewer lot area dimensions in paragraph 2. of this section can only be used if publicly owned sewer system service is available to the property.
- b. Subdivisions of duplexes, triplexes, and quads on Natural Environment Lakes must meet the following standards:
 - 1) Each building must be set back at least 200 feet from the ordinary high water level;
 - 2) Each building must have common sewage treatment and water systems in one location and serve all dwelling units in the building;
 - 3) Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building; and,
 - 4) No more than 25 percent of a lake's shoreline can be in duplex, triplex, or quad developments.
- c. One guest cottage may be allowed on lots meeting or exceeding the duplex lot area and width dimensions presented in paragraph 1-3 or this section, provided the following standards are met:
 - 1) for lots exceeding the minimum lot dimensions of duplex lots, the guest cottage must be located within the smallest duplex-sized lot that could be created including the principal dwelling unit;
 - 2) a guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height; and

- 3) a guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer leaf on conditions.
- d. Lots intended as controlled accesses to public waters or as recreation areas for use by owner of nonriparian lots within subdivisions are permissible and must meet or exceed the following standards:
- 1) They must meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots.
 - 2) If docking, mooring, or over-water storage of more than six (6) watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by the percent of the requirements for riparian residential lots for each watercraft beyond six, consistent with the following table:

Controlled access Lot Frontage Requirements

Ratio of lake size to shore length (acres/mile)	Required increase in frontage (percent)
Less than 100	25
100-200	20
201-300	15
301-400	10
Greater than 400	05

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

5. Placement, Design, and Height of Structures.

Placement of Structures on Lots. When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone. Structures shall be located as follows:

a. Structure and On-Site Sewage System Setbacks (in feet) from Ordinary High Water Level*.

SETBACKS*

Classes of Public Waters	Structures		Sewage Treatment System
	Unsewered	Sewered	
LAKES			
Natural Environment	150	150	150
Recreational Development	100	75	75
General Development	75	50	50
RIVERS			
Remote	200	200	150
Forested and Transition	150	150	100
Agriculture, Urban, & Tributary	100	50	75

*One water-oriented accessory structure designed in accordance with paragraph 6. of this section may be set back a minimum distance of ten (10) feet from the ordinary high water level.

b. **Additional Structure Setbacks.** The following additional structure setbacks apply, regardless of the classification of the waterbody:

Setback From:	Setback (in feet):
1) Top of bluff; (Amended 5/6/03)	50
2) Unplatted cemetery;	50
3) Right-of-way line of federal, state, or county highway;	50
4) Right-of-way line of town road, public street, or other roads or streets not classified	20

c. **Bluff Impact Zones.** Structures, accessory facilities (except stairways and landings), and property access roads or trails must not be placed within the bluff impact zone (50 feet from the top of the bluff). (Amended 5/6/03)

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

6. Design Criteria for Structures.

a. **High Water Elevations.** Structures must be placed in accordance with any floodplain regulations applicable to the site. No structure shall be placed at an elevation that the lowest floor including basement floors, is less than three feet above the ordinary high water level.

b. **Water-oriented Accessory Structures.** Each lot may have one water-oriented accessory structure not meeting the normal structure setback in paragraph 5. of this section if this water-oriented accessory structure complies with the following provisions:

- 1) The structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight feet above grade at any point;

- 2) The setback of the structure or facility from the ordinary high water level must be at least ten feet;
 - 3) The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
 - 4) The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;
 - 5) The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and
 - 6) As an alternative for general development and recreational development water bodies, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline.
- c. Stairways, Lifts, and Landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:
- 1) Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments;
 - 2) Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public open-space recreational properties, and planned unit developments;
 - 3) Canopies or roofs are not allowed on stairways, lifts, or landings;
 - 4) Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
 - 5) Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
 - 6) Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of sub items 1) to 5) are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.
- d. Significant Historic Sites. No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.
- e. 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 facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

7. Height of Structures.

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

G. Side Yard Regulations

The side yard regulation shall be the same as those required for the applicable underlying zoning district as shown on the Wadena County zoning map.

H. Road Setback Regulations

The road setback regulations shall be the same as those required for the applicable underlying zoning district as shown on the Wadena County zoning map.

I. Variances to the Setback Requirements of SECTION 14F may be allowed by the Board of Adjustment.

1. Where structures incorporate a method of sewage disposal other than soil absorption, or
2. In areas of unusual topography or substantial elevation above the lake level, setbacks may be varied to allow a riparian owner reasonable use and enjoyment of his property.

J. Shoreland Alterations

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

1. Vegetation Alterations.

- a. Vegetation alterations necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by Section 14. L. of this Ordinance are exempt from the vegetation alteration standards that follow.
- b. Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in Section 14. M., respectfully, is allowed subject to the following standards:
 - 1) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. 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 & Water Conservation District in which the property is located.
 - 2) In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water oriented accessory structures or facilities, provided that:
 - a) Trees subject for removal may not be greater than four (4) inches in diameter when measured four (4) feet above the ground; (Added 5/6/03)
 - b) Vegetation may not be removed to accommodate above-referenced improvements if an alternate site or access route is suitable for use; (Added 5/6/03)
 - c) The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;

- d) Along rivers, existing shading of water surfaces is preserved; and
- e) The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards. (Amended 5/6/03)

2. Topographic Alterations/Grading and Filling.

- a. Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this Section must be Incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.
- b. Public roads and parking areas are regulated by Section 14., L. of this Ordinance.
- c. Notwithstanding item a. and b. above, a grading and filling permit will be required for:
 - 1) The movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and
 - 2) The movement of more than fifty (50) cubic yards of material outside of steep slopes and shore and bluff impact zones.
- d. The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:
 - 1) Grading or filling in any type 2,3,4,5,6,7,8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland*:
 - a) Sediment and pollutant trapping and retention;
 - b) Storage of surface runoff to prevent or reduce flood damage;
 - c) Fish and wildlife habitat;
 - d) Recreational use;
 - e) Shoreline or bank stabilization; and
 - f) Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

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

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

- 7) Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater;
 - 8) Fill or excavated material must not be placed in bluff impact zones;
 - 9) Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under Minnesota Statutes, Section 105.42;
 - 10) Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and
 - 11) Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope doesn't exceed three ft. horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the ordinary high water level does not exceed three feet.
- e. Connections to public waters. Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, must be controlled by local shoreland controls, permission for excavations may be given only after the commissioner has approved the proposed connection to public waters.

K. 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's 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 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.

L. Stormwater Management

The following general and specific standards shall apply:

1. General Standards:

- a. When possible, existing natural drainage ways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.
- b. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used retain sediment on the site.

- c. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and manmade materials and facilities.

2. Specific Standards:

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

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

1. Standards for Commercial, Industrial, Public, and Semipublic Uses.

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

directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

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

2. Agriculture Use Standards - (Amended November 7, 2017)

- a) General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in perennial vegetation or operated under an approved conservation plan that includes alternative riparian water quality practices based on the Natural Resources Conservation Service field office technical guide (FOTG), practices approved by the Board of Water and Soil Resources (BWSR), or practices based on local conditions approved by the local soil and water conservation district that are consistent with the FOTG. The shore impact zone for parcels with permitted agricultural land uses is an area with a 50-foot average width and a 30-foot minimum width, as measured from the ordinary high water level, if identified, or the top or crown of the bank or normal water level as provided in MN Statutes, Section 103F.48 subd. 3. c., whichever is applicable.
- b) Animal feedlots must meet the following standards:
 - 1) New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of 300 feet from the ordinary high water level of all public waters and basins; and
 - 2) Modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.
 - 3) A certificate of compliance, interim permit, or animal feedlot permit, when required by parts 7020.0010 to 7020.1900, must be obtained by the owner or operator of an animal feedlot. (Amended July 8, 2014)
- c) Use of fertilizer, pesticides, or animal wastes within shorelands must be done in such a way as to minimize impact on the shore impact zone or public water property application or use of earth or vegetation. (Amended July 8, 2014)

3. 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, 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.

N. Conditional Use Evaluation Criteria and Conditions

Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, criteria and conditions for review of conditional uses established community-wide. The following additional evaluation criteria and conditions apply within shoreland areas:

1. Evaluation criteria

A thorough evaluation of the waterbody and the topographic, vegetation, and soils conditions on the site must be made to ensure:

- a. the prevention of soil erosion or other possible pollution of public waters, both during and after construction;
- b. the visibility of structures and other facilities as viewed from public waters is limited;
- c. the site is adequate for water supply and on-site sewage treatment; and
- d. the types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.

2. Conditions attached to conditional use permits

The County Board, upon consideration of the criteria listed above and the purposes of this Ordinance, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:

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

O. Water Supply and Sewage Treatment

1. Water Supply

Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.

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, Chapter 7080", a copy of which is hereby adopted by reference 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 14., F., 5., of this Ordinance.
- d. All proposed sites for individual sewage treatment system shall be evaluated in accordance with the criteria in sub items 1) through 4). If the determination of a site's suitability cannot be made with public available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on-site investigations. Evaluation criteria:
 - 1) Depth to the highest known or calculated ground water table or bedrock;
 - 2) Soil conditions, properties, and permeability;
 - 3) Slope;
 - 4) The existence of lowlands, local surface depressions, and rock outcrops;
- e. Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with Section 17 of this Ordinance.

P. Planned Unit Developments (PUD's)

1. Types of PUD's Permissible

Planned unit developments (PUD's) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land.

2. Processing of PUD's

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

3. Application for a PUD

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

- a. A site plan and/or plat for the project showing locations of property boundaries, surface water features, existing and proposed structures and other facilities, land alterations, sewage treatment and water supply systems (where public systems will not be provided), and topographic contours at ten-foot intervals or less. When a PUD is a combined commercial and residential development, the site plan and/or plat must indicate and distinguish which buildings and portions of the project are residential, commercial, or a combination of the two.
- b. A property owners association agreement (for residential PUD's) with membership, and all in accordance with the requirements of Section 14, P., 6, of this Ordinance.
- c. Deed restrictions, covenants, permanent easements or other instruments that:

- 1) Properly address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUD's; and
 - 2) Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in Section 14., P., 6., of this Ordinance.
- d. When necessary, a master plan/drawing describing the project and the floor plan for all commercial structures to be occupied.
- e. Those additional documents as requested by the Zoning Administrator that are necessary to explain how the PUD will be designed and will function.

4. 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 in Section 8.5.

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

SHORELAND TIER DIMENSIONS

	Unsewered (Feet)	Sewered (Feet)
General development lakes-first tier	200	200
General development lakes-second and additional tier	267	200
Recreational development lakes	267	267
Natural environmental	400	320
All river classes	300	300

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

5. Residential and Commercial PUD Density Evaluation

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

- a. Residential PUD "Base" Density Evaluation:

- 1) The suitable area within each tier is divided by the single residential lot size standard for lakes or, for rivers, the single residential lot width standard times the tier depth, unless the local unit of government has specified an alternative minimum lot size for rivers which shall then be used to yield a base density of dwelling units or sites for each tier. Proposed locations and numbers and 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 Q., 6.

- b. Commercial PUD "Base" Density Evaluation:

- 1) Determine the average inside living area size of dwelling units or sites within each tier, including both existing and proposed units and sites. Computation of inside living area sizes need not include decks, patios, stoops, steps, garages, or porches and basements, unless they are habitable space.

- 2) Select the appropriate floor area ratio from the following table:

**Commercial Planned Unit Development
Floor Area Ratios*
Public Waters Classes**

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

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

- 3) Multiply the suitable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.
- 4) Divide the total floor area by tier computed in Item 3) above by the average inside living area size determined in Item 1) above. This yields a base number of dwelling units and sites for each tier.
- 5) Proposed locations and numbers of dwelling units or sites for the commercial planned unit development are then compared with the tier, density and suitability analysis herein and the design criteria in paragraph 6) of this section.

c. Density Increase Multipliers:

- 1) Increase to the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standards in Section 14. are met or exceeded and the design criteria in Section 14., Q., 6. are satisfied. The allowable density increases in item 2) below will only be allowed if structure setbacks from the ordinary high water level are increased to at least 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 25 percent greater than the minimum setback.

- 2) Allowable Dwelling Unit or Dwelling Site Density Increases for Residential or Commercial Planned Unit Developments:

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

6. Maintenance and Design Criteria

a. Maintenance and Administration Requirements

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

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

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

- 4) Open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public;
 - 5) Open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems;
 - 6) Open space must not include commercial facilities or uses, but may contain water-oriented accessory structures or facilities;
 - 7) The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means; and
 - 8) The shore impact zone, based on normal structure setbacks, must be included as open space. For residential PUD's, at least 50 percent of the shore impact zone area of existing developments or at least 70 percent of the shore impact zone area of new developments must preserve its natural or existing state. For commercial PUD's, at least 50 percent of the shore impact zone must be preserved in its natural state.
- c. Erosion Control and Stormwater Management. Erosion control and stormwater management plans must be developed and the PUD must:
- 1) Be designed, and construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant; and
 - 2) Be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff. Impervious surface coverage within any tier must not exceed 25 percent of the tier area, except that for commercial PUD's 35 percent impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan and consistency with Section 14., M.
- d. Centralization and Design of Facilities. Centralization and design of facilities and structures must be done according to the following standards:
- 1) Planned unit developments must be connected to publicly owned water supply and sewer system, if available. On-site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and Section 14., F., and 14., P., of this Ordinance. On-site sewage treatment systems must be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors must be provided for a replacement soil treatment system for each sewage system;
 - 2) Dwelling units or sites must be clustered into one 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 14., 5. of this Ordinance for developments with density increase;
 - 3) Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of spaces provided

for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor). Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers;

- 4) Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided;
- 5) Accessory structures and facilities, except water-oriented accessory structures, must meet the required principal structure setback and must be centralized; and
- 6) Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in Section 14., F., of this Ordinance and are centralized.

7. 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:
 - 1) Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;
 - 2) Remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water; and
 - 3) If existing dwelling units are located in shore or bluff impact zones, conditions are attached to approvals of conversions that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.
- d. Existing dwelling unit or site densities that exceed standards in Section 14., Q., 5., may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.

SECTION 15: GENERAL REGULATIONS

A. Parking and Loading Regulations

All parking hereafter constructed or maintained shall conform with the provisions of this SECTION and any other ordinances or regulations of Wadena County.

1. Minimum Size Regulations:

Each parking space shall contain a minimum area of not less than three hundred (300) square feet, including access drives, a width of not less than nine (9) feet and a depth of not less than twenty (20) feet. Each parking space shall be adequately served by access drives. All loading spaces shall be sufficient to meet the requirements of each use and shall provide adequate space for storage and maneuvering of the vehicles they are designed to serve.

2. Reduction and Use of Parking and Loading Space:

On-site parking facilities existing at the effective date of this Ordinance shall not subsequently be reduced to an amount less than that required under this Ordinance for a similar new building or use. On-site parking facilities provided to comply with the provisions of this Ordinance shall not subsequently be reduced below the requirements of this Ordinance. Such required parking or loading space shall not be used for storage of goods or for storage of vehicles that are inoperable or for sale or rent.

3. Computing Requirements:

In computing the number of such parking spaces required, the following rule shall govern:

- a. Floor space shall mean the gross floor area of the specific use.
- b. Where fractional space result, the parking spaces required shall be construed to be the nearest whole number.
- c. The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of a similar nature, as determined by the Board of County Commissioners and the County Planning Commission.

4. Yards:

On-site storage parking spaces, loading spaces and facilities shall be in addition to the front yard, side yard and rear yard regulations for the zoned district in which parking is located except that:

- a. In any of the AGRICULTURE or RESIDENCE DISTRICTS, a maximum of two (2) automobiles may be parked in front yards, and four (4) in rear yards.
- b. In a B-1 HIGHWAY SERVICE BUSINESS DISTRICT, no parking or loading space shall be located within ten (10) feet of any property line that abuts a road or highway right-of-way, or any RESIDENCE DISTRICT.
- c. In a B-2 GENERAL BUSINESS DISTRICT, no parking or loading space shall be located within ten (10) feet of any highway right-of-way.
- d. In an I-1 GENERAL INDUSTRY DISTRICT, no parking or loading space shall be located within ten (10) feet of any property line that abuts a highway right-of-way line, or any RESIDENCE DISTRICT, except for a railroad loading area.

5. Buffer Fences and Planting Screens:

Off-street parking and loading areas near or abutting RESIDENCE DISTRICTS shall be screened by a buffer fence of adequate design or a planting buffer screen; plans of such screen or fence shall be submitted for approval as a part of the required site or plot plan, and such fence or landscaping shall be installed as a part of the initial construction.

6. Access:

- a. Parking and loading areas shall have proper access from a public right-of-way.
- b. The number and width of access drives shall be so located so as to minimize traffic congestion and abnormal traffic hazard.
- c. Vehicular access to business or industrial uses across property in any RESIDENCE DISTRICT shall be prohibited.

7. Location of Parking Facilities:

Required off-street parking space shall be provided on the same lot as the principal building or use, except as follows in paragraph 8.

8. Combined Facilities:

Combined or joint parking facilities may be provided for one (1) or more buildings or uses in B-1 and B-2 BUSINESS DISTRICTS and in I-1 INDUSTRY DISTRICTS, provided that the total number of spaces shall equal the sum of the requirements for each building or use.

9. Construction and Maintenance:

- a. In B-1 and B-2 BUSINESS DISTRICTS and in I-1 INDUSTRY DISTRICTS, parking areas and access drives shall be covered with a dust-free, all weather surface with proper surface drainage, as required by the County Engineer.
- b. The operator of the principal building or use shall maintain parking and loading areas, access drives and yard areas in a neat and adequate manner.

10. Lighting:

Lighting shall be reflected away from the public right-of-way and nearby or adjacent RESIDENCE DISTRICTS.

11. Required Site Plan:

Any application for a building permit shall include a site plan or plot plan drawn to scale and dimensioned, showing on-site parking and loading space to be provided in compliance with this Ordinance.

12. Application of Parking and Loading Regulations:

Parking and loading regulations shall apply to all buildings and uses of land established after the effective date of this Ordinance.

13. Required Number of On-Site Parking Spaces:

On-site parking areas of sufficient size to provide parking for patrons, customers, suppliers, visitors and employees shall be provided on the premises of each use. The minimum number of required on-site parking spaces for the following uses shall be as follows:

- a. One family dwelling - One (1) parking space. No garage shall be converted into living space unless other acceptable on-site parking space is provided.
- b. Mobile home - One (1) parking space per mobile home.
- c. Hospital, convalescent or nursing home - One (1) parking space for each four (4) beds for which accommodations are offered, plus one (1) parking space for each employee on the major shift.
- d. Churches - One (1) parking space for each four (4) seats, based on the design capacity of the main seating area.

- e. Public senior high school or private high school - One (1) parking space for each classroom plus one (1) parking space for each ten (10) students, based upon design capacity.
- f. Public elementary, junior high school or similar private school - Two (2) parking spaces for each classroom.
- g. Municipal administration buildings, community center, public library, museum, art gallery, post office and other public service buildings - Ten (10) parking spaces plus one (1) parking space for each five hundred (500) square feet of floor area in the principal structure.
- h. Golf course, country club, swimming club, tennis club, public swimming pool - Twenty (20) spaces plus one (1) space for each five hundred (500) sq. ft. of floor area in the principal structure.
- i. Professional offices, medical and dental clinics and animal hospitals - Four (4) parking spaces, plus one (1) parking space for each five hundred (500) sq. ft. of floor area over one thousand (1,000) square feet of floor area.
- j. Office buildings - Ten (10) parking spaces, plus one (1) parking space for each five hundred (500) square feet of floor area over one thousand (1,000) square feet of floor area.
- k. Automobile service station - Four (4) parking spaces plus two (2) parking spaces for each service stall; such parking spaces shall be in addition to parking space required for gas pump areas.
- l. Auto sales, trailer sales, marine and boat sales, implement sales, garden supply store, building materials sales, auto repair - Six (6) parking spaces, plus one (1) space for each five hundred (500) square feet of floor area over one thousand (1,000) square feet.
- m. Bowling alley - Five (5) parking spaces for each bowling lane.
- n. Drive-in restaurant - Twenty (20) parking spaces or one (1) space for each twenty (20) square feet of floor area, whichever is greater.
- o. Motel or motor hotel - One (1) parking space for each rental room or suite.
- p. Miniature golf course, archery range or golf driving range - Ten (10) parking spaces.
- q. Assembly or exhibition hall, auditorium theater or sports arena - One (1) parking space for each four (4) seats, based upon design capacity.
- r. Restaurant, cafe, nightclub, tavern or bar - One (1) parking space for each seventy-five (75) square feet of customer floor area.
- s. Retail stores and service establishments - One (1) parking space for each one hundred (100) square feet of floor area, plus one (1) parking space for each employee on the major shift or one (1) off-street parking space for each three hundred fifty (350) square feet of gross floor area within the building, whichever is greater.
- t. Research, experimental or testing stations - One (1) parking space for each employee on the major shift or one (1) off-street parking space for each five hundred (500) square feet of gross floor area within the building, whichever is greater.
- u. Storage, wholesale or warehouse establishments - One (1) parking space for each two (2) employees on the major shift or one (1) space for each two thousand (2,000) square feet of floor area, whichever is larger, plus one (1) space for each company motor vehicle when customarily kept on the premises.

- v. Manufacturing or processing plant - One (1) off street parking space for each two (2) employees on the major shift or one (1) off-street parking space for each one thousand (1,000) square feet of gross floor area within the building, whichever is greater, plus one (1) space for each company motor vehicle when customarily kept on the premises.

14. Required Loading Area:

Loading and unloading areas for goods, supplies and services shall be sufficient to meet the requirements of each use.

B. Sign Regulations - DELETED BY THE COUNTY BOARD 7/14/75

C. Extraction of Materials and Minerals. Open Pits and Impounding of Waters

(Amended May 3, 2016)

All excavations, extraction of materials and minerals, open pits and impounding of waters, hereafter established or enlarged shall conform with the provisions of this Subdivision and any other ordinance or regulations of Wadena County.

1. Definitions as used in this Section:

Excavations: Any artificial excavation of the earth, within the County, dug, excavated or made by the removal from the natural surface of the earth or sod, soil, sand, gravel, stone or other matter or made by tunneling or breaking or undermining the surface of the earth.

Excavation Exemptions: Excavations not exceeding fifty square feet of surface area and two (2) feet in depth and excavations done in conjunction with the operation of an active farm are exempted. Also, exempted are excavations done in conjunction with an approved building permit for construction purposes, and waterfowl ponds or impoundments that are both designed and constructed under the supervision of Soil Conservation personnel subject to the following limitations:

- a. Size of watershed above a proposed dam site shall not exceed 250 acres.
- b. Height of dam shall not exceed 5 1/2 feet above the existing ground surface. This would permit one (1) foot of freeboard thus a maximum depth of 4 1/2 feet of water.
- c. Surface water created by impounding shall not exceed an area of over 5 acres in size.
- d. Newly established water levels must be fully contained on the landowner's property.

Temporary Mining Operation or Borrow Pit: an excavation customarily incidental to the construction of public roads and bridges, which may be allowed upon approval and issuance of an administrative permit by the Office of Planning and Zoning.

2. Permitting Requirements:

A Conditional Use Permit shall be required for all excavation mining operations and storage/recycling facilities except for temporary borrow pits as defined in this section.

The following information shall be provided in the application submitted to the Office of Planning & Zoning for Conditional Use Permit:

- a. Applicant's true name, address, and phone number. If the landowner is applying on behalf of the agency responsible for the excavation operation, the name of the agency, the contact person, the address, and the phone number must be provided as well and a signature from their representative must also be obtained on the application. A full legal description of the land where the pit or excavation is, or is to be, or where the impounded waters are to be maintained.

- b. A map of the proposed operation site depicting the following:
 - (1) Structures to be erected and locations for each.
 - (2) Location of sites to be mined, showing area and depth of proposed excavations.
 - (3) Description of stationary machinery to be used in the operation.
 - (4) Approximate locations for storage of mined materials.
 - (5) All access roads and local routes to be used by trucks hauling the material.
 - (6) All setbacks from roads and property lines.
 - (7) Locations of any and all residences on adjacent property.
 - (8) All lakes, streams, and wetlands on the property, as well as those where the proposed excavation is within 300 feet of a stream or 1,000 feet of a lake.
- c. A description of all activities proposed at the site (i.e. crushing, screening, hot mix, etc.).
- d. A plan for dust, noise, and storm water run-off control.
- e. A reclamation plan and cost estimate of reclamation.
- f. When required by the State of Minnesota, an approval by the State to impound such waters or to make, such excavation as described in the application.
- g. The purpose of the pit or excavation or the quality of water impounded, as well as the approximate number of cubic yards of material to be removed.
- h. Proposed hours of operation.

3. Conditions of Permit: (Amended May 3, 2016)

Any approved Conditional Use Permit under this Section shall also be subject to the following:

- a. Slope the banks and otherwise properly guard and keep any pit or excavation in such condition as not to be dangerous from caving or sliding banks. The peaks and depressions of the area shall be graded and/or backfilled to a surface which will result in a gently rolling topography and in a manner to minimize erosion upon completion.
- b. Use all practical means to reduce dust caused by the operation, including excavation, stockpiling, and trucks hauling.
- c. Construct entrances and exits so as not to create a safety hazard.
- d. Install barriers to control access to the pit such as gates which are clearly visible. The use of cables, chains and other like barriers are prohibited.
- e. Pit operator or fee title owner is responsible to keep the pit and surrounding area free of debris, unsightly or noxious weeds to preserve a reasonable neat appearance.
- f. Operations within three hundred (300) feet of two or more residential structures may be required to install safety fencing around all or portions of the mining operation.
- g. All excavations and processing will be setback a minimum of one hundred (100) feet of any property line unless written consent from the adjacent landowner is notarized and presented to the Wadena County Planning and Zoning Department and submitted along with the application for Conditional Use Permit.
- h. All buildings, structures, and other equipment used in and for the operation shall be maintained, at a minimum, so as not to become dilapidated, and all weeds and other noxious

or unsightly vegetation shall be cut, trimmed, or removed to preserve a reasonable appearance at the site.

- i. Provide, for the purpose of retaining impounded waters, a container of sufficient strength and durability and maintain such container in safe and property condition.
- j. Mining and extraction operation shall not interfere with surface water drainage beyond the boundaries of the operation site.
- k. Grade site after excavation is completed, in accordance to the Reclamation Plan submitted, so as to render it usable; seeding may be require to avoid erosion and to prevent blighting of landscapes.

4. Bond May Be Required: (Amended May 3, 2016)

The Board of County Commissioners may require either the applicant or the owner or user of the property on which the open pit or excavation or impounded waters are located to post a bond, in such form and sum as the Board shall 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 travel, in removing materials for 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 SECTION and to pay any expense the County may incur by reason of doing anything required to be done by an applicant to whom a Conditional Use permit is issued.

5. Reclamation Plan: (Effective May 3, 2016)

A Reclamation Plan shall be submitted with each application for Conditional Use permit to operate any type of extraction operation. Reclamation of the site shall be progressive in that prior to opening additional mining area, and exhausted mining area of equal or larger area shall be reclaimed. The Reclamation Plan shall include the following:

- a. A map of the property indicating each phase of excavation as well as proposed contours upon completion.
- b. Proposed removal of structures, if any, upon completion.
- c. A written description of what the intended use of the reclaimed site will be and what type of vegetation is to be established upon reclamation.

6. Temporary Borrow Pit: (Effective May 3, 2016)

A temporary mining operation may be allowed in any Agriculture District by administrative Permit through the Wadena County Planning & Zoning Office, providing the applicant Complies with the following criteria:

- a. Specify the project the temporary operation will service.
- b. Specify the volume of material to be excavated for the specified project.
- c. Provide a plan to address dust, noise, hours of operation, maintenance of haul roads, method of reclamation including sloping and type of vegetation to be established upon reclamation.
- d. No additional operations such as crushing, screening, hot mix plant, or other type of related activities are necessary at the site.

- e. The mining operation and reclamation of the site can be completed in 180 days.

D. Performance Standards

It is the intent of this SECTION to provide that uses of land and buildings in ALL CLASSES of BUSINESS AND INDUSTRY DISTRICTS shall be established and maintained with proper appearance from streets and adjoining properties and to provide that each permitted use shall be a good neighbor to adjoining properties by the control of the following:

1. Standards:

- a. Landscaping. All required yards shall either be open landscaped and green areas or be left in a natural state. If any yards are to be landscaped, they shall be landscaped attractively with lawn, trees, shrubs, etc. Any areas left in a natural state shall be properly maintained in a slightly and well-kept condition. Yards adjoining any of the CLASSES OF RESIDENCE DISTRICTS shall be landscaped with buffer planting screens. Plans of such screens shall be submitted for approval as a part of the site plan and installed prior to issuance of a Certificate of Zoning Compliance for any tract in the District.
- b. Noise. Noise shall be measured on any property line of the tract on which the operation is located. Noise shall be muffled so as not to become objectionable due to intermittence, beat frequency, shrillness or intensity.
- c. Odors. Odors from any use hereafter begun shall not be discernible at the property line to a greater degree than odors from plants for the manufacture of fabrication of books, textile weaves, electronic equipment or other plants in which operations do not result in greater degree of odors. Detailed plans for the prevention of odors crossing property lines may be required before the issuance of a building permit.
- d. Glare. Glare, whether direct or reflected, such as from floodlights or high temperature processes, and as differentiated from general illumination, shall not be visible beyond any property line.
- e. Exterior Lighting. Any lights used for exterior illumination shall direct light away from adjoining properties.
- f. Vibration. Vibration shall not be discernible at any property line to the human sense of feeling for three (3) minutes or more duration in any one (1) hour.
- g. Smoke. Measurements shall be at the point of emission. The Ringleman Smoke Chart, published by the United States Bureau of Mines, shall be used for the measurement of smoke. Smoke not darker or more opaque than No. 1 on said chart may be emitted, except that smoke not darker or more opaque than No. 2 on said chart may be emitted for periods not longer than four (4) minutes in any thirty (30) minutes. These provisions, applicable to visible gray smoke, shall also apply to visible smoke of different color but with an equivalent opacity.
- h. Dust. Solid or liquid particles shall not be emitted at any point in concentrations exceeding three-tenths (.3) grain per cubic foot of the conveying gas or air. For measurement of the amount of particles in gases resulting from combustion, standard corrections shall be applied to a stack temperature of five hundred (500) degrees Fahrenheit and fifty (50) percent excess air.
- i. Fumes or gases. Fumes or gases shall not be emitted at any point in concentrations of amounts that are noxious, toxic or corrosive. Detailed plans for the elimination of fumes or gases may be required before the issuance of a building permit.

- j. Hazard. Every operation shall be carried on with reasonable precautions against fire and explosion hazards.

2. Compliance:

In order to insure compliance with the performance standards set forth above, the Board of County Commissioners may require the owner operator of any permitted or conditional use to have made such investigations and tests as may be required to show adherence to the performance standards. Such investigation and tests as are required to be made shall be carried out by an independent testing organization as may be selected by the County.

E. Additional Requirements, Exceptions and Modifications

1. Height Regulations:

- a. Where the average slope of a lot is greater than one (1) foot rise or fall in seven (7) feet of horizontal distance from the established street elevation at the property line, one (1) story in addition to the number permitted in the District in which the lot is situated shall be permitted on the downhill side of any building.
- b. Height limitations set forth elsewhere in this ordinance may be increased by one hundred (100) percent when applied to the following:
 - 1. Monuments.
 - 2. Flag Poles.
 - 3. Cooling towers.
 - 4. Grain elevators.
- c. Height limitations set forth elsewhere in this ordinance may be increased with no limitation when applied to the following:
 - 1. Church spires, belfries or domes, which do not contain habitable or usable space.
 - 2. Water towers.
 - 3. Chimneys or smokestacks.
 - 4. Residential radio/television towers and/or antennas. (Amended 3/5/02)

2. Yard Regulations:

Measurements shall be taken from the nearest point of the wall of a building to the lot line in question, subject to the following qualifications:

- a. Cornices, canopies or eaves may extend into the required front yard a distance not exceeding four (4) feet, six (6) inches.
- b. Fire escapes may extend into the required front yard a distance not exceeding four (4) feet, six (6) inches.
- c. The above-enumerated architectural features may also extend into any side or rear yard to the same extent, except that no porch, terrace or outside stairway shall project into the required side yard distance.
- d. A wall, fence or hedge not exceeding five (5) feet in height may occupy part of the required front, side or rear yard, except that on corner lots no wall, fence or hedge shall be located so as to create a traffic hazard through creation of a visual obstruction.
- e. On double frontage lots the required front yard shall be provided on both streets.
- f. The required front yard of a corner lot shall not contain any wall, fence or other structure, tree, shrub or other growth which may cause danger to traffic on a road or public road by obscuring the view.

- g. The required front yard of a corner lot shall be unobstructed above a height of thirty (30) inches in a triangular area, two sides of which are the lines running along the side road lines between the road intersection and a point fifty (50) feet from the intersection, and a third side of which is the line between the latter two points.

3. Storage of Materials:

In all CLASSES OF BUSINESS DISTRICTS and all CLASSES OF INDUSTRY DISTRICTS open storage of materials in any required front, side or rear yard shall be prohibited. Any other outside storage shall be located or screened so as not to be visible from any of the CLASSES OF RESIDENCE DISTRICTS.

4. Area Regulations:

No lot shall be so reduced that the area of the lot or dimensions of the open spaces shall be smaller than herein prescribed.

5. Accessory Uses:

The following accessory uses, in addition to those herein specified, shall be permitted in any RESIDENCE DISTRICT, if the accessory uses do not alter the character of the premises in respect to their use for the purposes permitted in the District:

- a. The operation of necessary facilities and equipment in connection with schools, technical institutes, colleges, universities, hospitals and other institutions permitted in the District.
- b. Recreation, refreshment and service buildings in public parks and playgrounds.
- c. Fallout shelters.

6. Accessory Buildings:

- a. In case an accessory building is attached to the main building, it shall be made structurally a part of the main building and shall comply in all respects with the requirements of this Ordinance applicable to the main building. An accessory building shall not be closer than five (5) feet to the main building, except as otherwise provided in this Ordinance.
- b. A detached accessory building shall not be located in any required front or side yard.
- c. A detached accessory building not over one (1) story and not exceeding twelve (12) feet in height shall occupy not more than thirty (30) percent of the area of any rear yard, providing further that no detached accessory building shall be located within ten (10) feet of any rear lot line.

F. Buffers On Water Resources – (Added November 7, 2017)

It is the intent of Wadena County to provide for riparian vegetated buffers and water quality practices to protect water resources from erosion and runoff pollution, stabilize soils, shores, and banks, and protect or provide riparian corridors. The following standards are adopted in accordance with MN Statute 103F.48 and MN Statute 394 in an effort to achieve these goals. The provisions of this ordinance applies to all waters, including public ditches, and as shown on the buffer protection map.

1. Definitions as used in this Section:

Buffer – has the meaning provided in MN Statute 103F.48, subd. 1(c)

Buffer Protection Map – has the meaning provided in MN Statute 103F.48, subd. 1(d) and which are available on the Department of Natural Resources website.

BWSR - the MN Board of Water and Soil Resources

Cultivation Farming – practices that disturb the root or soil structure or than impair the viability of perennial vegetation due to cutting or harvesting near the soil surface

Drainage Authority – the public body having jurisdiction over a drainage system under MN Statute 103E

Parcel – means a unit of real property that has been given a tax identification number maintained by the county

Local Water Management Authority – has the meaning provided in MN 103E.005, subd. 12

Normal Water Level – the level evidence by the long-term presence of surface water as indicated directly by hydrophytic plants or hydric soils or indirectly determined via hydrological models or analysis

Public Drainage System – a system of ditch or tile, or both, to drain property, including laterals, improvements, and improvements of outlets, established and constructed by a drainage authority; includes the improvement of a natural waterway used in the construction of a drainage system and any part of a flood control plan proposed by the United States or its agencies in the drainage system

Public Waters – as defined in MN Statute 103G.005, subdivision 15; applies to waters that are on the public waters inventory as provided in MN Statute 103G.201

SWCD – means Soil and Water Conservation District

Shoreland Management Rules – standards and criteria for the subdivision, use, and development of the shorelands of public waters as provided in MN Rule parts 6120.2500-6120.3900

2. **Standards** – Except as otherwise provided in subpart 3. and 4. of this section, a landowner owning property adjacent to a water body identified on the buffer protection map must establish and maintain a buffer area as follows:
 - a. For waters shown on the buffer protection map requiring a fifty (50) foot width buffer, the buffer width will be fifty (50) foot average and a thirty (30) foot minimum width as provided in MN Statute 103F.48 subd. 3. and as measured according to the provisions of letter c. below.
 - b. For waters shown on the buffer protection map requiring a sixteen and a half (16.5) foot minimum width buffer, the buffer width will be sixteen and a half (16.5) feet as provided in MN Statute 103F.48, subd. 3 and as measured according to the provisions in letter d. below.
 - c. The width of any required buffer on land adjacent to a water requiring a fifty (50) foot average width and a thirty (30) foot minimum width buffer shall be from the top or the crown of the bank. Where there is no defined bank, measurement must be from the edge of the normal water level.
 - d. The width of any required buffer on land adjacent to a water requiring a sixteen and a half (16.5) foot minimum width buffer shall be measured in the same manner as for measuring the vegetated grass strip under MN Statute 103E.021, subd. 6 as provided in MN Statute 103F.48 subd. 3(c).
 - e. A buffer may not be used for cultivation farming but may be mowed, hayed, grazed, or otherwise harvested, provided permanent growth of perennial vegetation is maintained, except as provided in subpart 3. and 4. of this section.
3. **Exemptions** – The requirements of subpart 2.a. and 2.b. do not apply to land that is:
 - a. Enrolled in the federal Conservation Reserve Program;

- b. Used as a public or private water access or recreational use area including stairways, landings, picnic areas, access paths, beach and watercraft access areas, provided the area in such use is in conformance with Section 14. of this Ordinance;
 - c. Covered by the site of a water-oriented accessory structure and any other permitted structures in conformance with Section 14 of this Ordinance;
 - d. Covered by a road, trail, building or other structure;
 - e. Regulated by a national pollutant discharge elimination system/state disposal system (NPDES/SDS) municipal separate storm sewer system, construction or industrial permit under MN Rule Chapter 7090, and the adjacent waterbody is provided riparian protection;
 - f. Part of a water-inundation cropping system; or
 - g. In a temporary non-vegetated condition due to drainage tile installation and maintenance, alfalfa or other perennial crop or plant seeding, or a construction or conservation project authorized by a federal, state, or local government unit.
4. **Alternative practices** – An owner of land that is used for cultivation farming may demonstrate compliance with subpart 2.a. and 2.b. by establishing and maintaining an alternative riparian water quality practice(s), or combination of structural, vegetative, and management practices(s) which provide water quality protection comparable to the water quality protection provided by a required buffer as defined in subparts 2.a. and 2.b. based on:
- a. practices based on local conditions approved by the Wadena County Soil and Water Conservation District Office that are consistent with the Natural Resources Conservation Service Field Office Technical Guide;
 - b. the Natural Resources Conservation Service Field Office Technical Guide; or
 - c. common alternative practices adopted by the Board of Water and Soil Resources
 - d. other practices adopted by BWSR
5. **Non-conformity** – Where the provisions of any statute, other ordinance or regulation imposes greater restrictions than this ordinance, the provision of such shall be controlling. The continuation of nonconformities provided for by MN Statute 394 and 462 shall not apply to compliance with this ordinance and MN Statute 103F.48.
6. **Compliance** –
- a. Compliance with the buffer requirements set forth in Section 2 will be determined by the SWCD on a parcel by parcel basis as identified by a unique locally defined property identification number or description and the compliance status of each bank, or edge of a water body on an individual parcel will be determined independently.
 - b. When the County identifies a potential noncompliance with the buffer requirements or receives a third party complaint from a private individual or entity, or from another public agency, it will consult with the SWCD to determine the appropriate course of action to document compliance status. This may include communication with the landowner, inspection, or other appropriate steps necessary to verify the compliance status of the parcel. On the basis of the evidence gathered in this process, the SWCD may issue a Notice of Non-compliance (NONC) to the County. If the SWCD does not issue such a notification, the County will not pursue a compliance or enforcement action under MN Statute 103F.48 and subsection G. 7. below.
- At any time during the process set forth, the landowner may provide documentation of compliance to the SWCD. The SWCD will evaluate the available documentation, and or evaluate and/or inspect the buffer and/or alternative practices to determine if the parcel is in compliance. Upon completion of the evaluation and/or inspection the SWCD shall issue a written compliance determination to the landowner, the County and BWSR. The SWCD may also issue a Validation of Compliance, if applicable, and requested by the landowner.
- c. **Compliance Determination** – On receipt of an SWCD NONC, the County will issue the landowner a Corrective Action Notice that will:
 - 1) include a list of corrective actions needed to come into compliance with the requirements of MN Statute 103F.48;

- 2) provide a timeline for complying with the corrective action notice;
- 3) provide a compliance standard against which the County will judge the corrective action; and
- 4) include a statement that failure to respond to this Notice may result in the assessment of criminal penalties;

The County shall transmit the corrective action notice by either personal service to the landowner or by depositing the same in the U.S. Mail. If service is made by U.S. Mail, the document is deemed received three business days after the notice was placed in the U.S. Mail. Failure of actual receipt of a corrective action notice that has either been personally served or served by depositing the same in the U.S. Mail shall not be deemed a defense in an enforcement proceeding under Section G. 7. of this Ordinance. The County shall also send a copy of the Notice to the SWCD and to BWSR.

The County may modify the corrective actions and timeline for compliance to extend the compliance timeline for a modification that imposes a substantial new action or significantly accelerates the completion date for action.

- d. At any time after receipt of a corrective action notice, the landowner may provide documentation of compliance to the County. In addition, the landowner may supply information to the County or the SWCD in support of a request to modify a corrective action or the timeline for compliance. On the basis of any such submittal or at its own discretion, the County may make a written modification to the Correction Action Notice or timeline for compliance. The County should also make a written determination documenting whether the noncompliance has been fully corrected. Any such modification of a compliance determination will be served on the landowner in the manner provide for in this Section 6. c. The County shall provide the SWCD and BWSR a written copy of any modification made pursuant to this provision.
- e. The SWCD may, after an evaluation of the evidence documenting compliance submitted by the landowner, issue a written Validation of Compliance if requested if the landowner. Upon receipt by the County of a written compliance determination issued by the SWCD, the Corrective Action Notice will be deemed withdrawn for the purpose of Section G. 7. And the subject property will not be subject to enforcement under that section.

7. **Enforcement** - Non-compliance with the provisions of this Section will be considered a violation of the Wadena County Zoning Ordinance to be processed in accordance with the provisions of Section 28 of the same Ordinance.

SECTION 16: TELECOMMUNICATIONS TOWERS, ANTENNAS, AND RELATED FACILITIES

A. Purpose and Intent

The purpose of the Telecommunications Towers, Antennas, and Related Facilities section of this Ordinance is to establish balanced regulations, within reason, to protect the public health, safety, and general welfare of the citizens of Wadena County while allowing carriers to provide a service to the general population.

These regulations are intended to:

- Regulate the location of telecommunication towers and facilities;
- Protect residential areas and land uses from potential adverse impacts of telecommunication towers and facilities;
- Minimize adverse visual effects of towers through careful design and siting standards;
- Avoid potential damage to adjacent properties from tower or antenna failure and weather related occurrences through structural standards, careful siting, and setback requirements;

- Encourage shared use and collocation of telecommunication towers and facilities;
- Ensure that telecommunication towers and facilities are compatible with surrounding land uses.

B. Definitions

ABANDONED TOWER – A permanent structure situated on a site that's use for transmitting and receiving wireless communications is discontinued. A tower shall be considered to be abandoned on the day service is discontinued. (Added 5/6/03)

ANTENNA – any structure or device used for the purpose of collecting or radiating electromagnetic, microwave, radio, television, or other frequency energy waves, of any type, for any purpose.

ANTENNA SUPPORT STRUCTURE - a building, water tower, or other structure, other than a telecommunications tower, which can be used for location of telecommunication facilities.

APPLICANT - a person or entity that applies for a permit to develop, construct, build, modify, or erect a tower or antenna under this section.

APPLICATION - the process by which the owner of a plot of land within the county or other person or entity submits a request to develop, construct, build, modify, or erect a tower of antenna upon the land.

ENGINEER - an engineer licensed by the State of Minnesota.

STEALTH – having an appearance, through color choice and/or screening, that will blend with the surroundings of the environment.

TEMPORARY TOWER – a structure situated on a site intended for transmitting or receiving television, radios, telephone, cellular, or wireless communications for test purposes only.

TOWERS - a permanent structure situated on a site that is intended for transmitting or receiving television, radio, telephone, cellular, or wireless communications.

1. **Communication tower, freestanding, self-supporting** – a ground mounted tower consisting of a pole, spire, structure, or combination thereof constructed without guy wires and anchors.
2. **Communication tower, guyed** – a tower that is supported in whole or part by wires and ground anchors.
3. **Communication tower, monopole** – a ground mounted tower consisting of a single pole constructed without guy wires and anchors.

C. PERMIT REQUIREMENTS

1. It shall be unlawful for any person or other entity to construct, place, or re-erect any tower, unless it shall replace a like tower, without first making application to the County and securing the necessary conditional use permit. Any change in construction, dimension, lighting design, or design type shall also require a conditional use permit. Routine maintenance of towers and related structures shall not require the issuance of a separate permit.
2. A temporary tower of which the intended use will be for test purposes only may be approved through an administrative permit issued through the Zoning Office for a period of time not to exceed ninety (90) days.
3. A person or entity desiring to construct a tower must submit an application for conditional use along with any fees required to the Zoning Administrator.

4. Along with all general information of the application for conditional use, the applicant must submit:
- a. a scaled site plan indicating the location, type and height of the proposed tower, onsite land uses and zoning, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, nearest residential units, residentially zoned and platted areas, setbacks from Overall High Water Levels of public waters, elevation drawing of the proposed tower and other structures, topography, parking (if applicable), and other information deemed by the Zoning Administrator to be pertinent to be in compliance with the applicable code provisions;
 - b. a map indicating a secondary tower site location wherein the applicant would also be able to generate optimum coverage;
 - c. a landscape plan showing specific landscape materials;
 - d. written information demonstrating the need for the tower at the proposed site in light of the existing and proposed wireless telecommunications network(s) to be operated by persons intending to place telecommunications facilities on the tower;
 - e. an inventory of the applicant's existing towers, antennas, or sites approved for towers or antennas, that are either within the boundaries of the County or within one mile of the boundaries of the County, unless the proposed tower will be a part of a network of towers, then an inventory of the location of the tower preceding the County's boundaries and the next tower in line exiting the County's boundaries, including specific information about the location, height, and design of each tower as well as the number and types of services existing on each tower and if space remains available for additional service providers. Subject to the propriety rights of the applicant, the County may share such information with other applicants applying for conditional use permits under this ordinance or with other entities seeking to locate antennas within the County. This is provided that the County is not, by sharing such information, in any way representing or warranting that such sites are available or suitable;
 - f. a map indicating the search radius and proposed broadcast coverage prepared by an RF engineer;
 - g. a written description of the suitability of the use of existing towers, other structures, or alternative technology including, but not limited to, cable micro cell network attached to existing wire line systems or similar technology that does not require the use of towers;
 - h. a statement by the applicant regarding accommodation for collocation of additional antennas for future users;
 - i. a copy of relevant portions of a lease signed by the applicant and property owners(s), requiring the applicant to remove the tower and associated telecommunications facilities upon cessation of operations on the leased site, or, if a lease does not yet exist, a written agreement to include such a provision in the lease to be signed; and
 - j. photographs of the affected horizon and its immediate vicinity, photographed from not less than east, west, north, and south directions and toward the proposed tower site, and, if possible, a superimposed image of the tower to be constructed and any related tower facilities, to approximate scale.
 - k. Written confirmation stating the tower will be in use for transmitting and receiving communications signals, other than RF (radio frequency) signals, within ninety (90) days of tower construction completion. (Added 5/6/03)

D. Performance Standards

1. Telecommunications towers may be permitted as a conditional use under this ordinance only in the following zoning districts: A-1 Transitional Agriculture, A-2 Mixed Agriculture Forestry, A-3 General Agriculture, B-1 Highway Service Business District, B-2 General Business District, and I-1 General Industry District.
2. **COLLOCATION CAPABILITY** – Unless the applicant presents clear and convincing evidence to the Planning Commission in written, as well as verbal form, that collocation is not feasible, a new tower may not be built, constructed or erected in the County. If clear and convincing evidence can be presented indicating collocation on an existing tower is not feasible, a new tower may be permitted as long as the tower is capable of supporting at least three (3) telecommunications facilities comparable in weight, size, and surface area to each other. (Amended 5/6/03)
3. **SETBACK REQUIREMENTS** – Any tower constructed after the date of adoption of this ordinance must comply with the following setback requirements:
 - i. Setback requirements are measured from the base of the tower to the property line of the parcel on which it is located;
 - ii. A tower must be located on a single parcel having a dimension equal to the height of the tower, as measured between the base of the tower located nearest the property line and the actual property line, unless an engineer specifies in writing that the collapse of the tower will occur within a lesser distance under reasonably foreseeable circumstances;
 - iii. Towers shall have a minimum setback from any property line, including road right of ways, equal to the height of the tower plus ten (10) feet;
 - iv. Towers shall have a minimum setback from a residential zoning district of two thousand six hundred and forty (2,640) feet;
 - v. Towers shall have a minimum setback from the Ordinary High Water Level of a General Development Lake, Recreational Development Lake, Natural Environment Lake, Forested River, Transitional River, and Agriculture River within the County of two thousand six hundred and forty (2,640) feet;
 - vi. Notwithstanding other variance requirements to the contrary, a tower setback may be, but is not required to be, reduced by variances so as to allow for the structural integration of a tower into an existing or proposed structure such as: a church steeple, light standard, power line support device, or similar structures within the County;
 - vii. Any tower to be constructed equal to or exceeding five hundred (500) feet in height, or three hundred (300) feet in height within one thousand (1000) feet of any protected water or protected wetland, shall require an automatic Environmental Impact Study/Environmental Assessment Worksheet to be conducted at the expense of the applicant.

E. Lighting – Towers may not be artificially lighted except as required by the Federal Aviation Administration. Lighting on the tower structure shall be of a type that will attract as little attention as possible from below and that will not to be reflected onto neighboring properties.

F. Exterior Finish – Towers not requiring Federal Aviation Administration painting or marking must have an exterior finish as approved in the site plan which will be conducive to the tower surroundings.

- G. Fencing** – A fence of suitable protective anti-climbing material with a minimum height of six (6) feet must be provided around the perimeter of the tower, including the guy wires and any equipment housing facility on the site.
- H. Landscaping** – Landscaping on parcels containing towers, antenna support structures or telecommunications facilities must be in accordance with landscaping requirements as approved in the site plan. Utility buildings and structures accessory to a tower must be architecturally designed to blend in with the surrounding environment and to meet such setback requirements as are compatible with the actual placement of the tower. Ground mounted equipment must be screened from view by suitable vegetation except where a design of non-vegetative screening better reflects and complements the character of the surrounding neighborhood.
- I. Accessory Buildings & Equipment** - No more than one accessory building is permitted per tower. Telecommunications facilities not located on a tower or in an accessory building must be of stealth design.
- J. Signage** – Appropriate signs of warning and safety shall be strategically placed at the tower site. A sign shall be conspicuously placed having the name of the owner and a phone number to contact in case of an emergency inscribed on it. The use of any part of the tower or accessory buildings or equipment for advertising is strictly prohibited.
- K. Types of Towers**– Types of towers may include but are not limited to monopoles, stealth, lattice, and guyed towers.
- L. Tower Materials** – All metal towers shall be constructed of, or treated with, corrosion-resistant material. Towers and all telecommunications facilities not located on a tower or in an accessory building must be of stealth design.
- M. Equipment Housing** – Transmitting, receiving, and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary for transmitting, receiving, and switching equipment, it shall be situated so as to be screened from view by landscaping. All support structures shall be reasonably protected against climbing.
- N. Removal of Towers or Telecommunications Facilities** – Abandoned towers and associated facilities that are not removed within six (6) months shall be declared to be a public nuisance and may be removed by the County and the costs of removal assessed against the property pursuant to state law and County ordinances. The conditional use permit shall establish an amount to be posted by bond, letter of credit, cash or equivalent by the applicant that will cover the projected cost of removal of towers or telecommunications facilities in the event of abandonment. If the use of a tower is discontinued by the tower owner, the tower owner shall provide not less than ninety (90) days written notice to the County of its intent to discontinue use and the date when the use will be discontinued.
- O. Maintenance**– Towers and telecommunications facilities must be maintained in accordance with the following provisions:
1. Tower owners must employ ordinary and reasonable care in construction and use commonly accepted methods and devices for preventing failures and accidents that are likely to cause damage, injuries, or nuisances to the public.
 2. Tower owners must install and maintain towers, telecommunications facilities, wires, cables, fixtures and other equipment in compliance with the requirements of the National Electric Safety Code and all Federal Communications Commission, state, and local regulations, and in such a manner that they will not interfere with the use of other property.

3. Towers, telecommunications facilities, antenna support structures and grounds must be kept and maintained in good condition, order, and repair.
4. All tenants on towers must comply with radio frequency emissions standard of the Federal Communications Commission.

P. *Assignment of Rights* – The County shall be given written notice of any assignment of right, e.g., of ownership or of lease, not less than thirty (30) days in advance of the assignment. Such notice shall include, but not be limited to, name, address, and phone number of the proposed assignee, nature of the assignment, date of proposed assignment and purpose of assignment.

Q. *Failure to Comply – Permit Revocation*

1. If the permittee fails to comply with any provision of the County Ordinances, federal or state law, or the conditional use permit requirements, then the County may impose penalties for noncompliance, or it may revoke the permit in accordance with the following provisions:
 - a. A permit for conditional use and construction of a tower may be revoked by the County if the proposed tower is not constructed within one (1) year of the date of the permit approved by the County Board of Commissioners and issued by the Planning & Zoning Office.
 - b. Except as provided in paragraph c. below, a permit revocation shall be preceded by written notice to the permittee of the alleged violations(s), the opportunity to correct the violation(s) during a period not to exceed thirty (30) days following receipt of the written notice and a hearing before the County Board of Commissioners at least fifteen (15) days after receiving written notice of the hearing. The hearing shall provide the permittee with an opportunity to show cause why the permit should not be revoked.
 - c. If the County finds that exigent circumstances exist requiring immediate permit revocation, then the County may revoke the permit and shall provide a post-revocation hearing at least fifteen (15) days after permittee's receipt of the written notice of the hearing.
 - d. Any decision to revoke shall be in writing and supported by substantial evidence contained in a written record.

R. *No Permit Required* – No permits shall be required for the following:

1. Satellite dish receiving antennas not exceeding three (3) meters in diameter;
2. Adjustment, repair or replacement of the elements of an antenna, provided that such work does not constitute a clear safety hazard to the public;
3. Emergency or routine repairs, reconstruction or routine maintenance of previously approved facilities, or replacement of transmitters, antennas, or other components or previously approved facilities which do not create a significant change in visual impact and provided that such work does not constitute a clear safety hazard to the public.
4. Two-way communication transmitters used on a temporary basis by a "911" emergency service, including fire, police, and emergency aid or ambulance service.
5. Radio transceivers normally hand-held or installed in moving vehicles, such as automobiles, watercraft, or aircraft. This includes cellular phones.
6. Amateur HAM radio towers conforming with FCC PRB1 requirements.

7. Household television towers, television antennae, television antennae attached to a dwelling for the primary purpose of television/radio reception.
8. Monopoles under 100 feet in height and installed by public suppliers of electricity for use in two-way radio communications, data collection, and/or remote scaling at the substation for which it is intended, so long as they meet all required setbacks as listed in this Section of the Zoning Ordinance. (Amended May 3, 2016)

S. *Right of Way* – Except as approved by the County as to public utilities, no part of any telecommunications tower or telecommunications facilities, nor any lines, cable, equipment, wires, or braces shall, at any time, extend across or over any part of the right-of-way, public street, highway, sidewalk, or property line. A provider of wireless telecommunications services within the meaning of the Act is not a public utility.

T. *Effective Date* - This amendment to the Zoning Ordinance No. 1 for the County of Wadena, Minnesota, shall be in effect from and after its passage and approval according to the law.

Adopted by the Wadena County Board of Commissioners May 6, 2003.

Section 17. SUB-SURFACE SEWAGE TREATMENT SYSTEMS (effective 9-1-08, amended 1-4-11)

A. Sub-surface Sewage Treatment Systems (SSTS) – General Construction Requirements

1. Sub-surface sewage treatment systems must be designed, installed, and maintained in accordance with Minnesota Rules Chapter 7080 for technical standards for Individual SSTS designed for systems under 5,000 gallons per day and 7081 for technical standards for Mid-sized SSTS designed for systems more than 5,000 gallons per day but under 10,000 gallons per day. Definitions, as they pertain to MN Rules Chapters 7080 and 7081, will be as provided in the aforementioned rules. Technical standards differing from MN Rules Chapter 7080 & 7081 for the installation of SSTS in Wadena County are as follows:
 - a. Septic tanks shall not be buried with the top of the tank being deeper than four (4) feet in the ground, unless extenuating circumstances can be determined to exist. In this instance, a documented need can be submitted to the County Planning & Zoning Office prior to the application for permit and the request will be reviewed and a decision made to allow or not to allow a less restrictive tank depth. Installation of a tank deeper than four (4) feet shall only be allowed upon the approval of the County Planning & Zoning Office. Tanks allowed to be buried deeper than four feet must be constructed to withstand the additional depth and have the corresponding certification.
 - b. Holding tanks installed beneath a privy shall have a capacity of at least three hundred (300) gallons. (Amended 9-1-2020)
 - c. Systems designed to use chambered median must be designed for three (3) feet per lineal foot for chambers with six (6) inch sidewalls. Chambers having sidewalls twelve (12) inches or greater may be allowed the reductions suggested in MN Rule Chapter 7080.2210 Subp. 3., B.
 - d. There shall be no requirement to increase tank capacities by 50% because a dishwasher is being installed or is present in the dwelling structure for which the system is being installed.
 - e. Using gravity to distribute effluent in soil treatment areas located in “sand” soil classifications may be allowed if: the trenches of the drainfield are divided so that no trench exceeds 15% of the total soil absorption area, **or**, there is documentation of a minimum of five (5) feet of separation distance from the bottom of the absorption area to a restrictive layer in the soil below it. The lowest

depth of the system absorption area and the five (5) feet of vertical separation must be accomplished in the first seven (7) feet of soil, and a pre-construction soil verification with qualified Wadena County Planning & Zoning staff must be conducted.

2. Construction permits are required for any system installation, upgrade, or replacement. Construction permits for repairs may be required. A fee, set by the Wadena County Board of Commissioners, will be charged for construction permits. With any application for permit the following provisions will apply:

- a. A fully completed design form provided by the County of Wadena, must be submitted at the time of the application for permit but at least 3 business days prior to the proposed construction on the new or existing system. The Wadena County Zoning Office has the right to reserve permitting until all information required on the design is provided, and, shall be allowed up to 3 business days to review a design prior to issuing a permit.
- b. Late application for permits will result in monetary late fees as adopted by the Wadena County Board of Commissioners.
- c. Applications may be obtained by the licensed professional on behalf of the owner of the property where the new or existing system is located.
- d. Soil verification to determine the vertical separation between the bottom of the soil dispersal system and periodically saturated soil will be required on all new construction system designs, as well, as on replacement systems. Documentation of the soil verification will be kept on file in the County's Office of Planning & Zoning for future referral. The following provisions will apply:
 - 1) A qualified employee of the County, upon the inspection of the construction of a system, may verify the soils to determine the vertical separation between the bottom of the soil dispersal area and periodically saturated soil. This shall be accomplished by viewing a soil pit having a depth of not less than three (3) feet below the soil dispersal area. The tank pit may be used if the sides are left exposed and as long as the inspector has a clear view of the soil. If a separate pit is required by the inspector, preferably the pit should be located at the end of the first trench excavation, allowing a clear view of the soils for the installer, initially, before the rest of the system is complete, as well as for the inspector at the end of construction. However, if this is not feasible, the pit should be located in as close of proximity to the soil dispersal area as possible; or,
 - 2) in areas where a soil pit is not conducive of the site, soil borings may be conducted to determine the depth to a limiting layer and separation verified.
- e. Disputes related to design and installation of SSTS between SSTS licensed professionals shall be resolved as follows:
 - 1) Complete documentation from both parties will be submitted to the Office of Planning & Zoning to be reviewed by staff;
 - 2) A site visit will be made by County staff and all information reviewed and analyzed on site with additional information being collected where necessary;
 - 3) The County will make a ruling on the dispute and provide a resolution within 10 business days following a site visit; and
 - 4) Resolutions offered by the County will be considered final.
- f. Any new construction or system upgrades or replacements permitted in the County must be inspected by the County. The inspector shall make such inspection or inspections as are necessary to determine compliance with this Ordinance. No part of the system shall be covered until it has been inspected and accepted by the inspector, unless provisions have been made in advance due to inclement weather or other extraordinary circumstance. It shall be the responsibility of the applicant of the permit to notify the inspector that the job is ready for inspection or re-inspection, and it shall be the duty of the inspector to make the indicated inspection within 48 hours of such notice has been given. It shall be the duty of the owner or occupant of the property to

g. System installations or upgrades which deviate from the site plan, or any other portion of the design submitted for permit, may be approved “as-built” by the inspector if extenuating circumstances necessitated a variation. However, the original designer for the system must then submit revised plans for the system which match the actual installation on the site. This revised information must be submitted to the Office of Planning & Zoning for Wadena County within 3 business days of the inspection or penalties may be enforced.

- ### ***B. Non-Conforming Individual SSTS – Requirements for Update, Repair, & Replacement***

- 75 | Page

or Notice of Non-Compliance to the Wadena County Office of Planning and Zoning no later than June 1 of the same year.

3. A current Certificate of Compliance shall be required for an existing sewage system at any time a permit is required for a change to the footprint of the existing dwelling, including length, width, or height, except that no compliance inspection on an existing system will be required upon issuance of a permit for the addition of a deck, open air porch, patio or fence. Systems found to be Non-Compliant or Failing to Protect Ground Water shall be required to be updated or replaced within 10 months of the date of the Notice of Non-compliance or Failure to Protect Groundwater.
4. A current Certificate of Compliance shall be required for an existing system, in any district, at any time an application for Conditional Use, Rezoning, or Variance is requested. A system not meeting the requirements for compliance shall be upgraded or replaced within 10 months of the date of the Notice of Non-compliance or Failure to Protect Groundwater.
5. The County of Wadena will require upgrading or replacement of any failing system Identified in Minnesota Rules 7080.1500 Subp. 4, or any system found to be an Imminent Threat to Public Health within a period of time not to exceed 10 months from the date of Notification of Non-Compliance.
6. For the purpose of these provisions, an individual sub-surface sewage treatment system shall not be considered non-conforming or failing if:
 - a. The only deficiency is the system's improper setback from the Ordinary High Water Level; or,
 - b. The system was constructed prior to April of 1996 and has a separation distance from the bottom of the system to indications in the soil of seasonal high water that is less than 3 feet, but not less than 2 feet, and is located outside of an S-1 Shoreland Overlay District, a well head protection area, or is an SSTS providing sewage treatment for food, beverage, or lodging establishments; or,
 - c. If the system was installed after the date above referenced, with a separation distance from indications of seasonal high water of thirty-six (36) inches at the time of installation, and has a present separation distance from the bottom of the system to indications in the soil of seasonal high water that is reduced by not more than 15% of the required three (3) foot separation distance.
8. Soil verification will be required for existing system compliance inspections as set forth below:
 - a. If soil documentation for the existing system is on record with the Office of Planning & Zoning, it may be used to verify the information is correct. A complete copy of the documentation confirming the original soil report must be submitted with the Certificate of Compliance or Notice of Non-Compliance to the Office of Planning & Zoning for the County.
 - b. If no soil information is on record with the Office of Planning & Zoning, soil documentation at the time of the compliance inspection must be performed by a licensed professional having the appropriate credentials to do so, and the same submitted to the Office of Planning & Zoning with the Certificate of Compliance or Notice of Non-Compliance. This soil report may be submitted to the Office of Planning & Zoning without verification from another licensed professional where it will be kept on record until such time in the future when a compliance inspection, including soil documentation, is required again, and at which time the soils shall be considered verified for the second and final time.
9. Any SSTS, or any component thereof, which is no longer intended to be used, must be abandoned in accordance with MN Rules, Chapter 7080.2500.

C. Requirements and Allowances for Installation of Complete Individual Onsite Sewage Treatment

1. Individual onsite sewage treatment systems designed and installed according to MN Rules Chapter 7080 or 7081 will be required for all dwelling structures within the jurisdiction of this Ordinance in the County of Wadena. (Amended July 8, 2014)
2. Holding tanks may be allowed for installation to serve Seasonal Dwelling Structures as defined in Section 4 of this Ordinance that additionally have running water to the structure. Holding tanks may also be installed for privies or under such other circumstances wherein a conventional system is not conducive of ground water or surface water protection, and, with the following provisions:
(Amended July 8, 2014)
 - a. Holding tanks must meet the construction requirements of MN Rule Chapter 7080.2290, Items a. through f, and must have a minimum capacity of 1,000 gallons.
 - b. Holding tanks installed beneath a privy shall have a capacity of at least three hundred (300) gallons. (Amended 9-1-2020)
3. Privies (outhouses) may be allowed for installation to serve Primitive Dwelling Structures as defined in Section 4, with an appropriate design by a licensed designer for those privies with dug pits. Privies requiring the installation of a holding tank must meet the requirements in Section 17, C., 2. of this Ordinance.

D. Management Plans & Maintenance Requirements

1. A Management Plan shall be developed according to MN Rule 7082.0600 by the licensed designer of the system to be installed, and must also be approved by Wadena County Planning & Zoning staff. It shall be the designer's responsibility to deliver the Management Plan for the system to be homeowner and to review the details of the plan with them.

E. Operating Permits

1. In compliance with MN Rule 7082.0600, Subp. 2., A. & B, an operating permit will be required for all Type IV and Type V systems. The operating permit application will be issued in conjunction with the application for permit for installation and shall be valid for a 3 year period from the date of issuance at which time the provisions of the operating permit will be reviewed for compliance and the permit renewed by the County. The operating permit may be issued and subsequently re-issued at a cost to the owner to be set by the Wadena County Board of Commissioners.
2. Provisions stated in item 17. E. 1. of this ordinance shall not pertain to holding tanks, unless otherwise required by Planning & Zoning staff as a condition of a permit to install a holding tank.

F. Additional Provisions Related to Discharge and Placement of SSTs

1. Surface discharge of sewage without an appropriately issued NPDES permit issued by the Minnesota Pollution Control Agency is prohibited.
2. Discharge of sewage to surface water or groundwater shall be strictly prohibited.

3. Discharge of sewage to a well or other boring described in MN Rules Chapter 4725.2050, or any other excavation in the ground not meeting the provisions of this Ordinance shall be prohibited.
4. SSTS shall not be located in a floodway and, wherever possible, location within any part of the floodplain should be avoided. If no option exists to locate an SSTS outside of a floodplain, location within the flood fringe is allowed if the requirements of MN Rules, Chapter 7080.2270 and all relevant local requirements are met.
5. Within the incorporated limits of a municipality, any lot or plot of land created after the enactment of Section 17 of this Ordinance which will require the use of an individual sewage treatment system to serve a dwelling structure, or other structures with water related facilities, shall be designed of such size and shape to accommodate two (2) soil dispersal sites and a drilled well, where public water supply is not available, in addition to any proposed structure(s). Soil observations and percolation rates to determine system size and verification to determine the vertical separation between the bottom of the soil dispersal system and periodically saturated soil will be required prior to the approval of the development.
6. Administrative variances for setbacks for septic system components from property lines may be granted when: 1) the property has been reviewed jointly by the designer and County Inspector and it is determined to be the only reasonable option 2) the property line in question has either been surveyed and the markers visible, or a signed and notarized statement is received from the adjacent property owner which says they agree on the location of the property line as marked. (Amended 9-1-2020)

G. Class V Injection Wells

1. All owners of a new or replacement SSTS that are considered to be Class V Injection Wells, as defined in the Code of Federal Regulations, title 40, part 144, are required by the Federal Government to submit SSTS inventory information to the Environmental Protection Agency as described in CFR40 part 144. Further, owners are required to identify all Class V Injection Wells in property transfer disclosures.

H. Variances

1. Variances from the provisions of Section 17 of the Zoning Ordinance #1 may be allowed under the provisions set forth in Section 25, of this Ordinance as long as the variance would not lessen the required setback from a well or the required separation distance from the bottom of a system to indications in the soil of seasonal high water levels.

SECTION 18: WIND ENERGY CONVERSION SYSTEMS (WECS) (Effective 3-7-11)

A. Purpose

The purpose and intent of this Section is to regulate the installation and operation of Wind Energy Conversion Systems (WECS) within Wadena County not otherwise subject to oversight by the State of Minnesota under Minnesota Statutes 216F.

B. Permitted Systems

1. Small wind energy conversion systems may be permitted administratively where the following conditions are met:

- a. Is not designed for exclusive connection to the commercial electrical grid for the sale of electricity (residential or agricultural in nature);
 - b. Is not located in an S-1 Shoreland Overlay District;
 - c. Does not exceed 40 kilowatts of combined electrical capacity;
 - d. The overall height of the tower, including all attachments, does not exceed 60 feet in height;
 - e. Must be able to meet a setback requirement of 1.1 times the highest point of the tower, including the blades, from property lines and from the road right-of-way;
 - f. Rotor blades must maintain at least 12 feet of clearance between their lowest point and the ground;
 - g. Guyed wires, fencing, and other exterior components of the SWECS must meet or exceed the minimum required side and rear yard setbacks outlined in the zoning district wherein the system is proposed.
 - h. Guyed wires must be fenced at their base or marked with a ball or other bright colored coating;
 - i. Must meet or exceed all minimum code requirements of the National Electric Code;
 - j. Must meet or exceed all minimum standards of the Federal Aviation Administration;
 - k. Must meet or exceed all minimum standards of the Minnesota Pollution Control Agency and the Environmental Protection Agency;
 - l. Permit applications must be accompanied by a Net Excess Generation (NEG) contract with the respective electrical power company if the SWECS will be connected to the commercial electrical grid; or, a statement from the respective electrical company stating they have been made aware of the proposed SWECS if it will not be connected to the commercial electrical grid;
 - m. Permit applications must be accompanied by certification from the manufacturer's engineer or another qualified engineer that the SWECS design is within accepted professional standards, given local soil and climate conditions;
2. Meteorological Towers may be permitted administratively if the following conditions can be met:
- a. Applicant must provide structure's exact location by longitude and latitude; elevation of the site in feet; proposed structure's height, including any attachments, in feet above ground level; owner's name, address, telephone number, e-mail address and the owner's representative if applicable. Information in this provision must be provided at least 30 days prior to erection of the proposed tower.
 - b. Tower must be painted in seven, equal, alternating bands of aviation orange and white, beginning with orange at the top of the tower and ending with orange at the base of the tower.
 - c. The surface area under the entire footprint of the tower and six (6) feet past the outer anchors must either be free of vegetation or planted in vegetation that is distinctly different from the vegetation surrounding the tower site.
 - d. Guyed-wired towers must have a total of eight (8) marker balls attached as follows: four (4) marker balls attached to guyed wires at the top of the tower at a distance no further now than 15 feet from the top wire connection to the tower, 4 marker balls at the bottom of the guyed wires at a height of five (5) to ten (10) feet above the tallest crop to be grown in the immediate vicinity of the tower.
 - e. Guyed-wired towers must have a seven (7) foot safety sleeve at each anchor point on #1, #4, and #6, and one additional sleeve located six (6) feet outside the outside anchor, and one sleeve at the lift anchor.
 - f. Must be able to meet a setback requirement of 1.1 times the highest point of the tower, from property lines and from the road right-of-way;
 - g. Guyed wires must meet the minimum required setbacks from property lines as set forth in the zoning district in which the tower is located.
 - h. Meteorological Towers being removed from a site must be reported to the Wadena County Zoning Office a minimum of 10 days prior to removal of the tower.

C. Systems Requiring Application for Conditional Use

1. SWECS with any of the following conditions (including but not limited to) requires an application for Conditional Use Permit prior to installation:
 - a. All SWECS exceeding 60 feet in height;
 - b. All SWECS exceeding 40 kilowatts of combined electrical capacity;
 - c. All existing SWECS proposing to increase current combined electrical capacity;
 - d. All aggregated projects;
 - e. All SWECS designed for exclusive connection to the commercial electrical grid for the purpose of electrical sales.
2. General standards of a SWECS requiring a Conditional Use Permit include, but are not limited to, the following:
 - a. Must not be located in an S-1 Shoreland Overlay District;
 - b. Must be at least 1500 feet from any residence unless the residence owner is also the tower owner;
 - c. Must be able to meet a setback requirement of 1.1 times the highest point of the tower, including the blades, from property lines and from the road right-of-way;
 - d. Rotor blades must maintain at least 12 feet of clearance between their lowest point and the ground;
 - e. Guyed wires, fencing, and other exterior components of the SWECS must meet or exceed the minimum required side and rear yard setbacks outlined in the zoning district wherein the system is proposed.
 - f. Guyed wires must be fenced at their base or marked with a ball or other bright colored coating;
 - g. Notice of No Trespassing and Warning of High Voltage posted at the site location;
 - h. Must meet or exceed all minimum code requirements of the National Electric Code;
 - i. Must meet or exceed all minimum standards of the Federal Aviation Administration;
 - j. Must meet or exceed all minimum standards of the Minnesota Pollution Control Agency and the Environmental Protection Agency;
 - k. Permit applications must be accompanied by a Net Excess Generation (NEG) contract with the respective electrical power company if the SWECS will be connected to the commercial electrical grid; or, a statement from the respective electrical company stating they have been made aware of the proposed SWECS if it will not be connected to the commercial electrical grid;
 - l. Permit applications must be accompanied by certification from the manufacturer's engineer or another qualified engineer that the SWECS design is within accepted professional standards, given local soil and climate conditions;
 - m. Any reasonable conditions, as seen fit to be established by the County of Wadena, applied by the Wadena County Planning Commission or the Wadena County Board of Commissioners;

D. Commercial SWECS

1. Commercial SWECS shall comply with the following additional stipulations:
 - a. A decommissioning plan developed by a qualified engineer including the anticipated life of the project, when and how a facility is to be decommissioned and the site restored to its original use. The plan shall include removal of the concrete base to a depth of no less than 4 feet below the ground. The plan shall include the current costs of decommissioning and site restoration, as well as providing a method of updating decommissioning costs on an annual basis. Each segment of the decommissioning process must be individually described in the plan and a cost associated with each segment must be listed in the plan. An escrow account equal to 100% of the total cost projected in the Decommissioning Plan, to remove the system and restore the site to its previous use, must be established within 30 days from the start of the construction on the site. The County shall hold the escrow account in the event implementation of the

decommissioning plan should fail to meet the goals and objectives of said plan, the County may use all or a portion of the money in escrow to implement and/or finish said Decommissioning Plan. Once decommissioning is completed in compliance with the Decommissioning Plan and all expenses incurred by the County in the decommissioning process is paid, any balances remaining in the escrow account held by the County shall be released to the applicant of the project.

- b. Applicant shall identify all public roads to be used in the construction plans for the project, review these roads with the appropriate local road authority(s), indicate the current condition of said roads, and provide a performance bond, in an agreed upon amount, to be held by the Wadena County Auditor/Treasurer until a post-construction review is held with the local road authority(s). The Performance Bond will be returned to the applicant upon receipt of a written release from the local road authority(s) indicating all haul routes are in as good or better condition than the pre-construction review.
- c. Latitude and longitude of each individual wind turbine;
- d. USGS topographical map (or similar data) of the property and surrounding area including identification and description of all other WECS within 10 rotor diameters of the proposed WECS project;
- e. A map indicating the owner, owner's address, and location of all communication towers within two miles of the proposed WECS project sit;
- f. Provide a summary of potential impacts of the proposed WECS project on wind resources on adjacent properties and its impact on nearby WECS;
- g. Description and identification of wind easements adjoining the proposed project area;
- h. Evidence of control of wind easements within the boundaries of the project site;
- i. A copy of all FCC or FAA notifications/permits, if required;
- j. Evidence of power purchase contracts and power transmission contracts or documentation that the power will be utilized onsite.

E. Abandonment

1. Abandonment of a SWECS must be reported to the Wadena County Zoning Office within 30 days of the discontinuance of use.
2. If the use of any SWECS has been discontinued for a period of 12 months or longer, it must be properly abandoned and all components of the system removed from the property within a period of time not to exceed 6 months from the period marking 12 months from the date of notification to the Wadena County Zoning Office that the use has been discontinued. (example: if notification of discontinuance is received on November 1, 2010, and the use has not resumed by November 1, 2011, the tower and all components must be removed within 6 months from November 2, 2011.)

SECTION 19: SOLAR ENERGY SYSTEMS *(Amended June 13, 2017)*

Purpose: The intent of this Section is to regulate the installation of Solar Energy Systems within the jurisdiction of Wadena County and pursuant to applicable Minnesota Statutes and rules.

A. Definitions – as they pertain to this section

Array – Solar - Any number of solar photovoltaic modules or panels connected together to provide a single electrical output.

Ground-mounted – Free standing solar panels mounted to the ground by the use of poles, stabilizers, or similar apparatus.

Photovoltaic (PV) Array – A group of solar photovoltaic modules connected together to increase voltage and/or power to the level required for a given system.

Photovoltaic Device – A system of components that generates electricity from incident sunlight by means of the photovoltaic effect, whether or not the device is able to store the energy produced for later use.

Power Purchase Agreement – A legally enforceable agreement between two or more persons where one or more of the signatories agrees to provide electrical power and one or more of the signatories agrees to purchase the power.

Roof-Mounted or Building Mounted – A system which is mounted on the roof or building using brackets, stands, or other apparatus.

Solar Energy System – A system which primary purpose is to harvest energy by transforming solar energy into another form of energy by transferring heat from a collector to another medium using mechanical, electrical or chemical means.

Solar Energy System / Accessory – A solar panel or array mounted on a building, pole, or rack that is an accessory use to a home or farm to supplement the use of electricity for the primary use on the property.

Solar Easement – A right, whether or not stated in the form of a restriction, easement, covenant, or condition, in any deed, will, or other instrument executed by or on behalf of any owner of land or solar sky space for the purpose of ensuring adequate exposure of a solar energy system as defined in Minnesota Statute Section 216C.06, Subdivision 17, to solar energy. Required contents of a Solar Easement are defined in Minnesota Statute Section 500.30.

Solar Farm – A solar array composed of multiple solar panels on ground-mounted racks or poles which is not directly connected to or designed to serve the energy needs of the primary use but rather for the primary purpose of wholesale sales of generated electricity. Solar farms include, but are not limited to, community solar gardens which are defined as a solar electric (photovoltaic) array that provides retail electric power (or financial proxy for retail power) to multiple community members or businesses residing or located off-site from the location of the solar energy system, consistent with Minnesota Statutes 216B.1641 or successor statute. A community solar system may be either an accessory or principal use.

Substations – Any electrical facility designed to convert electricity produced by solar facilities to a voltage for interconnection with transmission lines.

B. Permit Applications for Solar Energy Systems

1. Exempt from Permitting – The following systems do not require a land use permit prior to installation:
 - a. Accessory roof-mounted or building mounted systems which do not exceed 5 feet in height of the highest point of the structure when attached to the structure and which do not extend into any setback zone for the building in the Zoning or Overlay District in which it is located.
 - b. Accessory ground-mounted systems which panel space does not exceed 150 square feet.
2. Land Use Permits Required – Accessory Ground-mounted systems which panel surface exceeds 150 Square feet must obtain a land use permit prior to installation in accordance with the provisions of the Zoning Ordinance #1 and must meet the setback requirements and height restrictions of the Zoning District and any Overlay Districts in which they are situated. The location of each structure must be such that no part of the structure extends into the setback zone in any tilted position.
3. Conditional Use Permits Required – Solar Farms must be approved through the Conditional Use Permit process as outlined in this ordinance prior to the development of any such use on the parcel of property. Applications for Conditional Use Permits for Solar Farms will be accepted in the following Zoning Districts only: A-3 General Agriculture, A-2 Mixed Agriculture-Forestry, A-1 Transitional Agriculture, I-1 General Industry, B-1 Highway Service Business District, or B-2 General Business.

- a. **Application Requirements:** Information to be provided for the application for a Conditional Use Permit for a Solar Farm includes, but is not limited to, the following:
- (1) Existing property lines and the use of the properties adjacent to the proposed site;
 - (2) Existing public and private roads and any associated easements;
 - (3) Proposed roads or easements;
 - (4) Existing buildings and any other impervious surfaces on the property;
 - (5) Topography of the site at two (2) foot intervals and the source of the contour interval, as well as
a contour map of the adjacent land;
 - (6) Description of the vegetation on the property, i.e., wooded, grassland, plowed field, etc.
 - (7) Waterways, watercourses, lakes and public water wetlands;
 - (8) Delineated wetland boundaries;
 - (9) Floodplain information;
 - (10) Shoreland Overlay district boundaries if applicable;
 - (11) Soils information;
 - (12) Surface water drainage patterns;
 - (13) Site Plan: A site plan must be submitted with the application for Conditional Use Permit which
Must include, at a minimum, the following information:
 - (a) Location and spacing of solar panels;
 - (b) Location of access roads;
 - (c) Planned location of underground or overhead electric lines connecting the solar farm to the
building, substation or other electric load;
 - (d) Any new electrical equipment or buildings other than an existing building or substation that
is the connection point for the solar farm;
 - (e) Proposed sediment and erosion control measures;
 - (14) Number of solar panels to be installed;
 - (15) Proposed specification and recommended installation methods for all major equipment, including
solar panels, mounting systems and foundations for poles or racks.
 - (16) A copy of the interconnection agreement with the local electric utility or a written explanation of
why an interconnection agreement is not necessary;
 - (17) A decommissioning plan including provisions for removal of all structures and foundations in the
event the system is not in use for 12 consecutive months. This plan must also include how the
structures and foundations will be disposed and how the land and vegetation will be restored to
its previous state. The Board may require the posting of a bond in an amount adequate to reclaim the land in the event the applicant does not follow through with the decommissioning
plan.
4. Setback Requirements for a Solar Energy Farm, as defined in this ordinance, which has been approved as a Conditional Use:
- a. **100** feet from a property line;
 - b. **100** feet from **the centerline of a road; and**
 - c. **300** feet from a residence not associated with the solar energy farm.
5. Other Standards & codes – All solar farms shall be in compliance with any applicable local, state, and federal regulatory standards.

SECTION 20: ADULT USES AND SEXUALLY ORIENTED BUSINESS ORDINANCE (Effective 3-6-2012)

A. Purpose

It is the purpose and intended effect of this Section to assist in controlling the negative secondary effects of adult use and sexually oriented establishments. It is not the intent of this Section to prohibit adult use and sexually oriented establishments from operating in the County of Wadena. It is intended to regulate their location and manner of operation while providing a reasonable opportunity for such establishments to exist.

B. Authorization and Implementation

1. **Authorization:** Section 20 of the Wadena County Zoning Ordinance is adopted pursuant to the authority delegated to Wadena County by Minnesota Statutes, Chapter 394, commonly known as Minnesota Counties' Planning and Zoning Enabling Legislation.
2. **Jurisdiction:** The provisions of Section 20 shall apply to all adult use and sexually oriented establishments located in the unincorporated areas of Wadena County.
3. **Compliance:** All adult uses and sexually oriented establishments shall be in full compliance with the requirements of the Wadena County Zoning Ordinance and any other applicable provisions of County, State, or Federal Laws, and applicable fire, health, and/or safety codes.
4. **Enforcement:** The Wadena County Board of Commissioners, the Wadena County Sheriff, the Wadena County Attorney, Wadena County Auditor, Wadena County Public Health Director and the Wadena County Zoning Administrator are responsible for the enforcement of this ordinance.
5. **Penalty:** Any person violating any provision of Section 20 is guilty of a misdemeanor. In addition, Wadena County may sue for injunctive relief for any violation. Wadena County may also sue for injunctive relief to prevent a violation. Wadena County may suspend or revoke any permits or licenses issued by the Board with cause.
 - a. **Suspension or Revocation of Adult Use/Sexually Oriented License.** Any violation of Section 20 shall be a basis for suspension or revocation of any permit or license granted hereunder. In the event the County Board of Commissioners proposes to suspend or revoke a license or permit issued under this Section, the County Board shall hold a hearing. The County will provide ten (10) days written notice before such hearing is held.
 - b. **Revocation of Liquor License.** Any violation of Section 20 shall be a basis for suspension or revocation of a Liquor License issued pursuant to Minnesota Statutes, Chapter 340A. The Wadena County Board of Commissioners or anyone they delegate shall follow the notice and hearing requirements for contested cases under Minnesota Statutes, Chapter 14.57 to 14.70 of the Administrative Procedures Act.
6. **Interpretation:** In the interpretation and application, the provisions of this Ordinance shall be interpreted to protect the public health, safety, and welfare of the citizens of Wadena County by providing for the regulation of adult use and sexually oriented establishments. Section 20 is not intended to limit or repeal any other powers granted to Wadena County by the State of Minnesota.
7. **Severability:** If any part, clause, provision, or portion of Section 20 is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Section shall not be affected thereby.
8. **Abrogation and Greater Restrictions:** It is not the intent of this Section to repeal, abrogate, or impair any existing ordinances or laws. When this Section is inconsistent with any other ordinance or law, that which poses the greater restriction shall prevail.
9. **Referral to Other Laws:** If any part, clause, provision, or portion of Section 20 references another ordinance, Statute, Rule, or other provisions of law, the reference shall be for that other provision of law as currently enacted and as it may be amended or re-codified in the future.

C. Definitions Relating to Section 20

Adult Uses: Adult body painting studios, adult book stores, adult car wash, adult hotels or adult motels, adult motion picture theaters, adult mini motion picture theaters, adult massage parlors, adult health/sport clubs, adult sauna/steam room/bathhouses, adult companionship establishments, adult rap/conversation parlors, adult novelty businesses, adult motion picture arcade, adult modeling studios and other premises, enterprises or establishments, businesses, or places open to some or all members of the public at or in which there is an emphasis on the presentation or display, depiction or description of “specified sexual activities” or specified anatomical areas” which the public could see. This definition does not apply to the practice of medicine, surgery osteopathy, chiropractic, physical therapy, or podiatry by State licensed or registered persons. Activities classified as obscene are defined by Minnesota Statutes Section 617.241 are not lawful and are not included in the definitions of adult uses.

Adult Use – Accessory: The offering of goods and/or services classified as adult uses on a limited scale that are incidental to the primary activity and goods and/or services offered by the establishment. Examples of such items include adult magazines, adult movies, adult novelties, and the like.

Adult Use – Primary: The offering of goods and/or services classified as adult uses as a primary or sole activity of a business or establishment and include, but are not limited to, the following:

- **Adult Body Painting Studio:** an establishment or business that provides the service of applying paint or other substance, whether transparent or non-transparent, to or on the body of a patron when such body is wholly or partially nude in terms of “Specified Anatomical Areas”.
- **Adult Book Store:** an establishment, building or business engaging in the barter, rental or sale of items or merchandise consisting of printed matter, pictures, slides, records, audio tapes, video tapes, computer or video disks, motion picture film, or any other similar materials, if such shop is not open to the public generally but only to one or more classes of the public, excluding any minor because of age, if more than twenty (20) percent of the useable floor area of the establishment, building, or business, or if at least 500 square feet, whichever is smaller, has products or materials distinguished or characterized by an emphasis on matters depicting, describing or related to “Specified Sexual Activities” or “Specified Anatomical Areas”.
- **Adult Cabaret:** an establishment, building or business that provides dancing or other live entertainment if such dancing or live entertainment is distinguished or characterized by an emphasis on the performance or presentation, display, depiction or description of “Specified Sexual Activities” or “Specified Anatomical Areas”.
- **Adult Car Wash:** a wash facility for any type of motor vehicle that allows employees, agent, independent contractors or persons to appear in a state of partial or total nudity in terms of “Specified Anatomical Areas”.
- **Adult Companionship Establishments:** an establishment of business, if such establishment excludes minors because of age, or which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on “Specified Sexual Activities” or “Specified Anatomical Areas”.
- **Adult Entertainment Facility:** a building or space in which an admission is charged for the entrance, or food or non-alcoholic beverages are sold or intended for consumption, and in which may be observed live presentations of entertainment distinguished by an emphasis on matters depicting, describing, or relating to “Specified Sexual Activities” or “Specified Anatomical Areas”.
- **Adult Establishment:** an establishment, building or business engaging in any of the following activities or which uses any of the following business procedures or practices, either: (a) any business conducted exclusively for the patronage of adults and

about which minors are specifically excluded from patronage thereat either by law or by the operator of such business; or (b) any other business that offers its patrons services, products or entertainment characterized by an emphasis on matters depicting, exposing, describing, discussing or relating to “Specified Sexual Activities” or “Specified Anatomical Areas”. Specifically, included in the term, but without limitation, are adult book stores, adult motion picture theaters, adult mini motion picture theaters, adult massage parlors, adult health clubs, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult car washes, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels or motels and adult body painting studios.

- **Adult Hotel or Motel:** a hotel or motel from which minors are specifically excluded from patronage and in which material is presented that is distinguished or characterized by an emphasis on matters depicting, describing, or relating to “Specified Sexual Activities” or “Specified Anatomical Areas”.
- **Adult Massage Parlor, Health/Sport Club:** a massage parlor or health/sport club that restricts minors because of age or law, which provides the services of massage if such service is distinguished or characterized by an emphasis on matters depicting, describing, or relating to “Specified Sexual Activities” or “Specified Anatomical Areas”.
- **Adult Mini-Motion Picture Theater:** a business, building or establishment in an enclosed building with a capacity for less than fifty (50) persons used for the presenting of visual material if such business as a prevailing practice excludes minors by virtue of age, or law, or if said material is distinguished or characterized by an emphasis on matters depicting, describing, or relating to “Specified Sexual Activities” or “Specified Anatomical Areas” for observation by the patron.
- **Adult Modeling Studio:** an establishment or business whose major business is the provision to customers of figure models who are provided with the intent of providing sexual stimulation or sexual gratification to such customers who engage in “Specified Sexual Activities” or “Specified Anatomical Areas” while being observed, painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted by such customers.
- **Adult Motion Picture Arcade:** any building or place to which the public is allowed or invited in which coin or slug operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, computers or other image producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing “Specified Sexual Activity” or “Specified Anatomical Areas”.
- **Adult Motion Picture Theater:** a business premises within an enclosed building with a capacity of fifty (50) or more persons used for presenting visual media material if said business as a prevailing practice excludes minors by virtue of age, or if the material is distinguished or characterized by an emphasis on depicting or describing “Specified Sexual Activity” or “Specified Anatomical Areas” for observation by patrons.
- **Adult Novelty Business:** a business that has as a principal activity the sale of materials or devices that stimulate human genitals or devices designed for sexual stimulation or which depict or which relate to “Specified Sexual Activities” or “Specified Anatomical Areas”.
- **Adult Sauna/Steam Room/Bathhouse:** a business that excludes minors because of age, or which provides a steam bath or heat bathing room used for bathing, pleasure, relaxation or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing

agent, if the service provided by the sauna/steam room/bathhouse is distinguished or characterized by an emphasis on “Specified Sexual Activities” or “Specified Anatomical Areas”.

Board of Adjustment: The Wadena County Board of Adjustment as described in Minnesota Statutes, Section 394.27 and the Wadena County Zoning Ordinance, Section 25.

County Board of Commissioners or County Board: The governing body of Wadena County, Minnesota.

Employee: Any person who performs any service on the premises of a sexually-oriented or adult use business, on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

Licensed Family Day Care, Licensed Group Family Day Care, Licensed Child Care Center: A facility holding a license from Wadena County or Minnesota pursuant to Minnesota Statutes, Chapter 245A Human Service Licensing and/or Minnesota Rules, Chapter 9502 – Licensing of Day Care Facility or Chapter 9503 – Child Care Center Licensing, as amended.

Liquor License: License issued by the County of Wadena to serve alcoholic beverages pursuant to Minnesota Statutes, Chapter 340A.

Minor: Any person under the age of (18) years.

Nudity: The showing of the human male or female genitals or pubic area with less than fully opaque covering; the showing of the female breast with less than fully opaque covering of any portion thereof below a point immediately above the top of the areola; or the depiction or showing of the coverage male genitals in a discernibly turgid state.

Permit: A land use permit required as a prerequisite to the establishment of certain uses in certain zoning districts.

Public Library: Any library that provides free access to all residents of a city or county without discrimination and is organized under Minnesota Statutes, Chapter 134 Public Libraries; Multi-county, Multi-type Libraries.

Public Park: A park, reservation, playground, beach, or recreation or community center in the County owned, leased, or used wholly or in part by a city, county, state, school district, or federal government for recreational purposes.

Place of Worship: A building or space that is principally used as a place where people of the same faith or religion regularly assemble for worship.

School: A building or space that is principally used as a place where twenty-five (25) or more persons receive a full course of educational instruction. Any post-secondary or post high school educational building, including any college or any vocational-technical college, shall not be deemed a school for the purposes of this Section.

Sexually Oriented Business: Any adult body painting studios, adult book stores, adult car washes, adult hotels or adult motels, adult motion picture theaters, adult mini motion picture theaters, adult massage parlors, adult health/sport clubs, adult sauna/steam room/bathhouses, adult companionship establishments, adult rap/conversation parlors, adult novelty business, adult motion picture arcade, adult modeling studios and other premises, enterprises or establishments, businesses, or places open to some or all members of the public at or in which there is an emphasis on the presentation or display, depiction or description of “specified sexual activities” or “specified anatomical areas” which the public could see. This definition does not apply to the practice of medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry by State Licensed or

registered persons. Activities classified as obscene as defined by Minnesota Statutes Section 617.241 are not lawful and are not included in the definitions of adult uses.

Specified Anatomical Areas: Anatomical areas consist of:

- Less than completely and opaquely covering human genitals, pubic region or pubic hair, buttock, anus, or female breast or breast below a point immediately above the top of the areola or any combination of the foregoing; and
- Human genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities: Activities consisting of the following:

- Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation or fondling of unclothed genitals, pubic region, buttock, or female breast, flagellation or torture in a sexual relationship, and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, sodomy, zooerasty; or
- Human genitals in the state of sexual stimulation, arousal, or tumescence; or
- Use or acts of human or animal ejaculation, sexual intercourse, sodomy, oral copulation, coitus or masturbation; or
- Fondling or touching of human genitals, pubic regions or pubic hair, buttocks, or female breasts, or
- Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such person; or
- Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human being, or
- Human excretion, urination, menstruation, vaginal or anal irrigation; or
- Any combination of the above.

D. Permitting and Licensing

1. No person, firm or corporation shall operate or allow the operation of an Adult Use or Sexually Oriented business on property under the person's ownership or control without first obtaining an adult use or sexually oriented business Conditional Use Permit and a renewable Adult Use or Sexually Oriented Business License through the County of Wadena.
2. **CONDITIONAL USE PERMITS:** Applications for Conditional Use Permits for adult use or sexually oriented businesses will be accepted for those uses in the following zoning districts: B-1 Highway Service Business District and B-2 General Business District subject to setback requirements as set forth herein. Adult use or sexually oriented business uses are prohibited in any other zoning district.
 - a. Conditional Use Permit applications shall include:
 - (1) The applicant's name, address, phone number, and date of birth. If the applicant consists of a partnership: the name, address, phone number and date of birth for each general and limited partner shall be provided. If the applicant is a corporation: the name, residence, phone number, and date of birth of all persons holding more than five (5) percent of the issued outstanding stock in the corporation.
 - (2) The name, address, phone number, and date of birth of the operator and manager of such operation, if different from the owner(s).
 - (3) The address and legal description of the premises where the adult establishment is proposed to be located.

- (4) A statement detailing any gross misdemeanor or felony convictions relating to sex offenses, obscenity, or the operation of an adult use or sexually oriented establishment by the applicant, operator, or manager, and whether or not the applicant has ever applied for or held a conditional use permit to operate a similar type business in any other community(s). In the case of a corporation, a statement detailing any felony convictions by the owners of more than five (5) percent of the issued and outstanding stock of the corporation, and whether or not those property owners have ever applied for or held a Conditional Use permit to operate a similar type of business in other communities.
 - (5) The activities and types of business to be conducted.
 - (6) The proposed hours of operation meeting the requirements herein.
 - (7) Provisions to be utilized to restrict access by minors.
 - (8) A detailed building plan of the premises including but not limited to: 1) detailing all internal operations and activities, 2) detailing building locations on the premises with required setbacks listed in this Section as well as setback requirements from the zoning district wherein the operation is proposed, and, 3) proposed parking and lighting locations depicted.
 - (9) Proposed onsite sewage treatment facilities meeting or exceeding the requirements of the Wadena County Zoning Ordinance.
 - (10) Proposed signage meeting the requirements described in this Section.
3. The application for Conditional Use will be submitted to and processed by the Wadena County Planning & Zoning department, and set for public hearing in accordance with Minnesota Statutes 394.26. The Wadena County Planning Commission will hold the hearing and make a recommendation for approval or denial to the Wadena County Board of Commissioners who shall have the final decision making authority on the application.
4. **ANNUAL ADULT USE AND SEXUALLY ORIENTED BUSINESS LICENSE:** Applications to license an adult use or sexually oriented businesses shall be submitted to the Wadena County Auditor's office on a form provided by the County of Wadena.
 - a. License applications shall include:
 - (1) The applicant's name, address, phone number, and date of birth. If the applicant consists of a partnership: the name, address, phone number and date of birth for each general and limited partner shall be provided. If the applicant is a corporation: the name, residence, phone number, and date of birth of all persons holding more than five (5) percent of the issued outstanding stock in the corporation.
 - (2) The name, address, phone number, and date of birth of the operator and manager of such operation, if different from the owner(s).
 - (3) The address and legal description of the premises where the adult establishment is proposed to be located.
 - (4) A statement detailing any gross misdemeanor or felony convictions relating to sex offenses, obscenity, or the operation of an adult use or sexually oriented establishment by the applicant, operator, or manager, and whether or not the applicant has ever applied for or held a conditional use permit to operate a similar type business in any other community(s). In the case of a corporation, a statement detailing any felony convictions by the owners of more than five (5) percent of the issued and outstanding stock of the corporation, and whether or not those property owners have ever applied for or held a Conditional Use permit to operate a similar type of business in other communities.
 - (5) The activities and types of business to be conducted.
 - (6) The proposed hours of operation meeting the requirements herein.
 - (7) Provisions to be utilized to restrict access by minors.
 - (8) A detailed building plan of the premises including but not limited to: 1) detailing all internal operations and activities, 2) detailing building locations on the premises with required setbacks listed in this Section as well as setback requirements from the zoning district wherein the operation is proposed, and, 3) proposed parking and lighting locations depicted.
 - (9) Proposed onsite sewage treatment facilities meeting or exceeding the requirements of the Wadena County Zoning Ordinance.
 - (10) Proposed signage meeting the requirements herein.

- b. **License Fee for Adult Use and Sexually Oriented Business**
 - (1) Each License Application shall be accompanied by the required application fee, paid in full, as adopted by the Wadena County Board of Commissioners as part of the County fee schedule as may be amended from time to time by Board resolution.
 - (2) Each license shall be issued for a period of one (1) calendar year and all licenses shall expire on the last day of December of each year regardless of the date of issuance of the license. Fees collected for license applications submitted after December 31 will not be prorated. The full fee shall be paid regardless of the date of issuance of the license and late fees will be assessed on licenses for renewal not received prior to January 1.
 - (3) If any application for a license is rejected, the license fee shall not be refunded. No part of the fee paid for any license issued under Section 20 shall be refunded.
- 5. **GRANTING OF ADULT USE/SEXUALLY ORIENTED BUSINESS LICENSE**
 - a. The Wadena County Sheriff's Office shall investigate all facts set out in the application. Each owner of the establishment, be it individual, or in the case of business entity owner, any owner of five (5) percent or more of the business entity, shall be subjected to a criminal history background check by the Sheriff or his designee. Costs of the criminal history investigations shall be borne by the applicant according to the fee schedule established by the Sheriff. The application for the adult use/sexually oriented business license shall not be considered complete until all required information has been furnished, the investigation has been completed by the Sheriff's Department, and their report provided to the Wadena County Auditor's Office.
 - b. The Adult Use/Sexually Oriented Business License shall be issued only to the applicant and shall not be transferrable to another holder. Each license shall be issued for only the premise described in the application. No license may be transferred to another premise or person without the written permission of the County. If the licensee is a business entity, any transfer of five (5) percent or more of the business entity shall be deemed to be a transfer of the license. If a license is transferred without the written permission of Wadena County, said license shall be void.
- 6. **INELIGIBILITY TO OBTAIN ADULT USE/SEXUALLY ORIENTED BUSINESS LICENSE.** No license shall be issued to any individual or business entity under any of the following criteria:
 - a. Under eighteen (18) years of age.
 - b. Overdue in payments to a city, county, state, or federal government of taxes, fees, fines, or penalties or charges for municipal services and utilities assessed against them or imposed upon them.
 - c. If the individual or if any owner of five (5) percent or more of the business entity has been convicted of a gross misdemeanor or felony, or of violating any law of this state or local ordinance relating to sex offenses, obscenity offenses, or adult establishments.
 - d. Who is not the proprietor of the establishment for which the license is to be issued.
 - e. To any applicant who is acting as an agent for an individual who would be disqualified pursuant to the criteria listed herein.
 - f. Who has not paid the required investigation and licensing fees required by Section 19 of the Wadena County Zoning Ordinance.
- 7. **CONDITIONS OF ADULT USE/SEXUALLY ORIENTED BUSINESS LICENSE**
 - a. All licensed premises shall have the license posted in a conspicuous place at all times.
 - b. No minor shall be permitted on the premises at any time.
 - c. Any designated inspection officer of the County of Wadena shall have the right to enter, inspect, and search the licensed premises during business hours or through a scheduled appointment during non-business hours.
 - d. No adult goods or materials shall be offered, sold, transferred, conveyed, given, displayed, or bartered to a minor.
 - e. The Wadena County Board of Commissioners may impose additional conditions when granting a license for an adult use/sexually oriented business to protect the best interest of the surrounding area of the County as a whole, including but not limited to such things as lighting and parking.

- f. The licensee must cover or otherwise arrange all windows, doors, and apertures to prevent any person outside the licensed premises from viewing any items, merchandise, or activities inside the premises depicting “specified sexual activities” or “specified anatomical areas”.

E. Operations

Adult Use/Sexually Oriented Businesses as defined in the definition of this Section shall be subject to the following general provisions:

1. No person(s) under eighteen (18) years of age shall be permitted in any adult use/sexually oriented business-principle premises, enterprises, establishments, business or place.
2. No liquor license shall be issued to any adult use/sexually oriented business related premises, enterprise, establishment, business, or place open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction, description of, or participation in “specified sexual activities” or “specified anatomical areas”.
3. No adult use/sexually oriented business related premises, enterprise, establishment, business, or place shall allow or permit the sale or service of set-ups to mix alcoholic drinks, nor shall alcoholic beverages be consumed on such premises or in such enterprise, establishment, business or place.
4. Activities classified as obscene are not permitted and are prohibited from locating in any building which is also utilized for residential purposes.
5. Adult use/sexually oriented business, either principal or accessory, shall be prohibited from locating in any building which is also utilized for residential purposes.
6. An adult use/sexually oriented business which does not qualify as an accessory use pursuant to Section 20, C. of this Ordinance shall be classified as an adult-use principle.

F. Permitted Locations for Adult Use/Sexually Oriented Business

Adult use-principal shall only be allowed to apply for Conditional Use Permit and Licensure within a B-1 Highway Service Business District or a B-2 General Business District with the following criteria:

1. Access, parking, screening, lighting, and other relevant site related criteria for all Adult Uses shall be as set forth in the Wadena County Zoning Ordinance, or as may be required as a provision of a Conditional Use Permit authorized by the Wadena County Board of Commissioners.
2. Adult use principal, must be located at least fifteen hundred (1500) feet, as measured in a straight line from the closest point of the building within which the adult us-principal is located, to the closest point of any:
 - a. Residence;
 - b. Licensed day-care center;
 - c. Public or private educational facility classified as an elementary school, middle school, junior high school, or senior high school;
 - d. Hotel or motel;
 - e. Public park or trails system;
 - f. Nursing home;
 - g. Youth establishment;
 - h. Place of worship or any other religion related organization;
 - i. Another adult establishment, no adult use-principal shall be located in the same building or upon the same property as another adult-use principal;
 - j. Establishment licensed to serve alcoholic beverages;
 - k. Hospitals or clinics.
3. If the distance between any of the above is in question, the applicant(s) shall be required to submit a signed document from a registered surveyor stating the exact setback distance.

G. Locations Ineligible for Adult Use/Sexually Oriented Business

1. No license shall be granted for adult use/sexually oriented business establishments on any premises where a licensee has been convicted of a violation of Section 20 of the Wadena County Zoning

- Ordinance, or where any license hereunder has been revoked for a violation, until one (1) year has elapsed after such conviction or revocation.
2. No license shall be granted for any adult use/sexually oriented business establishment which is not in compliance with the Wadena County Zoning Ordinance regulations, fire, health, and safety codes, and all other provisions of state and federal law.

H. Hours of Operation

1. Hours of operation for adult use/sexually oriented business principal shall be from 4:00 p.m. to 12:00 a.m. on weekdays and Saturday. Adult use/sexually oriented business principal shall not be open at any time on Sundays. A different time schedule may be approved by the Board of County Commissioners if it can be satisfactorily demonstrated to the Board that all of the following apply:
 - a. The use does not adversely impact or affect uses or activities within fifteen (1500) feet.
 - b. The use will not result in increased policing or related service calls.
 - c. It is critical to the operation of the business.

I. Sign Regulations for Adult Use/Sexually Oriented Business

1. Adult use/sexually oriented business-principal shall adhere to the following sign regulations:
 - a. Sign message shall be generic in nature and shall only identify the name and type of business.
 - b. Signs shall not be pictorial.

J. Adult Cabaret Regulations

The following additional restrictions apply to adult cabarets:

1. No person, firm, partnership, corporation, or other entity shall advertise, or cause to be advertised, an adult cabaret without a Conditional Use Permit, a valid Adult Use/Sexually Oriented Business License, and must abide by the provisions of this Section.
2. An Adult Use/Sexually Oriented Business Licensee who operates an adult cabaret shall maintain and retain for a period of two (2) years the names, addresses, and ages of all persons engaged, hired, or employed as dancers or performers by the licensee.
3. An adult cabaret shall be prohibited in establishments where alcoholic beverages are served.
4. No person under eighteen (18) years of age shall be admitted to an adult cabaret.
5. No owner, operator, or manager of an adult cabaret shall permit or allow any dancer or other entertainer to perform nude unless as provided in numbers 7., 8., and 9. listed below and shall be in an adult cabaret.
6. No patron or person other than a dancer or live entertainer, as provided in numbers 7., 8., and 9. below, shall be nude in an adult cabaret.
7. No dancer, live entertainer, or performer shall be under eighteen (18) years of age.
8. All dancing shall occur on a platform intended for that purpose which is raised at least two (2) feet above the level of the floor.
9. No dancer or performer shall perform or dance closer than ten (10) feet from any patron unless such dancer or performer is enclosed behind a floor to ceiling glass partition.
10. No dancer shall fondle or caress any patron and no patron shall fondle or caress any dancer or performer.

K. Viewing Booths

The following additional regulations shall apply to viewing booths:

1. Individual motion picture booths must be without doors and the occupant must be visible at all times.
2. Only one person may be in a viewing booth at one time.
3. Walls separating booths must be such that the occupants cannot engage one another in any manner.
4. Each viewing booth must be kept clean and sanitary.
5. Minimum lighting requirements must be maintained.

L. Adult Use – Accessory Regulations

1. Adult Use-Accessory shall only be allowed to apply for Conditional Use Permit and Licensure within a B-1 Highway Service Business District or a B-2 General Business District, and must abide by the provisions in Section 20.
2. Any Adult Use/Sexually Oriented Accessory Business shall also abide by the following requirements:
 - a. It shall not comprise more than ten (10) percent of the floor area of the establishment in which it is located nor shall it comprise greater than one hundred (100) square feet of floor area in which it is located, whichever is greater.
 - b. It shall not comprise more than twenty (20) percent of the gross receipts of the entire business operation.
 - c. It shall not involve or include any activity except the sale or rental of merchandise.
3. Adult Use/Sexually Oriented Accessory Business shall prohibit access to minors by physically separating the following and similar items from areas of general public access:
 - a. Adult use/sexually oriented movie rental display areas shall be restricted from general view and shall be located within a separate room, the access of which is in clear view of, and under the control of the persons responsible for the operation of the business.
 - b. Magazines or publications classified as adult use shall not be physically accessible to minors and shall be covered with a wrapper or other means to prevent display of any material other than the publication title.
 - c. Other adult uses not specifically cited shall comply with the intent of Section 20 of the Wadena County Zoning Ordinance.

SECTION 21: CONDITIONAL USE PERMITS

A. Application

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

An application for a Conditional Use Permit shall be filed with the Zoning Administrator on a form prescribed by the Board of County Commissioners. The application shall be accompanied by such plans and elevations and site plans as prescribed by the County Planning Commission.

B. Notification and Public Hearing

Upon receipt in proper form of the application and other requested material, the Wadena County Planning Commission shall hold at least one (1) public hearing in a location to be prescribed by the Planning Commission at least ten (10) days in advance of each hearing, notice of the time and place of such hearing shall be published in the official paper of the County. Written notice of public hearing shall be sent to all adjoining property owners and all property owners of record within 500 feet of the affected property in incorporated areas, and to owners of record within one-quarter mile of the affected property or to the ten properties nearest to the affected property, whichever will provide notice to the greatest number of owners in unincorporated areas, the affected Board of Town Supervisors, and the Municipal Council of any municipality within two miles of the affected property and the Shoreland Hydrologist of the Department of Natural Resources if in shoreland. The current records on file in the office of the County Treasurer shall be deemed efficient for determining mailing addresses. A copy of approved subdivisions/plats and final decisions granting conditional uses must be sent to the Shoreland Hydrologist of the Department of Natural Resources and post marked within ten (10) days of final action.

C. Report to County Board

For each application for a Conditional Use, the County Planning Commission shall report to the Board of County Commissioners its findings and recommendations, including the stipulation of additional

conditions and guarantees that such conditions will be complied with when they are deemed necessary for the protection of the public interest. Upon receipt of the report of the Planning Commission, the Board of County Commissioners shall hold whatever public hearings it deems advisable and shall make a decision upon the proposal to grant or deny a Conditional Use Permit.

D. Findings

No Conditional Use shall be recommended by the County Planning Commission unless the Commission shall find the following, with or without adding conditions: (Amended 9-1-2020)

1. That the Conditional Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity;
2. That the establishment of the Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area;
3. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided;
4. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use;
5. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.
6. That the use is consistent with our Land Use Controls Ordinance; (Added May 3, 2016)
7. That the use is not in conflict with the Wadena County Comprehensive Plan. (Added May 3, 2016)

E. Approval

Conditional Uses may be approved upon a showing by an applicant that standards and criteria stated in the Ordinance will be satisfied. Such standards and criteria shall include both general requirements for all Conditional Uses and, insofar as practicable, requirements specific to each designated Conditional Use.

1. Conditional Use Permits shall be issued by the officer administering the official controls only upon the order of the County Board of Commissioners.
2. The Planning Commission shall in all instances have an opportunity to review Conditional Uses prior to any final decision by the County Board of Commissioners.
3. The County Board of Commissioners may impose such additional restrictions or conditions as it deems necessary to protect the public interest.

F. Fees

To defray administrative costs of processing requests for Conditional Use Permits, a fee shall be paid by the applicant. Such fee shall be established by the Board of County Commissioners.

G. Compliance

Any use permitted under the terms of any Conditional Use Permit shall be established and conducted in conformity with the terms of such permit and of any conditions designated in connection therewith.

1. Nothing shall prevent the County Board of Commissioners from enacting or amending official controls to change the status of Conditional Uses.
 - a. A Conditional Use Permit granted by the County of Wadena may be revoked if the use does not exist on the property within a period of twelve (12) months after the date of issuance of the permit or if the use ceases to exist on the property for a period of twelve (12) months, or if the property owner, where the use has been allowed, fails to comply with any or all of the conditions adhered to the permit at the time it was issued. (Amended May 3, 2016)
 - b. The property owner will be notified of the pending revocation and have a period of ten (10) days to show written proof to the Planning & Zoning Department that the conditional use still exists on the property, or that the property owner has taken the corrective action to be in compliance with the conditions of the permit. If written proof is provided and an inspection of the property by the Zoning Administrator with the owner proves the information received to be true and correct, the Conditional Use will continue to be allowed on the property. If no written proof is provided, the matter will be addressed at a fully noticed meeting of the Wadena County Board of Commissioners, who may, by resolution, remove the Conditional Use from the property and the same will be recorded in the Office of the County Recorder. (Amended May 3, 2016)
2. A certified copy of any Conditional Use Permit shall be filed with the Register of Deeds. The Conditional Use Permit shall include the legal description of the property involved.

SECTION 22: NON-CONFORMING USES

A. Nonconformity's

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

1. Existing Non-conforming lots in Shoreland Areas. (Amended May 3, 2016)

- a. Lots of record in the office of the county recorder on the date of enactment of local shoreland controls that do not meet the requirements of Section 14 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 setback, and other requirements of this Ordinance are met.
- b. In a group of two or more contiguous lots of record under the same ownership any individual lot must be considered as a separate parcel of land for the purposes of sale or development if it meets the following requirements:
 - (1) The lot must be at least 66 percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, Chapter 6120;
 - (2) The lot must be connected to a public sewer, if applicable, or must be suitable for the installation of a Type 1 sewage treatment system consistent with MN Rules Chapter 7080 and this Ordinance;

- (3) Impervious surface coverage must not exceed 25 percent of each lot; and
 - (4) Development of the lot must be consistent with the Wadena County Comprehensive Plan.
- c. A lot subject to paragraph b. not meeting the requirements of paragraph b. must be combined with the one or more contiguous lots so they equal one or more conforming lots as much as possible.
- d. Notwithstanding paragraph c., contiguous nonconforming lots of record in shoreland areas under a common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a sewage treatment system consistent with the requirements of Minnesota Statutes 115.55 and Minnesota Rules Chapter 7080, or connected to a public sewer.
- e. In evaluating all variances, zoning and building permit applications, or condition use requests, the Zoning authority shall require the property owner to address, when appropriate, management of storm water runoff, reduction of impervious surface, increasing setbacks, restoring wetlands, applying vegetative buffers, onsite sewage system improvements and water supply capabilities, along with whatever other conservation-designed actions may be necessary.
- f. A portion of a conforming lot may be separated from an existing parcel as long as the remainder of the existing parcel meets the lot size and sewage system requirements of the zoning district for a new lot and the newly created parcel is combined with an adjacent parcel.

2. Additions/expansions to nonconforming structures in Shoreland areas.
(Amended May 3, 2016)

- a. All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of this Ordinance. Any deviation from these requirements must be authorized by a variance pursuant to Section 25.
- b. Deck additions may be allowed without a variance to a structure not meeting the required setback from the Ordinary High Water Level if all the following criteria and standards are met:
 - 1) The structure existed on the date the structure setbacks were established;
 - 2) A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing Ordinary High Water Level setback of the structure;
 - 3) The deck encroachment toward the Ordinary High Water Level does not exceed 15 percent of the existing setback of the structure from the Ordinary High Water level or does not encroach closer than 30 feet, whichever is more restrictive; and
 - 4) The deck is constructed primarily of wood, and is not roofed or screened.

3. Nonconforming sewage treatment systems. (Amended June 13, 2017)

- a. A sewage treatment system not meeting the requirements of this Ordinance must be upgraded, at a minimum, at any time a permit is required for a change to the footprint of the dwelling, including length, width, height, except that no compliance inspection will be required on an existing system upon issuance of a permit for the addition of a deck, open air porch, patio or fence. A current Certificate of Compliance and/or possible upgrade of an existing system will be required upon application for any variance, conditional use, or petition to rezone. If a Notice of Non-compliance for the system is received, the septic system must be upgraded to meet minimum requirements. For the purpose of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the Ordinary High Water Level. Any permits issued prior to the institution of this Ordinance will be subject to the language under which the permit was issued. (Amended 05/02/06)

- b. The County of Wadena will require upgrading or replacement of any failing system identified in Minnesota rules 7080.1500 within a reasonable period of time, which will not exceed ten (10) months after the owner receives a notice of non-compliance.

B. Non-Conforming Junk Yards

No junk yard may continue as a non-conforming use for more than five (5) years after the effective date of this ordinance, except that a junk yard may continue as a non-conforming use in a BUSINESS or INDUSTRIAL DISTRICT if, within that period, it is completely enclosed within a building, fence, screen planting or other device of such height and density as to screen completely the operations of the junk yard. Plans of such a building or device shall be approved by the County Planning Commission and the Board of County Commissioners before it is erected or put into place.

C. Discontinuance

In the event that a non-conforming use of any building or premises is discontinued or its normal operation stopped for a period of one (1) year, the use of the same shall thereafter conform to the regulations of the District in which it is located.

D. Alterations (Amended May 3, 2016)

The lawful use of a homestead or non-homestead residential real estate and seasonal residential real estate occupied for recreation purposes existing at the time of the adoption of this Ordinance may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, although such use does not conform with the provisions hereof. If no structural alterations are made, a non-conforming use of a building may be changed to another non-conforming use of the same or more restricted classification. The foregoing provisions shall also apply to non-conforming uses in districts hereafter changed. Whenever a non-conforming use of a building has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.

E. Residential Alterations

Alterations may be made to a residential building containing non-conforming residential units when they will improve the livability of such units, provided, however, that they do not increase the number of dwelling units in the building.

F. Restoration (Amended May 3, 2016)

1. If the non-conformity or occupancy is discontinued for a period of more than one year or any non-conforming building or structure has been damaged by fire, or other peril to the extent of more than fifty (50) percent of its estimated market value, as indicated in the records of the County Assessor at the time of the damage, it will not be restored, except in conformity with the regulations of this Ordinance, with the exception that homestead or non-homestead residential real estate and seasonal residential real estate occupied for recreational purposes may be continued including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, if a land use permit has been applied for within 180 days of when the property was damaged. The County of Wadena may impose reasonable conditions on the land use permit in order to mitigate any newly Created impact on an adjacent property or water body.
2. If a non-conforming structure, which is located inside the Shore Impact Zone (50% of the required setback from the ordinary high water level of the lake) is damaged by fire, explosion, natural disaster, or other peril to the extent of greater than 50% of its estimated market value, as indicated in the records of the County Assessor at the time of damage, the County of Wadena may require an

increased setback from the ordinary high water level, if practicable, and reasonable conditions are placed on the land use permit to mitigate created impacts on the adjacent property or water body.

SECTION 23: BUILDING PERMIT, CERTIFICATE OF ZONING COMPLIANCE AND UTILITY PERMITS

A. Building Permit

1. Hereafter, no person shall erect, move in, alter in respect to height or area, any building or part thereof or install, alter, or repair a sewage disposal unit without first securing a building permit. No permit shall be required for an alteration of an agricultural building or a new agricultural building provided setback from roads and public waters are maintained.
 - a. Farm dwellings and sewage disposal units shall remain under the permit requirements.
 - b. Any person who wishes to place an agriculture building closer to a road or public water than the setback outlined in this Ordinance shall do so only after receiving a Variance Permit authorized by the Wadena County Board of Adjustment.
 - c. In shoreland area a permit authorizing an addition to an existing structure shall stipulate that an identified non-conforming sewage treatment system shall be reconstructed or replaced in accordance with the provisions of Minnesota Rules Chapter 7080.
2. Application for a building and sewage disposal permit shall be made to the Zoning Administrator on blank forms to be furnished by the County. Each application for a permit to construct, move in or alter a building, other than agricultural buildings, 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 and accessory buildings to be erected. Applications for any kind of building permit shall contain such information as may be deemed necessary for the proper enforcement of this Ordinance or any other ordinance or regulation. The Zoning Administrator shall issue the building and sewage disposal permit only after determining that the building plans, together with the application, comply with the terms of this Ordinance.
3. Building and sewage disposal permit fees and other fees as may be established by resolution of the Board of County Commissioners shall be collected by the Zoning Administrator for deposit with the County and credited to the general revenue fund.
4. Property taxes must be current on any parcel of property where a permit is being requested. (Amended May 3, 2016)
5. No applications for structure permits, conditional use permits, variance, or rezoning petitions shall be accepted if a violation of the Zoning Ordinance #1 or the Subdivision Ordinance #4 exists on or with the property. (Amended 9-1-2020)
6. No permits shall be required for interior or exterior painting or decorating, interior alterations of structures or fences five (5) feet or less in height.
7. No permits shall be required for up to two (2) Exempt Accessory Building Structure or Facility, as defined in Section 4 of this Ordinance, provided setbacks from roads and Public Waters are maintained. Any additional structures/facilities of this nature may be allowed only with the appropriate land use permit and with all the appropriate setbacks being met. (Amended July 8, 2014)

B. Certificate of Zoning Compliance

1. The Zoning Administrator shall issue a Certificate of Zoning Compliance for each activity requiring a permit as specified in this Ordinance. A Certificate of Zoning Compliance shall be obtained before any building hereafter erected or structurally altered is occupied or the use of any such building is altered.
2. Application for a Certificate of Zoning Compliance for a new building or for existing building which has been altered shall be made to the Zoning Administrator as part of the application for a building permit required in A.
3. Every Certificate of Zoning Compliance shall state that the building or proposed use of a building or land complies with all provisions of law and this Ordinance. A record of all Certificates of Zoning Compliance shall be kept on file in the office of the Zoning Administrator, and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building or land affected.

C. Utility Permit

Before any underground or aboveground utility, such as power lines, telephone lines, telegraphic lines, sanitary or storm sewer lines, water lines, gas lines, fire lines, etc., is installed in any County highway, County State Aid highway or town road, a permit shall be obtained from the County Engineer. The application for the utility permit shall be accompanied by such plans, drawings and as-built drawings as deemed necessary by the Wadena County Engineer.

SECTION 24: ADMINISTRATION AND ENFORCEMENT

A. Zoning Administrator

1. The office of the Zoning Administrator is hereby established, for which the Board of County Commissioners may appoint such employee or employees of the County as it may deem proper. The term of office of the Zoning Administrator shall be indefinite and shall terminate at the pleasure of the Board of County Commissioners.
2. The duties of the Zoning Administrator shall include the following:
 - a. act as Building Inspector for the County;
 - b. enforce and administer this Ordinance;
 - c. issue Building Permits and Certificates of Zoning Compliance and maintain records thereof;
 - d. receive and forward to the Board of County Commissioners and the County Planning Commission all applications for Conditional Use Permits;
 - e. receive and forward all applications and petitions for matters to come before the Board of Adjustment;
 - f. receive and forward to the Board of County Commissioners and the County Planning Commission all applications for amendments to this Ordinance;
 - g. inspect all construction and development to insure that Ordinance standards are being complied with;
 - h. provide and maintain a public information bureau relative to matters arising out of this Ordinance;
 - i. maintain the County Zoning Map as required in SECTION 5.

B. Enforcement

1. It shall be the duty of the Zoning Administrator to enforce this Ordinance through the proper legal channels.

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

SECTION 25: BOARD OF ADJUSTMENT

A. Creation and Membership (Amended 7-21-11)

1. A Board of Adjustment is hereby established and vested with such authority as is hereinafter provided and as provided by Minnesota Statutes, Chapter 394.27, Laws of 1959, as amended. Such Board shall consist five (5) members, excluding any elected officer of the county or employee of the Board of County Commissioners. The majority of such board shall come from the unincorporated area of the county. The board members shall be appointed for terms coinciding with terms on the County Planning Commission. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a regular board member from voting thereon shall be decided by majority vote of all regular board members except the member who is being challenged.
2. The Board of Adjustment shall elect a chairman and vice chairman from among its members. It shall adopt rules for the transaction of its business and shall keep a public record of its transactions, findings and determinations.
3. The meetings of the Board of Adjustment shall be held at the call of the chairman and at such other times as the Board in its rules of procedure may specify.

B. Powers (Amended 8-18-2011)

1. The Board of Adjustment shall have the exclusive power to order the issuance of variances from the requirements of any official control including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official control and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the official control. "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. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in Section 216C.06, subdivision 14, when in harmony with the official controls. No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located. The Board of Adjustment may impose conditions. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.
2. The Board of Adjustment shall act upon all questions as they may arise in the administration of any ordinance or official control, and it shall hear and decide appeals from any review any order, requirement, decision or determination made by an administrative official charged with enforcing any ordinance adopted pursuant to the provisions of MN Statute Chapter 394.21 to 394.37 and Minnesota Statutes, Chapter 559, Laws of 1959, as amended.

C. Appeals

1. Any aggrieved person, firm or corporation objecting to the ruling of any administrative official on the administering of the provisions of this ordinance or other ordinance adopted pursuant to the provisions of MN Statute Chapter 394.21 to 394.37, and Minnesota Statutes, Chapter 559, Laws of 1959, as amended, shall have right to appeal to the Board of Adjustment.
2. The Board of Adjustment shall hear and decide requests for variances in accordance with the rules that it has adopted for the conduct of business. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance shall also include the Board of Adjustment's summary of the public record/testimony and the findings of fact and conclusions which supported the issuance of the variance.
3. For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require construction of a conforming sewage treatment system.
4. Such appeal may be taken by any person aggrieved or by any officer, department board or bureau of a town, municipality, county or state.
5. All decisions by the Board of Adjustment in granting variances or in hearing appeals from any administrative order, requirement, decision or determination shall be final except that any aggrieved person or persons, or any department, board or commission of the jurisdiction or of the state shall have the right to appeal within thirty (30) days, after receipt of notice of the decision, to the district court in the county in which the land is located on questions of law and fact.

D. Findings (Amended October 9, 2018)

When considering a decision for a variance application, the Board of Adjustment shall develop findings of fact at the hearing, where the applicant shall present a statement and evidence in such form as the Board of Adjustment may require to be able to find the following:

1. That there are practical difficulties affecting the land, building or use referred to in the appeal;
2. That the property owner is proposing to use the property in a reasonable manner not permitted by the official controls;
3. That the practical difficulty is unique to the property and not caused by acts of the property owner;
4. That the variance would not alter the essential character of the locality;
5. That the granting of the variance is not based solely on economic conditions;
6. That the granting of the variance is in harmony with the basic intent of the Zoning Ordinance; and
7. That the granting of the variance is in harmony with the County Comprehensive Plan.

E. Procedure (Amended 5-7-19)

1. Application for any appeal permissible under the provisions of this SECTION shall be made to the Board of Adjustment in the form of a written application for a Building Permit or for a permit to use the property or premises as set forth in the application. Upon receipt of any application, the Board of Adjustment shall set a time and place for a public hearing before the Board on such application. At least ten (10) days before the date of the hearing, a notice of the hearing shall be published once

in the official newspaper and the appropriate local newspaper. Written notice of public hearing shall be sent to all adjoining property owners and all property owners of record within five hundred (500) feet of the affected property or to the ten (10) properties nearest to the affected property, whichever will provide notice to the greatest number of owners in unincorporated areas, the affected Board of Town Supervisors, and the Municipal Council of any municipality within two (2) miles of the affected property, and Shoreland Hydrologist of the Department of Natural Resources if in shoreland. The current records on file in the office of the County Treasurer shall be deemed sufficient for determining mailing addresses.

2. The Board of Adjustment shall thereupon make its decision upon the application within fifteen (15) days of the public hearing. In recommending any adjustment or variance under the provisions of this SECTION, the Board of Adjustment shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of the Ordinance, regulation or provision to which the adjustment or variance is granted. A copy of final decisions granting variances under local shoreland management controls must be sent to the Shoreland Hydrologist of the Department of Natural Resources and postmarked within ten days of final action.
3. A certified copy of any order issued by the Board of Adjustment acting upon an appeal from an order, requirement, decision or determination by an administrative official, or a request for variance, shall be filed with the Register of Deed or Registrar of Titles for record. The order issued by the Board of Adjustment shall include the legal description of the property involved. The Zoning Administrator shall be responsible for meeting the foregoing requirements.
4. Nothing shall prevent the Board of Adjustment from revoking a Variance Order when no action has been taken to complete the proposal requested in the application for Variance. (Added May 3, 2016)
 - a. A Variance granted by the Board of Adjustment may be revoked if no action has been taken to complete the proposal requested in the application for Variance within a period of *thirty-six (36)* months from the date of the public hearing in which the Variance was heard and granted.
 - b. The property owner will be notified of the pending revocation and have a period of ten (10) days to show written proof to the Planning & Zoning Department that action to complete the proposal requested in the Variance application has been taken. If written proof is provided, the Zoning Administrator may allow an extension up to 12 months for action on the Variance. If no written proof is provided, the Board of Adjustment may order the revocation of the Variance Order from the property at a fully noticed public hearing.
 - c. The Order for Revocation will be recorded in the Office of the County Recorder and will include the legal description of the property.
 - d. It is the responsibility of the applicant to provide any information required to record the Variance Order once a variance has been granted. In the event, the applicant has not provided said information within the 36 month period referenced in item 4.a. above, and additionally, no action has been taken by the applicant to begin the project described in the application, steps as described in 4.b. above shall be followed except that no Order of Revocation shall be recorded. The application shall be considered null and void due to inaction of the property owner, and for failure to fully comply with the conditions or requirements as provided by the Board of Adjustment.

SECTION 26: PLANNING COMMISSION

A. Creation and Membership (Amended 7-21-11)

1. The Planning Commission is hereby established and vested with such authority as is hereinafter provided and as provided by Minnesota Statute, Chapter 394.21 to 394.37, Laws of 1974 as amended. Such Planning Commission shall be composed of five (5) members appointed by the Chairman of

the County Board. A majority shall be residents of the portion of the County outside the corporate limits of municipalities and one County Commissioner shall be appointed to serve on the Planning Commission as a non-voting member and liaison to the Wadena County Board of Commissioners. No voting member of the Planning Commission shall have received, during the two (2) years prior to appointment, any substantial portion of his income from business operations involving the development of land within the county for urban and urban related purposes. The Planning Commission members shall be appointed to initial terms as follows: two members for three (3) years, two members for two (2) year terms, and two members for one year. The County Commissioner appointed to the Planning Commission shall serve for one year term. Upon completion of initial terms described above all Planning Commission members shall be appointed for three year terms.

2. Planning Commission members may be removed upon completion of the appointed terms, resignation or by misconduct. Dismissal for misconduct shall be for the reasons as follows:
 - a. Absence for three (3) consecutive Planning Commission meetings.
 - b. Conviction of a felonious crime.
 - c. Or by purposely concealing a conflict of interest.Dismissal for misconduct shall require a 4/5 majority vote of the County Board.

SECTION 27: AMENDMENT

A. Application

1. This Ordinance may be amended whenever the public necessity and the general welfare require such amendment by following the procedures specified in this SECTION.
2. Proceedings for amendment of this Ordinance shall be initiated by:
 - a. a petition of the owner or owners of the actual property,
 - b. a recommendation of the County Planning Commission,
 - c. or by action of the Board of County Commissioners.
3. An application for an amendment shall be filed with the Zoning Administrator. All applications for changes in the boundaries of any zoning district which are initiated by the petition of the owner or owners of property, the zoning of which is proposed to be changed, shall be accompanied by a map or plat showing the lands proposed to be changed and all lands within three hundred (300) feet of the boundaries of the property proposed to be rezoned, together with the names and addresses of the owners of the lands in such areas as the same appears on the records of the Wadena County Treasurer.
4. All property owners within one-half mile shall be notified as to the time and place of the public hearing. All municipalities within two (2) miles of the boundaries of the property proposed to be rezoned and the township within which the property proposed to be rezoned is located shall be given proper notice. Notice of public hearing on all official controls and amendment thereto shall be sent to the governing bodies of all town and all municipalities located within the county, and the Shoreland Hydrologist of the Department of Natural Resources if in shoreland.

B. Public Hearing

Upon receipt in proper form of the application and other requested material, the Wadena County Planning Commission shall hold at least one (1) public hearing in a location prescribed by the Planning Commission. At least ten (10) days in advance of each hearing, notice of the time and place of such hearing shall be published in the official newspaper of the County.

C. Authorization

1. Following the public hearing, the County Planning Commission shall make a report of its findings and recommendations on the proposed amendment and shall file a copy with the Board of County

Commissioners and the Zoning Administrator within sixty (60) days after the hearing. If no report or recommendation is transmitted by the County Planning Commission within sixty (60) days after the hearing, the Board of County Commissioners may take action without awaiting such recommendation.

2. Upon the filing of such report or recommendation, the Board of County Commissioners may hold such public hearings upon the amendment as it deems advisable. After the conclusion of the hearings, if any, the Board of County Commissioners may adopt the amendment or any part thereof in such form as it deems advisable. The amendment *shall* be effective only if four-fifths (4/5) of all members of the Board concur in its passage. A copy of approved amendments under shoreland management controls must be sent to the Shoreland Hydrologist of the Department of Natural Resources and post marked within ten days of final action.

D. Fees

To defray the administrative costs of processing of request for an amendment to this Ordinance, a fee not exceeding administrative costs shall be paid by the petitioner. Such fee shall be determined by the Board of County Commissioners.

SECTION 28: VIOLATIONS, PENALTIES AND ENFORCEMENT

A. Violations and Penalties

Any person, firm or corporation who shall violate any of the provisions hereof or who shall fail to comply with any of the provisions hereof or who shall make any false statement in any document required to be submitted under the provision hereof, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided by Minnesota Law. Each day that a violation continues shall constitute a separate offense. Violations of this Ordinance can occur regardless of whether or not a permit is required for a regulated activity pursuant to Section 23 of this Ordinance.

B. Enforcement

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

SECTION 29: VALIDITY

Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

SECTION 30: DATE OF EFFECT

A. Date of Effect

This Ordinance shall be in full force and effect from and after its passage and approval as provided by law. Passed and approved this 3rd day of August, 1971.

Arthur L. Miller, Chairman
Board of County Commissioners

Attest: R.R. Rytty, County Auditor

Last Revision Date: May 7, 2019

