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9.0 Special Provisions:

9.1 Signs

(Ord. #429, adopted 07/15/08)

9.1.1 Purpose and Intent

The intent of the establishment of use and performance standards for signs is to protect and promote the health, safety, morals and general welfare of the inhabitants of Benton County through the creation of impartial standards, regulations and procedures which govern the erection, use and/or display of devices, signs, or symbols serving as a means of visual communication to persons situated within, upon or adjacent to public rights-of-way of properties.

9.1.2 General Provisions:

- A. Signs except those issued by the County, State, Municipality or public utility are prohibited within public right-of-ways.
- B. The light from any illuminated sign or from any light source, including interior of a building, shall be so shaded, shielded or directed that the light intensity or brightness shall not adversely affect surrounding or facing premises nor adversely affect safe vision of operators of vehicles moving on public or private roads, highways or parking areas.
(Ord. #440, adopted 10/20/09)

9.1.3 General regulations for every district:

- A. For the purpose of selling, renting or leasing a single parcel, a temporary sign not in excess of 32 square feet of sign area per side may be placed within the front yard.
- B. For the purpose of selling a commercial area or an industrial area, one temporary sign not to exceed a total of 240 square feet in sign area.
- C. For the purpose of selling or promoting a residential project, one sign not to exceed a total of 240 square feet in sign area.
- D. Political signs are permitted.
- E. No sign in excess of three square feet shall be closer than 300 feet from the intersection of two or more public roads, or closer than 300 feet from the intersection of a public road and a railroad, provided that a sign may be

affixed to or located adjacent to a building at such intersection in such a manner as not to cause any greater obstruction of vision than that caused by the building itself.

- F. No sign shall be closer than two feet from a public right-of-way line. (Ord. #440, adopted 10/20/09)

9.1.4 Signs Not Requiring Permits:

The following types of signs are exempt from permit requirements but must otherwise be in conformance with all requirements of this section:

- A. On-premise temporary construction signs having a sign area of 50 square feet or less;
- B. Garage sales signs not to exceed 12 square foot sign area;
- C. Holiday decorations;
- D. Political signs, on-premise private sale or on-premise event signs;
- E. On-premise temporary real estate signs;
- F. Official notices authorized by a court, public body or public safety official;
- G. Directional, warning or informational signs authorized by federal, state, county or municipal governments;
- H. The flag of a government or a noncommercial institution, such as a school;
- I. Signs on private property that request “No Trespassing” or “No Hunting” etc;
- J. Building mounted signs

9.1.5 Prohibited signs:

The following types of signs are prohibited in all districts:

- A. Abandoned signs
- B. Signs imitating or resembling official traffic or government signs or signals;
- C. Any sign placed that may obstruct motorist or pedestrian visibility;

- D. Signs attached to telephone poles, public benches, street lights, or placed on any public property or public right-of-way without approval of the public authority;
- E. A sign that obstructs any window, door, fire escape, stairway, or opening intended to provide light, air, ingress, or egress for any building or structure.
- F. Signs suspended beneath a canopy, overhang, roof, or marquee without a minimum clearance from grade of eight feet in a vehicular way or seven feet in a pedestrian way;
- G. Any sign erected above the roof line of a building;
- H. Unsafe/dangerous signs.
- I. Searchlights.

9.1.6 Portable Signs

- A. Portable signs, shall only be allowed once during any twelve month period for no more than 90 days and not to exceed 32 square feet per side sign area with a maximum of two sides. Portable signs shall be located a minimum of ten feet from the property line and/or right-of-way.
- B. There shall be no more than one portable sign per parcel permitted at any one time.
- C. Anchors for portable or temporary signs shall be maintained to prevent displacement or tipping during high winds.

9.1.7 Billboard Signs.

All signs that exceed 150 square foot sign area per side shall require a conditional use permit. A site shall be limited to either one monument sign or one billboard. Billboards are limited to the B, B-2, I and I-2 Districts. All Billboards must be in conformance with the following standards:

- A. Maximum sign area shall be 300 square feet per side with no more than 2 sides.
- B. The minimum ground clearance shall be 12 feet.
- C. The maximum height of a billboard shall be 60 feet.

- D. No part of the billboard structure shall be built upon or over the public right-of-way.
- E. The minimum distance from other billboards on the same side of a road shall be 1,000 feet.
- F. The minimum distance from street intersection shall be 300 feet as measured from the edge of the right of way to the base of the billboard.
- G. The minimum distance from adjacent properties or right-of-ways shall be 50 feet.
- I. No billboard located within 1,000 feet of residentially zoned property may be illuminated.
- J. Lighting devices used in association with billboards shall be placed and directed in a manner which, so far as practicable, illuminates the sign only, and does not illuminate or reflect upon public roadways or adjacent properties.

9.1.8 Signs Permitted in Agricultural (A) and Rural Agricultural (RA) Districts

- A. One building mounted sign not to exceed 32 square feet in sign area
- B. One monument sign for each dwelling, non-residential use or use by conditional use permit not to exceed 32 square feet in sign area per side, and no sign shall be so constructed as to have more than two sides. Monument signs shall be located a minimum of 20 feet from the side and rear property line and 10 feet from the right-of-way. No monument sign shall exceed 20 feet in height above the average grade.
- C. Signs permitted in every district and signs not requiring permits in accordance with Section 9.1.3 and 9.1.4 of the Development Code.

9.1.9 Signs Permitted in the Rural-Service (RS) District

- A. One building mounted signs not to exceed 32 square feet in sign area.
- B. One monument sign for each parcel not to exceed 50 square feet in sign area per side with no more than 2 sides. No monument sign shall exceed 20 feet in height above the average grade. Monument signs shall be located a minimum of 20 feet from the side and rear property line and 10 feet from the right-of-way.

- C. Signs permitted in every district and signs not requiring permits in accordance with Section 9.1.3 and 9.1.4 of the Development Code.

9.1.10 Signs permitted in a Residential (R-1, R-2, R-3) District

- A. One building mounted sign not to exceed 8 square feet in sign area.
- B. One monument sign for each permitted non-residential use or use by conditional use permit. Such signs shall not exceed 32 square feet in sign area per side and no sign shall be so constructed as to have more than two sides. No sign shall exceed 10 feet in height above the average grade. Signs shall be located a minimum of 20 feet from the side and rear property line and 10 feet from the right-of-way.
- C. Signs permitted in every district and signs not requiring permits in accordance with Section 9.1.3 and 9.1.4 of the Development Code.

9.1.11 Signs Permitted in the Businesses (B) and Business Enterprise (B-2) District

- A. Building mounted signs shall be permitted.
- B. One monument sign shall be permitted per lot and shall be limited to a maximum of 150 square feet in sign area per side and no more than two sides. No sign shall extend in height more than 50 feet above the average grade level of the lot on which the sign is erected. Monument signs shall be located a minimum of 10 feet from the right-of-way and 20 feet from the side and rear property line.
- C. Signs permitted in every district and signs not requiring permits in accordance with Section 9.1.3 and 9.1.4 of the Development Code.
- D. Portable signs subject to Sect. 9.1.6 of the Development Code.
- E. Billboards subject to Sect. 9.1.7 and 11.6 of the Development Code.

9.1.12 Signs Permitted in the Industrial (I-1, I-2) District

- A. Building mounted signs shall be permitted.
- B. One monument sign shall be permitted per lot and shall be limited to a maximum of 150 square feet in sign area per side and no more than two sides. No sign shall extend in height more than 50 feet above the average grade level of the lot on which the sign is erected. Monument signs shall be

located a minimum of 10 feet from the right-of-way and 20 feet from the side and rear property line.

- C. Signs permitted in every district and signs not requiring permits in accordance with Section 9.1.3 and 9.1.4 of the Development Code.
- D. Portable signs subject to Sect. 9.1.6 of the Development Code.
- E. Billboards subject to Sect. 9.1.7 and 11.6 of the Development Code.

9.1.13 Sign Removal

- A. The applicant for a sign permit shall be deemed the owner and thus responsible for the removal of the sign within three months of its abandonment, or for the removal of a sign which is structurally unsafe or in disrepair as determined by the Department of Development.
- B. Signs not so removed by the owner will be removed by the County at the owner's expense.

9.2 Off-Street Parking

9.2.1 General Provisions

- (a) Under no circumstances shall required parking facilities accessory to residential structures be used for the parking of automobiles belonging to the employees, owners, tenants, or customers of nearby business or manufacturing establishments.
- (b) Required off-street parking space shall not be utilized for open storage of goods or for the storage of vehicles which are inoperable or for sale or for rent.
- (c) Required off-street parking spaces shall be provided as determined by the County Planning Commission.

9.2.2 Location Requirements

All off-street parking facilities required herein shall be located in respect to the following:

- (a) Spaces accessory to one family, two family and multiple dwellings on the same lot as the principal use served.

- (b) There shall be no off-street parking space within 5 feet of any road right-of-way.
- (c) No off-street open parking area containing more than 4 parking spaces shall be located closer than 15 feet from an adjacent lot zoned or used for residential purposes.
- (d) Business and Industrial off-street parking spaces shall not be less than 10 feet from a property line.

9.2.3 Design Requirements

- (a) Each parking stall shall be not less than 10 feet wide and 20 feet in length, exclusive of access drives. All outside parking spaces shall be clearly marked.
- (b) Parking areas shall be designed so as to provide adequate means of access to public streets. Such driveway access shall not exceed 30 feet in width.
- (c) All of the area intended to be utilized for parking space and driveways shall be surfaced with a material which controls dust and drainage. Parking areas for less than three vehicles shall be exempt. Plans for surfacing and drainage shall be subject to approval of the Engineer.
- (d) All lighting used to illuminate an off-street parking area shall be so arranged as to reflect the light away from adjoining property and right-of-way.
- (e) All open off-street parking areas shall provide a curb or a guard of normal bumper height to ensure that no portion of a vehicle encroaches into the required setback.
- (f) All off-street parking spaces shall have access off driveways and not directly off the public street.

9.3 Loading Spaces

Loading spaces shall be provided as determined by the County Planning Commission.

9.4 Drive-In Businesses

9.4.1 Location Requirements

- (a) No drive-in business shall be located within 500 feet of a school or church.
- (b) No drive-in shall be located within 300 feet of any residentially zoned property.
- (c) No access drive shall be within 50 feet of intersecting street right-of-way lines.

9.4.2 Site Requirements

- (a) The entire area other than that occupied by structure or landscaping shall be paved surface which will control dust and drainage.
- (b) Adequate area shall be designated for snow storage such that clear visibility shall be maintained from the property to any public street.
- (c) Lighting shall have no direct source visible from the public right-of-way or adjacent land.
- (d) A six (6) inch insurmountable curb shall separate all walks and landscape areas from parking areas.
- (e) A screen fence not over 6 feet in height, nor less than 4 feet, at least 50 percent opaque throughout its height, shall be constructed along the property line abutting a residential zoning district. Should the use be a drive-in theater, an opaque fence not less than 8 feet in height and extending at least to within 2 feet of the ground, shall be constructed around the property.

9.5 Intentionally Left Blank

9.6 Subsurface Sewage Treatment Systems (SSTS)

(Ord. #432, effective 1/2/09) (Ord. #457, effective 5/26/16)

9.6.1 PURPOSE, OBJECTIVE AND AUTHORITY

A. Purpose

The purpose of this ordinance is to establish minimum requirements for regulation of individual sewage treatment systems (ISTS) and mid-size subsurface sewage treatment systems (MSTS) collectively referred to as subsurface sewage treatment systems (SSTS) for the treatment and dispersal of sewage within the applicable jurisdiction of the County to protect public health and safety, groundwater quality, and prevent or eliminate the development of public nuisances. It is intended to serve the best interests of the county's citizens by protecting its health, safety, general welfare, and natural resources.

B. Objectives

1. The protection of lakes, rivers and streams, wetlands, and groundwater in Benton County is essential to the promotion of public health, safety, welfare, socioeconomic growth and development of the County.
2. Given the extensive resources and numerous supplies of surface water and groundwater and their susceptibility to contamination, the regulation of proper SSTS construction, reconstruction, repair and maintenance is necessary to prevent the entry and migration of contaminants, thereby protecting the degradation of surface water and groundwater quality.
3. The establishment of minimum standards for SSTS placement, design, construction, reconstruction, repair and maintenance is necessary to prevent contamination and, if contamination is discovered, the identification and control of its consequences and the abatement of its source and migration.
4. The appropriate utilization of privy vaults and other non-water carried sewage collection and storage facilities.
5. The provision of technical assistance and education, plan review, inspections, SSTS surveys and compliance investigations to prevent and control water-borne diseases, lake degradation, groundwater related hazards, and public nuisance conditions.

C. Authority

This Ordinance is adopted pursuant to Minnesota Statute § 115.55; Minnesota Statute §§ 145A.01 through 145A.08; Minnesota Statute § 375.51; or successor statutes, and MN. Rule Ch. 7080, Ch. 7081, Ch. 7082; Ch. 7083; or successor rules.

9.6.2 GENERAL PROVISIONS

A. Scope

This Ordinance regulates the siting, design, installation, alterations, operation, maintenance, monitoring, and management of all SSTS within the County's applicable jurisdiction including but not necessarily limited to individual SSTS and cluster or community SSTS, privy vaults, and other non-water carried SSTS. All sewage generated in unsewered areas of the County shall be treated and dispersed by an approved SSTS that is sited, designed, installed, operated, and maintained in accordance with the provisions of this Ordinance or by a system that has been permitted by the Minnesota Pollution Control Agency (PCA).

B. Jurisdiction

The jurisdiction of this Ordinance shall include all lands of the County except for incorporated areas or areas under an annexation or joint powers agreement that administer a Subsurface Sewage Treatment System (SSTS) program by Ordinance within their jurisdiction, which is at least as strict as this Ordinance and has been approved by the County. The County Department of Development shall keep a current list of local jurisdictions within the County administering a SSTS program.

C. County Administration

The Department of Development shall administer the SSTS program and all provisions of this Ordinance. At appropriate times, the County shall review this and revise and update this Ordinance as necessary. The County shall employ or retain under contract qualified and appropriately licensed professionals to administer and operate the SSTS program. The Department shall have the following duties and responsibilities:

1. To review all SSTS applications;
2. To issue all permits required by this Ordinance;
3. To inspect work in progress and to perform the necessary tests to determine its conformance with this Ordinance
4. To investigate complaints regarding SSTS and septage disposal;
5. To issue cease and desist orders and notices of violation, pursuant to this Ordinance;

6. To maintain proper records for SSTS and septage disposal including site evaluation records, design records including calculations and summaries for all system component sizing and as-builts.
7. To submit annual reports to the PCA to demonstrate enforcement of the local Ordinance per Minn.. R. 7082.0040, subp. 5.
8. Provide programs by the Department and/or others to increase public awareness and knowledge of SSTS. Programs may include distribution of educational materials through various forms of media and SSTS workshops focusing on SSTS planning, construction, operation, maintenance, and management.

D. State of Minnesota

1. Where a single SSTS or group of SSTS existing or proposed under common ownership are within one-half mile of each other, have a combined design flow greater than 10,000 gallons per day, the owner or owners must obtain a State Disposal System (SDS) permit from PCA according to Chapter 7001.
2. SSTS serving establishments or facilities licensed or otherwise regulated by the State shall conform to the requirements of this Ordinance including, but not limited to, campgrounds, resorts, mobile home parks, and eating and drinking establishments.
3. For dwellings including apartments, townhouses, resort units, rental cabins and condominiums, the sum of the flows from all existing and proposed sources under single management or ownership will be used to determine the need for a SDS permit.
4. Any SSTS requiring approval by the State of Minnesota shall also comply with this Ordinance.
5. Plans and specifications must receive appropriate state and local approval before construction is initiated.

E. Plumbing Code Administration

1. The plumbing code shall be administered by the local building code official as it relates to the hook-up of the water using device to the septic tank or system.
2. Verification that the septic system hook-up is compliant with the plumbing code shall be provided by the building code official prior to issuance of a certificate of compliance.

9.6.3 GENERAL REQUIREMENTS

A. Standards Adopted by Reference

The County hereby adopts by this reference Minn. R. Chs. 7080 through 7083 in their entirety as now constituted and from time to time amended. This adoption does not supersede the County's right or ability to adopt local standards that are in compliance with Minn. Stat. §115.55, subd. 7.

B. Retroactivity

Except as explicitly set forth in Sect. 9.6.3 paragraph C below, all provisions of this Ordinance shall apply to any SSTS regardless of the date it was originally permitted.

C. Existing Permits

Unexpired permits which were issued prior to the effective date shall remain valid under the terms and conditions of the original permit until the original permit expiration date.

D. Existing SSTS without Permits

Existing SSTS, including those with no permits of record, shall require a permit for new construction/replacement and the portion being replaced or upgraded shall be brought into compliance with the requirements of this Ordinance regardless of the date they were originally constructed. The portion of the SSTS that is not being replaced or upgraded is not required to be brought into compliance with this Ordinance unless it is failing or in the opinion of the designer is required to be upgraded.

E. Sewerability Requirements

1. Newly created lots, and legally created lots created after January 23 1996 shall have a minimum of two Type I septic sites. A site without a septic system or a septic system that has not been in operation for more than five years shall be considered a vacant lot. (Ord.#436, adopted 4/7/09)
2. New construction of a single family dwelling on vacant lots or lots created after January 23, 1996 unable to meet the requirements set forth in 9.6.3(E)(1) shall be able to utilize a "Local Alternative Septic System" designed in accordance with 9.6.7(C). These systems will be "Type III" systems and a minimum of six inches of unsaturated soil shall be required. Local Alternative Septic Systems shall be permitted when:
 - a. One Type I site is found, or no Type I sites are found

- b. Said system is not located within shoreland areas, wellhead protection areas or systems serving food, beverage, or lodging establishments;
 - c. Said system is for a single-family dwelling unit;
 - d. Said system is not within a wetland; and
 - e. Said system is designed in accordance with 9.6.7 (C) of this ordinance
 - f. If a Type I site is found then the property owner shall be required to utilize the Type I site for a Type I septic system. The Local Alternative Septic System site shall qualify as the secondary site.
3. Lots created prior to January 23, 1996 shall be considered sewerable provided two septic sites can be found and verified with a minimum of 6 inches of separation.

F. Sewerability Exceptions

Any newly created lot which is deed restricted for agricultural/recreational use, is exempt from demonstrating Type I septic sewerability requirements of Sect. 9.6.3 (E) (1) and Type III septic sewerability requirements of Sect. 9.6.3 (E)(2). Type I sewerability requirements are not required for a replacement sewage treatment system in which a dwelling or other establishment is removed, and a new dwelling or other establishment is built within five years of the date of the removal of the existing dwelling or other establishment.

9.6.4 PROHIBITIONS

A. Occupancy or Use of a Building without a Compliant SSTS

It is unlawful for any person to maintain, occupy, or use any building intended for habitation that is not provided with a SSTS that disposes of wastewater in a manner consistent with the provisions of this Ordinance.

B. Sewage Discharge to Ground Surface or Surface Water

It is unlawful for any person to construct, maintain, or use any SSTS under this Ordinance that results in raw or partially treated wastewater seeping to the ground surface or flowing into any surface water. Any surface discharging system must be permitted under the National Pollutant Discharge Elimination System (NPDES) program by the PCA.

C. Sewage Discharge to a Well or Boring

It is unlawful for any person to discharge raw or treated wastewater into any well or boring as described in Minn. R. 4725.2050, or any other excavation in the ground that is not in compliance with this Ordinance.

D. Discharge of Hazardous/Commercials or Deleterious Materials

It is unlawful for any person to discharge into any treatment system regulated under this Ordinance any hazardous, commercial or deleterious material that adversely affects the treatment or dispersal performance of the system or groundwater quality. (Ord. #436, adopted 4/7/09)

E. Wetlands

It is prohibited to construct or place an SSTS, or any part thereof, in a wetland as defined in Minn. Stat. §103G.005; except replacement systems with no other alternative may be placed within a wetland if the criteria under Minn. R. 8420.0420 subpart 6(A)(2) is met.

9.6.5 SSTS PRACTITIONER LICENSING

A. Licensing Requirement

No person shall engage in site evaluation, inspection, design, installation, construction, alteration, extension, repair, maintenance, or pumping of SSTS without an appropriate and valid license issued by PCA in accordance with Minn R. Ch. 7083, except as exempted in Minn. R. 7083.0700.

B. Indemnification Agreement

Unlicensed persons installing a Type I Septic System or Holding Tank on their property for their single family dwelling as permitted by Minn. R. 7083.0700 shall provide an executed agreement to the Department which indemnifies and saves the County, holding it harmless from all losses, damages, costs, including attorney's fees, and charges that may be incurred by Benton County due to the failure of the permittee to conform to and comply with the provisions of this Ordinance.

9.6.6 SSTS PERMITTING

A. Permits Required

It is unlawful for any person to construct, install, modify, replace, repair, rejuvenate, remediate, or operate a subsurface sewage treatment system without the appropriate permit from Benton County. The issuing of any subdivision, permit, variance, or conditional use under the provisions of this Ordinance shall not absolve the applicant's responsibility to obtain any other required permit. The purpose of this permit is to ensure that the proposed construction activity is sited, designed, and constructed in accordance with the provisions of this Ordinance by an appropriately certified and/or licensed practitioner(s). A septic permit is not required for minor repairs or replacements of system components that do not alter the original function of

the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function as determined by the Department. (Ord. #436, adopted 2/7/09)

B. Septic Permit Required to Obtain Building or Land Use Permit

For any property where a SSTS permit is required, approval and issuance of a valid SSTS septic permit must be obtained before a building or land use permit will be issued by the Department or Building Official.

C. Permit Application Requirements

Septic permit applications shall be made on forms provided by the Department of Development and signed by the applicant/owner and an appropriately certified practitioner including the practitioner's license number and date of expiration. The applications shall include the Site Evaluation Report as described in Minn. R. 7080.1730, Design Report as described in Minn. R. 7080.2430, a Management Plan as described in Minn. R. 7082.0600. Applications shall be considered incomplete if they are not on the County forms, do not include a management plan and, when applicable, a monitoring plan, mitigation plan, pumping agreement or deed restriction. Applications shall also be considered incomplete if they are not signed by the owner/applicant and designer. (Ord. #436, adopted 2/7/09)

D. SSTS Designer Responsibilities

1. Upon completion of any SSTS design, the SSTS designer shall review the proposed SSTS design with the applicant/owner. At that time, the designer shall have the applicant/owner sign the SSTS application, and any other required management plan or operational agreement before the design is released to the applicant/owner or installer.
2. If a proposed SSTS design cannot meet a technical requirement of Minn. R. Chs. 7080 through 7083 or Benton County Development Code Section 9.6, it is the responsibility of the SSTS designer to contact the Department of Development before releasing the proposed SSTS design to the applicant/owner.
3. If it is determined by the designer and the Department of Development, that the proposed SSTS design would require a variance, the designer shall discuss this finding with the applicant/owner. The need for a variance shall be clearly indicated on a separate sheet of paper and attached to the proposed SSTS design. A variance application shall accompany the septic permit application. The septic application shall be considered incomplete until the variance is approved.

E. Application Review and Response

The Department shall review a permit application and supporting documents in accordance with Minn. Stat. §15.99. Upon satisfaction that the proposed work will conform to the provisions of this Ordinance, the Department shall issue a written permit authorizing construction of the SSTS as designed. In the event that the applicant makes a change to the approved application, the applicant must resubmit an amended application to the Department detailing the changed conditions prior to initiating or continuing construction, modification, or operation. The Department may approve or deny the amended application. If the permit application is incomplete or does not meet the requirements of this Ordinance the Department shall deny the application or request additional information. A notice of denial or request for additional information shall be provided to the applicant with the reason for the denial or request for additional information. Applications shall be considered incomplete if they are not on County forms, do not include the required signatures, do not include a management plan, and when applicable a monitoring plan, mitigation plan, pumping agreement or appropriate deed restrictions.

F. Fees

The County Board shall establish fees for permits and reviews required by this Ordinance. All fees shall be paid prior to the issuance of the septic permit or certificate of compliance whichever shall apply.

G. Appeal

The applicant may appeal the Department's decision to deny the septic permit in accordance with the County's established policies and appeal procedures in accordance with Section 11.4.7 of the Development Code. (Ord. #436, adopted 2/7/09) If a septic permit is denied based on a failure to obtain a variance to a requirement of 9.6, then the variance denial shall be appealed in accordance with Minn. Stat. §394.27 and not Section 11.4.7 of the Development Code.

H. Permit Expiration

The septic permit is valid for a period of no more than one year from its date of issue or satisfactory completion, whichever is shorter. The Department may, at its sole discretion, provide an expiration of the permit shorter than one year. Satisfactory completion of construction shall be determined by receipt of final record drawings and a signed certification that the construction or installation of the system was completed in substantial conformance to the approved design documents by a qualified employee of the Department. The Department may at its sole discretion grant an extension of the septic permit if requested in writing by the owner prior to the expiration of the permit.

I. Suspension or Revocation

The Department may suspend or revoke a septic permit issued under this section when issuance of the permit was based on false statements or misrepresentations of facts made by the applicant. The Department may suspend or revoke a septic permit issued under this section when there have unauthorized changes to the system design that alter the original function of the system, change to the treatment capacity of the system, change to the location of the system, or otherwise change to the original system's design, layout, or function. A notice of suspension or revocation and the reasons for the suspension or revocation shall be conveyed in writing to the permit holder. If the permit is suspended or revoked, installation or modification of a treatment system may not commence or continue until a valid septic permit is obtained.

J. Posting

The septic permit should be posted on the property in such a location and manner so that the permit is visible and available for inspection until construction is completed and certified.

9.6.7 SSTS STANDARDS

A. Benton County Standards:

The County hereby adopts by reference Minn. R. Chs. 7080 through 7083 as amended from time to time. In accordance with Minn. Stat. §115.55, subd. 7, Benton County has adopted more restrictive standards than required by Minn. R. Chs. 7080 through 7083.

B. Additional SSTS Design Requirements

In addition to the design requirements contained in Minn. R. Chs. 7080 through 7083, the following more restrictive requirements shall be required for all SSTS designs submitted to the Department. (Ord. #436, adopted 2/7/09)

1. A minimum of three soil borings are required in the primary site and a minimum of one boring is required for the secondary site; however, if the primary and secondary site do not adjoin each other a minimum of two soil borings are required in both the primary and secondary locations. Soil borings must be representative of the soil conditions throughout the absorption area and shall be verified by staff.
2. SSTS for new construction shall have a minimum of three feet of separation to the periodically saturated soils, bedrock or other restrictive layer, including one foot in the original soil.
3. The depth of each soil boring shall be to the water table, bedrock or three feet below the proposed depth of the system, whichever is less.

4. An authorized representative from the Department of Development shall verify the soil borings prior to issuance of the certificate of compliance for any new or replacement system.
5. The proposed location of the soil treatment area shall be roped or staked upon completion of the SSTS design.
6. The application shall provide a fixed reference point and distances from the proposed sites and/or borings to that reference point including a benchmark with an assumed elevation.
7. All SSTS or part thereof that will no longer be used and/or are found out of compliance shall be identified on the SSTS design.
8. Classification I flows shall be used to determine the average design flow for any SSTS design.
9. If the map unit name of the soil listed in the Benton County Soil Survey states "fine sand," the SSTS designer shall conduct a sieve analysis, or size the soil treatment area using the loading rates in Table IXa in Minn. R. 7080.2150.
10. The absorption area of mounds shall be based upon Table IXa in Minn. R. 7080.2150 from either the percolation rate or the heaviest soil texture encountered.
11. Table IX entitled "Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas Using Detail Soil Descriptions" and Table IXa entitled "Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas Using Percolation Tests" from Minnesota Rules, Chapter 7080.2150, Subp. 3(E) are herein adopted by reference and either shall be used to size SSTS infiltration areas for SSTS design.
12. All newly created lots, vacant lots and/or vacant lots of record shall have a minimum of two Type I septic sites. A site without a septic system or a septic system that has not been in operation for more than five years shall be considered a vacant lot.

C. Additional Local Alternative Septic System Requirements.

In addition to the design requirements contained in Minn. R. Chs. 7080 through 7083, the following requirements shall be required for all Local Alternative Septic System Requirements. (Ord. # 457, adopted 5/17/16)

1. A minimum of three soil borings are required in the primary site and a minimum of two borings are required in the three secondary sites. These will be verified by county staff or designee to determine the depth to the limiting layer.
2. Designers shall determine the linear contour loading rate for the drain field locations based upon Table A.

Table A Effluent absorption and contour loading rates for determining absorption area size and configuration using detailed soil descriptions.*

USDA Soil Classification		Absorption Loading Rate (gpd/ft ²)		Contour Loading Rate (gpd/ft) ^{††}											
				0-3% Slope			4-7% Slope			8-10% Slope			>10% Slope		
				Horizon Depth (in.)	Horizon Depth (in.)	Horizon Depth (in.)	Horizon Depth (in.)	Horizon Depth (in.)	Horizon Depth (in.)	Horizon Depth (in.)	Horizon Depth (in.)	Horizon Depth (in.)	Horizon Depth (in.)	Horizon Depth (in.)	Horizon Depth (in.)
Texture	Structure and Grade	Effluent Treatment Level	C [‡]	≥6-12	>12-24	>24-36	≥6-12	>12-24	>24-36	≥6-12	>12-24	>24-36	≥6-12	>12-24	>24-36
				A, A-2, B, B-2 ^{††}											
very coarse sand, coarse sand, loamy very coarse sand, or loamy coarse sand	single grain*	LR**	1.0	6	8	10	8	10	10	8	10	10	8	10	10
	single grain*	LR	2.0												
sand, loamy sand	single grain*	0.5 [†]	1.0	5	6	7	6	8	10	7	9	10	8	10	10
	single grain or weak ^{††}	0.8	1.6												
fine sand, loamy fine sand, very fine sand, loamy very fine sand	weak to strong non-platy ^{††}	0.6	1.0	3.5	4	5	4.5	5.5	7	4.5	6	9	5	8	10
	massive ^{††}	0.4	0.8	3	3.5	4	3.5	4	5	3.5	5	6	4	5	7
coarse sandy loam, sandy loam	moderate to strong non-platy ^{††}	0.6	1.0	4.5	5.5	6	5	6	9	5.5	7	10	6	8	10
	massive or weak ^{††}	0.5	0.8	4	4.5	5.5	4.5	5	6	4.5	5.5	6	5	6	7
fine sandy loam, very fine sandy loam, loam	moderate to strong non-platy ^{††}	0.6	0.8	3.5	4	5	4	5	7	5	6	8	5.5	7	9
	massive or weak ^{††}	0.4	0.6	3	3.5	4	3.5	4	5	3.5	4	5.5	4	5	6
silt loam	moderate to strong non-platy ^{††}	0.5	0.8	3.5	4	4	3.5	4.5	5.5	4	5	7	4.5	6	8
	massive or weak ^{††}	0.4	0.6	3	3.5	3.5	3	4	4.5	3	4	5	3.5	4.5	5.5
sandy clay loam, clay loam, silty clay loam	moderate to strong non-platy ^{††}	0.4	0.6	3	3.5	4	3	3.5	4	3	4	4.5	3.5	4	4.5
	moderate to strong non-platy ^{††}	0.2	0.3	3	3	3.5	3	3	3.5	3	3.5	3.5	3.5	3.5	3.5

* Only applies to original soil horizons with < 50% coarse fragments (particle sizes having > 2.00 mm nominal diameters, i.e. gravel or coarser). Absorption area surfaces must not be in contact with soil horizons having ≥ 50% coarse fragments.

[†] Estimated rates for ISTS. For soil conditions not included in the table, e.g. non-original soil, <6 in. ≥ 50% coarse fragments, firmer consistence, etc., evaluation of soil morphology and contour loading rate by a licensed Professional Soil Scientist (PSS) who is also an MPCA-licensed SSTS designer is required. Rates projected using hydraulic conductivities measured by a licensed PSS-designer supersede table estimates.

[‡] Pressure distribution required.

^{††} Very friable to friable consistence.

^{†††} Very friable to firm consistence.

^{††††} Unsaturation.

^{†††††} Residential strength septic tank effluent with up to 170 mg BOD₅/L, 60 mg TSS/L, and 25 mg O&G/L.

^{††††††} Additionally pretreated septic tank effluent with up to 25 mg CBOD₅/L and 30 mg TSS/L.

^{†††††††} Non-cemented, loose to very friable consistence.

^{††††††††} LR = Liner required. Use clean sand for liner, to separate distribution media from soil, and its associated absorption loading rate (1.0 gpd/ft²).

3. Designer shall verify that said system is not located within shoreland areas or wellhead protection areas or systems serving food, beverage, or lodging establishments.
4. A minimum of six inches of unsaturated soil is required
5. The System shall be time dosed according to linear contour loading rates.
6. The Designer shall sign the design.
7. The County shall allow additional perforation spacing (3.5 to 5ft), Minnesota Rules, Chapter 7080.2050 Subp. 4E Table VI: Maximum Number of Perforations Per Pressure Distribution Lateral .
8. The property owner shall sign a county approved document to be recorded noting that the septic system is an Alternative Local Septic System. The property owner shall be responsible for the recording fees of said document.

D. Septic Tank Setback Requirements

Sewage tanks, aerobic tanks, holding tanks, and sealed privies and any part thereof shall be located no closer to the following features than the minimum horizontal separation distances as stated in Table 1.

Table 1.

Source	Septic Tank Setback
Structures	10 ft.
Property Lines	10 ft.
Road right-of-way	5 ft.
Road right-of-way in Shoreland	0 ft.

E. Soil Treatment System (Drainfield) Setback Requirements

All soil treatment systems of an SSTS shall be set back the following minimum horizontal separation distances from the features given in Table 2.

Table 2.

Source	Drainfield Setback
Structures	20 ft.
Property Line	10 ft.
Road right-of-way	5 ft.
Road right-of-way in Shoreland	0 ft.

F. Shoreland Setbacks

All SSTS's shall be located in accordance with the minimum horizontal separation setback distances from Department of Natural Resources designated lakes, rivers and streams as stated in Table 3.

Table 3.

Shoreland District	Septic/Lift Tank Setback	Drainfield Setback
Agricultural/Urban & Tributary Rivers	75 ft.	75 ft.
Bluffs	30 ft.	30 ft.
Recreational Development Lakes	75 ft	100 ft
Natural Environment Lakes & Streams	150 ft.	150 ft.
Transitional/Forested Rivers	100 ft.	150 ft.

G. Winter SSTS Designs

A complete SSTS design, including soil borings and percolation tests are required year round. If weather, frost or light conditions do not permit a complete design to be conducted and soils verified by the Department, the design shall be considered incomplete.

H. Incomplete SSTS Installations due to Winter/Wet Soil Conditions

If the soil treatment system cannot be installed due to frost or wet soil conditions and the installer agrees to install the septic tank as a temporary holding tank system, the owner shall submit a holding tank pumping agreement with a PCA licensed maintainer to the Department prior to occupancy. Records of the frequency of pumping shall be kept for the Departments review or request for submission. (Ord. #436, adopted 4/7/09)

I. Determination of Hydraulic Loading Rate and SSTS Sizing

1. Hydraulic Loading Rate and SSTS Sizing shall be calculated using Table IXa from Minn. R. 7080.2150, subp. 3(E) entitled "Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas Using Percolation Tests" and herein adopted by reference shall be used to determine the hydraulic loading rate and infiltration area for all SSTS permitted under this Ordinance.
2. For all Local Alternative Septic Systems Table A Section 9.6.7 C shall determine the Hydraulic Loading Rate and SSTS sizing based on Contour Loading Rates.

J. Holding Tanks

Holding tanks for new residential dwellings are prohibited. Holding tanks may be allowed for replacement SSTS systems only if a drainfield cannot be installed. The final determination of the need for a holding tank shall be made by the Department. It is the responsibility of the designer to contact the Department before releasing the holding tank design to the applicant. (Ord. #436, adopted 4/7/09)

1. If a holding tank is permitted by the Department, the property owner shall:
 - a. Provide to the Department a holding tank Management Plan with the application; and
 - b. Maintain receipts of all maintenance performed. These records are to be available for submission and/or review by the Department.
 - c. The holding tank shall have a minimum capacity of at least 1,500 gallons or an amount equal to 400 gallons multiplied by the number of bedrooms in the dwelling which the tank will serve, whichever is greater.
 - d. An operating permit shall be required.
2. Low Volume Users

Holding tanks may be allowed for low volume uses subject to meeting the provisions of Section 9.6.7(J)(1)(a)-(d). Low volume users include the following:

- a. An accessory building with no more than two water using devices that may consist of only a sink and/or toilet.
- b. A place of business with no more than three water using devices that may consist of only a sink, toilet, emergency shower and/or washing machine.
- c. A township meeting hall that is not open to the public except when conducting official township business.

K. Additional SSTS Construction Requirements

In addition to the construction requirements contained in Minn. R. Chs. 7080 through 7083, the following additional requirements shall be met for the construction of SSTS systems:

1. Schedule 40 sewer pipe shall extend a minimum of 3 feet beyond the last septic tank and/or lift tank.
2. To prevent freezing problems, the sewer line from the lift tank to a pressurized soil treatment area shall be protected from sagging or bending.
3. The final dimensions of an SSTS mound system (the upslope and downslope calculations of the berm) shall be scarified and contain clean sand as defined in Minn. R. 7080.1100 subpart 16 and 7080.2220, subpart 3, item C.

4. Clean sand used in the construction of mound systems shall be landscaped to a minimum of 4 horizontal units to 1 vertical unit for all new construction. Three horizontal units to 1 vertical unit may be used for replacement systems if determined by the Department that 4 horizontal units to 1 vertical unit cannot be accommodated on-site.
5. Elevation readings (in reference to the design benchmark) shall be required at the time of the Department's inspection of all sewage treatment systems.
6. The top of the sewage tank for a new system shall not be buried more than 4 feet from the final grade unless specifically approved by the Department.

L. Bedroom Addition(s)

1. A bedroom addition requires the submission of a compliance inspection. A compliant system shall require the property owner to develop and comply with a management plan for said system.
2. The addition of two or more bedrooms over the existing septic system's designed capacity will require a new design.
3. If a dwelling has an existing septic system that is not permitted and capacity cannot be determined, a new design shall be required and a new septic system shall be installed.

M. Reporting

Type III, Type IV, Type V, Local Alternative Septic Systems and other establishments that are required to install water meters or event counters shall take readings every day for the first 30 days that the system is in operation and once a month thereafter. The readings shall be submitted to the County on the form provided by the County by the following January 30th. After reviewing the readings the Department may request additional readings to be conducted or indicate that additional readings are no longer required to be submitted. Failure to submit the required readings shall be deemed a violation of the management plan. An agreement signed by the applicant shall be submitted with the application acknowledging these requirements. (Ord. #436, adopted 4/7/09)

N. Requirements

The following sections are in Minn. R. Ch. 7080 and are not more restrictive but are highlighted due to their importance.

1. SSTS in Floodplains

- a. SSTS shall not be located in a floodway and wherever possible, location within any part of a floodplain should be avoided. If no option exists to locate a SSTS outside of a floodplain, location within the flood fringe is allowed if the requirements in Minn. R. 7080.2270 are met. If an SSTS is built in the flood fringe, the bottom of the distribution medium shall be at least as high as 10 year flood elevation. If the SSTS is a mound system, the bottom of the distribution medium shall be at least ½ foot above the 10 year flood elevation.
- b. If the 10 year flood elevation is not available, the SSTS must be located on the highest feasible area of the lot and must have location preference over all other improvements except the water supply well. The best hydrological information shall be used in determining the elevation of the bottom of the distribution medium. The best available hydrological information shall include, but is not limited to the following:
 1. Flood elevations provided from the Benton County Highway Department;
 2. Flood elevations provided from the Minnesota Department of Transportation;
 3. A flood elevation provided by a certified land surveyor; or
 4. A geological topographic/contour map.

2. Class V Injection Wells

All owners of new or replacement SSTS that are considered to be Class V injection wells, as defined in the 40 C.F.R. 144, are required by the Federal Government to submit SSTS inventory information to the Environmental Protection Agency as described in 40 C.F.R 144. Further, owners are required to identify all Class V injection wells in property transfer disclosures.

9.6.8 OPERATING PERMITS

A. SSTS Requiring an Operating Permit

1. An operating permit shall be required of all owners of new holding tanks, Type IV systems, Type V systems, Local Alternative Septic Systems, lodging (excluding bed and breakfast facilities unless served of a Type IV or V system), food and beverage facilities or MSTs. Sewage shall not be discharged to a holding tank or MSTs until the Department of Development certifies that the MSTs or holding tank was installed in conformance with the approved plans, receives the final record drawings of the MSTs, and a valid operating permit is issued to the owner. (Ord. #436, adopted 4/7/09)
2. The Department shall review the record drawings, operation and maintenance manual, management plan, maintenance and servicing contract, and any other pertinent documents as appropriate for accuracy and completeness. If any

deficiencies are identified, the operating permit shall be denied until the deficiencies are corrected to the satisfaction of the Department. If the submitted documents fulfill the requirements, the Department shall issue an operating permit in accordance with Minn. Stat. §15.99.

3. The Department may not amend an existing permit to reflect changes in this Ordinance until such time the permit term has expired and is renewed unless an amendment is necessary to eliminate an imminent threat to public health or safety.
4. The Department may suspend or revoke any operating permit issued under this section for any false statements or misrepresentations of facts on which the operating permit was issued or if the owner fails to meet the requirements of the operating permit. Notice of suspension revocation and the reasons for revocation shall be conveyed in writing to the owner. If suspended or revoked, the Department may require that the treatment system be removed from service, operated as a holding tank, or abandoned in accordance with Section 9.6.14. At the Department's discretion, the operating permit may be reinstated or renewed upon the owner taking appropriate corrective actions.
5. Systems found to be out of compliance with the operating permit shall be required to bring the SSTS into compliance within 30 days.

B. Compliance Monitoring Type IV Systems, Type V Systems, Food and Beverage Facilities or MSTS

1. Type IV Systems, Type V Systems, Local Alternative Septic Systems, MSTS, food and beverage facilities shall require monitoring performed by licensed service provider hired by the holder of the operating permit in accordance with the monitoring frequency and parameters stipulated in the permit.
2. A report shall be submitted to the Department on a form provided by the Department on or before the compliance reporting date stipulated in the operating permit. The report shall contain a description of all maintenance and servicing activities performed since the last compliance monitoring report as described below:
 - a. Owner name and address
 - b. Operating permit number
 - c. Average daily flow since last compliance monitoring report
 - d. Description of type of maintenance and date performed
 - e. Description of samples taken (if required), analytical laboratory used, and results of analyses
 - f. Demonstrate compliance with Minn. R. 7080.2350. (Type IV Systems)
 - g. The test from the effluent (before discharge into the soil treatment system) as determined by the County in the operating permit.

- h. Problems noted with the system and actions proposed or taken to correct them
 - i. Name, signature, license and license number of the licensed professional who performed the work
3. Type IV systems, Type V systems, Local Alternative Septic Systems, food and beverage facilities or MSTs operating permits shall expire on January 30th. The owner of the operating permit shall apply for renewal of their operating permit by December 30th. The operating permit renewal period shall be determined by the County. (Ord. #436, adopted 4/7/09)

C. Holding Tanks

Owners of holding tanks shall provide to the Department of Development a copy of a valid monitoring and disposal contract executed between the owner and a licensed maintenance business, which guarantees the removal of the holding tank contents in a timely manner and that prevents an illegal discharge. A monitoring and disposal contract is not required for a farmer who is exempt from licensing pursuant to Minn. R. 7083.0700 (D). The owner of the operating permit shall apply for renewal of their operating permit by December 30th. (Ord. #436, adopted 4/7/09)

9.6.9 MANAGEMENT PLANS

A. SSTS Requiring Management Plans

Management plans are required for all new or replacement SSTS, including Local Alternative Septic Systems. The management plan shall be submitted to the Department with the septic permit application for review and approval. The purpose of management plans is to describe how a particular SSTS is intended to be operated and maintained to sustain the performance required. The plan is to be provided by the certified designer to the system owner when the treatment system is commissioned. The Department shall be notified of any system modifications made during construction and the management plan revised and resubmitted at the time of final construction certification. (Ord. #436, adopted 4/7/09)

B. Required Contents of a Management Plan

Management plans shall include:

1. Signature of the designer and owner detailing that the plan has been reviewed and understood by both parties.
2. Operating requirements describing tasks that the owner can perform and tasks that a licensed service provider or maintainer must perform;
3. Monitoring requirements;
4. Maintenance requirements including maintenance procedures and a schedule for routine maintenance;
5. Statement that the owner is required to notify the Department when the management plan requirements are not being met;
6. Disclosure of the location and condition of the additional soil treatment and dispersal area on the owner's property or a property serving the owner's residence.
7. Require pumping the septic tank(s) at least once every three years and retention of receipts to demonstrate compliance.

C. Requirements for Systems not Operated under a Management Plan

SSTS that are not operated under a management plan or operating permit must inspect treatment tanks and remove solids at least every three years and retain the receipts to demonstrate compliance.

9.6.10 SOIL VERIFICATION

A. Soil Borings

1. Prior to approval of an administrative land split or final plat the Department of Development shall verify the soil borings submitted are compliant with Minn. R. Chs. 7080 through 7083, or compliant with 9.6.3(E)(2) General Requirements for Local Alternative Septic Systems.
2. Prior to issuance of the certificate of compliance for a new or replacement SSTS the County shall verify the soil borings submitted are compliant with Minn. R. Chs. 7080 through 7083, or with Local Alternative Septic System Requirements.

B. Dispute Resolution

1. In the event of a dispute between two designers on whether the soil or design meets the minimum requirements of the Ordinance the County shall review the site, upon request, and make the final determination.
2. In the event that a designer and the County have a dispute related to the design or soils meeting the minimum requirements of the Ordinance the County shall meet with the designer on-site to review the soils and design. If the dispute is unresolved the County and designer shall request a mutually agreeable licensed and septic certified soil scientist to review the site or agree upon a representative(s) from extension or MPCA in the SSTS program . The applicant shall provide a deposit in an amount to be determined by the County to cover the cost of the soil scientist and County review. Both parties shall agree in writing that the soil scientist findings shall be final. If the scientist determines the County correctly interpreted the soils the deposit will be retained and used to pay the scientist and County, with any extra money refunded to the applicant. If the soil scientist determines the designer was correct the deposit shall be refunded and the County will pay for the cost of the soil scientist review. If soils are reviewed with the soil scientist that was not previously reviewed by the County the County shall retain the deposit. All reviews with the soil scientist shall be conducted in a pit that is a minimum of 4 feet by 4 feet with a depth of at least 3 feet below the bottom of the proposed system or until bedrock or the water table, whichever is less.

9.6.11 COMPLIANCE INSPECTIONS CONDUCTED BY THE COUNTY

A. Department Responsibility

The Department shall inspect all newly constructed SSTS in Benton County. All inspection requests shall conform to the following:

1. All required permit fees shall be paid for prior to issuing the permit or certificate of compliance;
2. The installation and construction of the SSTS shall be in accordance with the permit requirements and application design.
3. The applicant shall notify the Department prior to the completion and covering of the SSTS for an inspection. If any SSTS component is covered before being inspected and approved by the Department, it shall be uncovered upon the direction of the Department;
4. It shall be the duty of the permittee to notify the Department on the workday preceding the day inspection is desired;
5. Proposals to alter the permitted construction shall be reviewed by a designer and the proposed change shall be approved by the Department prior to construction.
6. Inspections shall be conducted at least once during the construction of the SSTS at such time as to assure that the system has been constructed per permit requirements.
7. A designated certified professional shall be on site during the SSTS compliance inspection by the Department.
8. The Department shall be given access to enter a property at any reasonable time to inspect and/or monitor the SSTS system.

B. As-Builts Requirements

If the applicant provides proper notice as described above and the Department does not appear for an inspection within 24 hours after the set time, the applicant may complete the installation. The applicant shall then file a signed as-built packet provided by the Department. The as-built packet shall be submitted to the Department within five business days of the date of the SSTS installation. The as-built shall include a certified statement that the work was installed in accordance with submitted design and permit conditions and that it was free from defects. The Certificate of Compliance shall not be released until the as-built packet is submitted.

C. New Construction or Replacement SSTS

1. Compliance inspections must be performed on new or replacement SSTS to determine compliance with Minn. R. Chs. 7080 through 7083. SSTS found to be an imminent threat to public health or safety must be repaired or replaced within 120 days. SSTS that are determined to have operation or monitoring deficiencies must within 30 days be maintained, monitored or otherwise managed according to the operating permit or management plan. SSTS found to be noncompliant with other applicable requirements must be repaired or replaced according to the Department's requirements.
2. The certificate of compliance must include a certified statement by qualified employee who conducted the inspection that the SSTS is or is not in compliance with the Ordinance requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must be issued to the owner which includes a statement specifying those Ordinance provisions with which the SSTS does not comply.
3. No SSTS shall be placed into operation until a valid certificate of compliance has been issued.

D. SSTS Inspection Reports

A certificate of compliance or notice of noncompliance shall be prepared by the Department following all SSTS inspections or from the review of submitted as-built plans.

1. A certificate of compliance or notice of noncompliance shall include a signed statement by the Department identifying the type of SSTS inspected and whether the SSTS is in compliance with Minn. R. 7080.1500.
2. A copy of the certificate of Compliance or notice of noncompliance shall be provided to the property owner within 15 days of the compliance inspection and a copy kept on file in the Department.
3. A certificate of compliance for a new SSTS is valid for 5 years from the date of issuance unless the Department finds evidence of an imminent threat to public health or safety.
4. The plumbing code shall be administered by the local building code official as it relates to the hook-up of the dwelling to the septic tank or system. Verification that the septic system hook-up is compliant with the plumbing code shall be provided by the building official prior to issuance of a certificate of compliance.

5. Electrical Inspections if needed shall be administered by the state electrical inspector as it relates to electrical connections to the septic system. Verification that the electrical work associated with the septic system is compliant with the electrical code shall be provided by the state inspector prior to the issuance of a certificate of compliance.

E. Failing Systems

The County shall inspect an existing SSTS if there is evidence of a failing system. The County shall issue a notice of noncompliance if the County witnesses evidence of the failing system. The system shall be upgraded in accordance with Section 9.6.13.

9.6.12 COMPLIANCE INSPECTION CONDUCTED BY A PRIVATE INSPECTOR

A. Criteria for Systems Constructed Before April 1, 1996

SSTS built before April 1, 1996, must have at least 2 feet of vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock. If the SSTS is located within an area designated as shoreland, wellhead protection or serves a food, beverage or lodging establishment the system shall be required to meet the requirements of Section 9.6.12(B).

B. Criteria for Systems Constructed After March 31, 1996, or in a Designated Area

SSTS built after March 31, 1996, with the exception of a Type IV or Type V system, shall have a 3 foot vertical separation between the bottom soil infiltrative surface and the periodically saturated soil and/or bedrock. SSTS located in the shoreland, wellhead protection or serving a food, beverage, or lodging establishment regardless of the year constructed shall have a three-foot vertical separation between the bottom soil infiltrative surface and the periodically saturated soil and/or bedrock. Existing systems that have no more than a 15 percent reduction in this separation distance (a separation distance no less than 30.6 inches) to account for settling of sand may be considered compliant under this Ordinance if the inspector states there is evidence of settling, measurement or interpretation of the restrictive layer. The vertical separation measurement shall be made outside the area of system influence but in an area of similar soil.

Type IV and Type V systems shall be reviewed and shall meet the requirements of Minn. R. 7080 to determine compliance of the system.

C. Compliance Inspection Requirements

1. Compliance inspections shall be required when any of the following conditions occur:

- a. When a construction permit is required to repair, modify, or upgrade an existing system;
 - b. Anytime there is an expansion of use of the building being served by an existing SSTS which may impact the performance of the system;
 - c. Anytime there is a change in use of the property being served by an existing SSTS which may impact the performance of the system;
 - d. Submission of a variance application for an affected parcel;
 - e. Submission of a conditional/interim use permit for an affected parcel
 - f. Submission of a land use permit in which a dwelling or other establishment is removed and a new dwelling or other establishment is proposed.
 - g. At any time as required by this Ordinance or the Department deems appropriate such as upon receipt of a complaint or other notice of a system malfunction.
2. Compliance inspections of existing SSTS shall be reported on the inspection report forms provided by the Minnesota Pollution Control Agency. The following conditions must be assessed, or verified:
- a. Water tightness assessment of all treatment tanks including a leakage report;
 - b. Vertical separation distance between the bottom of the soil treatment and dispersal system and the periodically saturated soil or bedrock including vertical separation verification report unless the vertical separation has been verified by the County or another independent designer/inspector.
 - c. Compliance with the management plan or operating permit if applicable.
3. The entire system is to be evaluated for its compliance status. In evaluating the vertical separation of a soil treatment system found to be in compliance, the compliance inspector shall provide:
- a. The elevation of the bottom of the rock bed;
 - b. The elevation of the depth to the restricting layer, if applicable, measured outside of the soil treatment system in an area of similar soil; and
 - c. A detailed sketch drawn to scale or dimension showing the location of the SSTS, the soil boring(s), and the bottom of the rock bed in relation to a referenced benchmark.

D. Certificate of Compliance for Shoreland Areas

A certificate of compliance on the affected property shall be provided to the Department as part of an application request in the shoreland for a:

- 1. Land Use Permit;

2. Variance, unless a variance is needed for the septic system or a new dwelling is proposed and the existing system will be required to be upgraded or replaced in which case a compliance inspection will be adequate;
3. Conditional/Interim Use Permit

E. Point of Sale Certification

1. No owner or other person acting with legal authority on behalf of an owner of a tract of land upon which a dwelling is located, or a tract of land upon which a structure is required to have an individual sewage treatment system is located, shall convey to another party said tract of land, unless all of the following requirements are met:
 - a. The seller shall provide a compliance inspection or a Benton County sewage treatment system inspection to the buyer at or before the closing date. The compliance inspection shall be submitted to the County with the property transfer. If the seller does not provide the compliance inspection the buyer shall be responsible for providing the compliance inspection to the County within 30 days of the property transaction. A valid compliance inspection is an inspection conducted by an MPCA Designated licensed and certified professional, which is three years old or less indicating that the system is in compliance or is out of compliance. A valid Benton County sewage treatment system inspection is an inspection issued by the Department that is 5 years old or less. A compliance inspection shall not be valid if the Department finds evidence of an imminent health threat to public health and safety.
 - b. A Benton County sewage treatment system property transfer form shall be signed by both the buyer(s) and seller(s) and filed with the Benton County Auditor at the time of sale or transfer of the property.
 - c. Failure to submit a compliance inspection for a property transfer shall result in all future permits for the site to be denied until a completed compliance inspection form has been submitted.

2. Exemptions

A compliance inspection or a Benton County sewage treatment system inspection is not required to be filed with the Auditor's office at the time of sale or transfer of property if any of the following conditions exist:

- a. The property to be transferred has no structures usable for human habitations;
- b. The property to be transferred has no buildings with plumbing fixtures.
- c. A public sewer system, a community sewer system or a central sewer system services the dwelling(s) on the property to be transferred;

- d. The sale of land is exempt from the requirements that a certificate of real estate value (CRV) be filed with the County Auditor's office as described in Minn. Stat. §272.115, subd.1; or
- f. The sale or transfer completes a contract for deed or purchase agreement entered into prior to June 18, 2002. This subsection applies only to the original vendor and vendee on such a contract.
- g. The transfer is a foreclosure or tax forfeiture.

3. Winter Transfers

If the sale or transfer of property occurs during the winter months of November 15th through April 15th, the buyer shall complete the compliance inspection, if necessary, by the following June 1st. The buyer shall ultimately be held responsible by the County if the septic system is noncompliant and not brought into compliance within the timeframe provided by the Department or if a compliance inspection has not been completed.

F. Inspection Forms

Upon completion of a compliance inspection of an existing SSTS, the inspector shall submit a certificate of compliance or a notice of noncompliance to the Department and the property owner within 15 days of the date of the compliance inspection. In completing the PCA compliance inspection form for existing sewage treatment systems, the compliance inspector shall complete the entire form, including, but not limited to the following information:

1. The parcel identification number of the property;
2. The reason why the compliance inspection is being performed; and
3. If necessary, the soil boring information which includes the depth of each horizon, the Munsell soil color and the texture of the soil.
4. If any of the above required information is not provided, the compliance inspection report will be considered incomplete.

9.6.13 NOTICE OF NONCOMPLIANCE

- A. If an existing SSTS is found to be out of compliance with this Ordinance, the property owner shall complete the following requirements, as applicable:
1. The owner of property on which a septic system is found to be out of compliance shall within 30 days after receipt of a notice of noncompliance submit a completed SSTS design using Department application forms and obtain a sewage treatment system permit from the Department.
 2. An SSTS that is determined to be noncompliant shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within 12 months of receipt of a notice of noncompliance, unless it is considered an imminent threat to public health or safety.
 3. An SSTS that is determined to be an imminent threat to public health or safety in accordance with Minn. R. 7080.1500 Subp. (4)(a), shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within 120 days of receipt of a notice of noncompliance.
 4. An owner/operator with an SSTS found to be out of compliance with its operating permit, management plan or monitoring plan shall bring the system into compliance with the plan within 30 days of the notice of noncompliance.

9.6.14 ABANDONMENT CERTIFICATION

A. Purpose

The purpose of the system abandonment certification is to ensure that a treatment system no longer in service is abandoned in a manner that protects public health, safety and water quality.

B. Abandonment Requirements

1. Whenever the use of a SSTS or any system component is discontinued as the result of a system repair, modification, replacement or decommissioning following connection to a municipal or private sanitary sewer, or condemnation or demolition of a building served by the system, further use of the system or any system component for any purpose under this Ordinance shall be prohibited.
2. Continued use of a treatment tank where the tank is to become an integral part of a replacement system or a sanitary sewer system requires the prior written approval of the Department.

3. An owner of an SSTS must abandon all components of the discontinued treatment system within 30 days of discontinuance.
4. Abandonment shall be completed in accordance with Minn. R. 7080.2500.
5. A report of abandonment certified by the licensed installation business shall be submitted to the Department. The report shall include:
 - a. Owner's name and contact information
 - b. Property address
 - c. System construction permit and operating permit
 - d. The reason(s) for abandonment
 - e. A brief description of the abandonment methods used, description of the system components removed or abandoned in place, and disposition of any materials or residuals, and receipts to document proper disposal.

C. Abandonment Certificate

Upon receipt of an abandonment report and determination that the SSTS has been abandoned according to the requirements of this Ordinance, the Department shall issue an abandonment certificate. If the abandonment is not completed according to the requirements of this Ordinance the County shall notify the owner of the SSTS of the deficiencies, which shall be corrected within 30 days of the notice.

9.6.15 VARIANCES

A. Variance Requests

A property owner may request a variance pursuant to county policies and procedures as stated in Section 11.5 of the Development Code. Variances that pertain to the standards and requirements of the State of Minnesota must be approved by the affected state agency pursuant to the requirements of the state agency. (Ord. #436, adopted 4/7/09)

B. Board of Adjustment Authority

The Board of Adjustment shall have the authority only to consider variances to horizontal setbacks from property lines, ordinary high water level, rights-of-way, structures, or buildings. The Board of Adjustment may also grant variances to permit a Type II-V system for new construction or creation of a new lot. Variance requests to deviate from the design flow determination procedures in Minn. R. 7081.0110 must be approved by Minnesota Pollution Control Agency if the deviation reduces the average daily estimated flow from greater than 10,000 gallons per day to less than 10,000 gallons per day or to provisions in Minn. R. 7080.2150, subp. 2 and 7081.0080, subp. 2 through 5 regarding the vertical separation required beneath the

treatment and dispersal soil system and saturated soil or bedrock from the required three feet of unsaturated soil material (except as provided in Minn. R. 7080.1500 subp. 4 (d)) Variances to wells and water supply lines must be approved by the Minnesota Department of Health.

9.6.16 ENFORCEMENT

A. Cause to Issue a Notice of Violation

Any person, firm, agent, or corporation who violates any of the provisions of this Ordinance, or who fails, neglects, or refuses to comply with the provisions of this Ordinance, including violations of conditions and safeguards, or who knowingly makes any material false statement or knowing omission in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable as defined by Minnesota State Law. Each day that a violation exists shall constitute a separate offense. In the event of a violation of this Ordinance, in addition to other remedies, the County Attorney may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations. The Department shall be given access to enter a property at any reasonable time to inspect and/or monitor the SSTS system. As used in this paragraph, "property" does not include a residence or private building. No person shall hinder or otherwise interfere with the Department's employees in the performance of their duties and responsibilities pursuant to this Ordinance. Refusal to allow reasonable access to the property by the Department shall be deemed a separate and distinct offense. (Ord. #436, adopted 4/7/09)

B. Notice of Violation

The Department shall serve, in person or by mail, a notice of violation to any person determined to be violating provisions of this Ordinance. The notice of violation shall contain:

1. A statement documenting the findings of fact determined through observations, inspections, or investigations;
2. A list of specific violation(s) of this Ordinance;
3. Specific requirements for correction or removal of the specified violation(s);
4. A mandatory time schedule for correction, removal and compliance with this Ordinance.

C. Cease and Desist Orders

Cease and desist orders may be issued when the Department has probable cause that an activity regulated by this or any other County Ordinance is being or has been conducted without a permit or in violation of a permit. When work has been stopped by a cease and desist order, it shall not be resumed until the reason for the work stoppage has been completely satisfied, any administrative fees paid, and the cease and desist order lifted.

D. Costs and Reimbursements

If the Department is required to remove or abate an imminent threat to public health or safety, the Department may recover the costs including, attorney fees, incurred in removal or abatement in a civil action, or at the discretion of the County Board, the cost of an enforcement action under this Ordinance may be assessed and charged against the real property on which the public health nuisance was located. The County Auditor may extend the cost as assessed and charged on the tax roll against said real property.

E. This Ordinance may also be enforced in accordance with Minn. Stat. §394.37 and Section 11.10 of this Ordinance

9.7 Mining Operations

(Ord#428, adopted 06/17/08)

9.7.1 Permit Required

A permit shall be required for all mining operation(s).

A. Interim Use Permits (Ord#444, adopted 09/07/10)

Owners and operators of any mining operations commencing on or after June 15, 2010 shall obtain an interim use permit. Said permit shall be valid for a 5 year period, unless it is revoked, expires, or is otherwise terminated earlier. Said permit is not transferable or assignable without the prior written consent of the Planning Commission.

B. Land Use Permits

Person, firms, partnerships, associations, corporations, or other entities that commenced mining operation(s) prior to December 31, 1995 who applied for and received a land use permit to operate, will be allowed to continue such operation according to the conditions of the permit. Any expansion of an existing Land Use Permit, beyond the limits established in the land use permit requires the entire site to be permitted as an Interim Use Permit and the entire site is subject to the provisions of the Interim Use Permit. (Ord. 447, adopted 12/20/11)

C. Small Scale Mining Operations

In lieu of an interim use permit, persons, firms, partnerships, associations, corporations or other entities may secure a land use permit from the Planning and Zoning Department providing the following conditions are met:

1. A maximum of 10,000 cubic yards of material shall be removed from, and/or processed in, the mining operation;
2. The mining operation will be commenced, completed and rehabilitated within a twelve month period;
3. Only one land use mining permit may be issued for a deeded tract of land in perpetuity and a deed restriction shall be required to be submitted with the mining application acknowledging the limitation;
4. No interim use permit for a mining operation shall be issued within one year of the completion of the rehabilitation of a small scale mining operation on the same site.

5. All other requirements of Section 9.7 of the Benton County Development Code, as amended, shall apply to the permittee.

Failure to comply with this section shall be a violation of the Benton County Development Code, as amended.

Persons requesting a permit shall submit the prescribed fee to the Benton County Director of Development, together with all information required in Section 9.7.4 below. The applicant shall provide three copies of the required information.

The Planning Commission, in determining whether to grant an interim use permit pursuant to § 9.7.1(A), shall apply the criteria for granting interim use permits set forth in Section 11.6.3, 9.7 of the Benton County Development Code, as amended.

If the request for a permit is denied, no reapplication shall be made for a period of six months.

9.7.2 Exceptions

A permit described in Section 9.7.1 shall not be required for any of the following:

- (a) Excavation for the purpose of the foundation, cellar, or basement of some immediately-pending structure to be erected, built, or placed thereon contemporaneously with or immediately following such excavation, provided that a land use permit for that structure has first been issued.
- (b) All normal and customary agricultural practices.
- (c) Excavation required for completion of a septic system and drain field(s), provided that a land use permit for the septic system and/or drain field(s) has first been issued.
- (d) Excavation for the creation of ponds, wetlands, livestock ponds or other structures for wildlife habitat improvement with appropriate permits.

9.7.3 Termination/and Revocation of Permit

Termination

1. Permitted mining operations as of June 15, 2010, may continue to operate in accordance with the conditions of approval and performance standards in place at the time of approval.

2. Conditional use permits approved prior to June 15, 2010, shall terminate and be subject to a new permit five years after the conditional use permit was issued. Applications for mining operations that previously had a CUP, but the CUP terminated in accordance with this ordinance shall provide all the information required under Section 9.7.4 of the Development Code when applying for an interim use permit with the exception of the survey of the property boundary per Section 9.7.4(e)(1) and are subject to additional conditions of approval from the Planning Commission.
3. Conditional use mining operation(s) permits approved on or after December 31, 1995, and Interim use mining operation(s) permits shall terminate automatically 5 years after date of issuance. After termination of any CUP or an IUP for mining, any new Interim Use Permits granted for the same operation shall follow all the performance requirements of this ordinance at the time of the issuance of any new interim use permit.

Revocation

The Planning Commission may revoke a mining operation(s) permit for violation of Section 9.7, et seq. of the Benton County Development Code, as amended; for violation of a condition of the permit; or for other cause.

To revoke a permit the Director of Development shall give notice by U.S. Mail (first class mail addressed to the permittee and property owner at the address of the permittee and property owner on file in the office of the Department of Development) of the violation or other cause for revocation, along with the directive of the Planning Commission that the condition be remedied. If the condition has not been repaired, corrected, or otherwise remedied within thirty days, the Planning Commission shall determine, at its next scheduled meeting, whether the mining operation(s) permit should be revoked.

Mining operation(s) shall be discontinued immediately if the permit is revoked or terminates pursuant to this Section; however, such revocation or termination shall not nullify the obligation of the permittee to undertake rehabilitation under this Section 9.7, et seq. of the Benton County Development Code, as amended.

9.7.4 Information Required

- (a) The name and address of applicant(s) requesting the mining operation(s) permit and/or the name and address of owner(s) of the land upon which the mining operation is proposed to be located.
- (b) The legal description and acreage of the proposed mining operation(s) site, together with proof of applicant(s)' ownership or leasehold interest.

- (c) The purpose of the proposed mining operation(s).
- (d) The estimated duration of the mining operation(s).
- (e) A topographic survey of the proposed site providing at a minimum the following detail:
 1. Site property boundaries except for right-of-way, shall be certified by a survey if the boundaries will be within 100 feet of the proposed excavation.
 2. Contours of the affected land at intervals no greater than ten feet.
 3. The location and names of all streams, lakes, wetlands, wells, structures and roads on or within five hundred feet of the site.
 4. Boundaries of previous excavations on the site, and the location and description of boundary stakes for the site.
 5. A permanent benchmark that shall be the reference point for all mining specifications, maps, surveys or drawings. The benchmark shall not be located within an area disturbed by the mining operation.
 6. The site specifications, maps, surveys or drawings shall be at a scale of one inch = two hundred feet. Specifications, maps, surveys or drawings detailing information off the mining site may be submitted at a scale of one inch = six hundred and sixty feet.
 7. General information such as vegetation, depth of topsoil, and screening, etc. of the site.
 8. Observed or estimated groundwater elevation referenced to the permanent benchmark.
 9. Location of any proposed asphalt or hot mix bituminous plants.
 10. Proposed location for the storage of topsoil.
- (f) A detailed soil erosion and sediment control plan. A National Pollutant Discharge Elimination System (NPDES) permit, if required, shall be obtained and submitted to the Department of Development prior to excavation.

- (g) A site plan and description of all phases of the proposed mining operation(s), to include and approximate the amount and depth of excavating to take place as well as the plan of operation, including processing, if any, the nature of the processing and equipment, location of the processing plant, source of water, disposal of water, reuse of water, location of storage areas, haulways and the use of explosives. The site plan must conform to the specifications found in Section 9.7.4(e) of the Benton County Development Code, as amended. If necessary, the plan should illustrate temporary erosion control measures. A dewatering permit from the appropriate agency (DNR and/or MPCA) shall be submitted if dewatering is proposed to exceed 10,000 gallons per day or one million gallons per year.
- (h) Description of how the site will be secured when mining is not being conducted on-site (e.g. fence, gates, berm, sloping).
- (i) A comprehensive rehabilitation plan showing suitable provisions for rehabilitation of the mining operation(s) site to a condition compatible with the adjacent land such that it will not become a health or safety hazard or nuisance, which shall include the following:
 1. A site plan showing final slope angles, high wall reduction, benching, terracing, other stabilization measures and water impoundments. The plan must conform to the specifications found in Section 9.7.4(e) of the Benton County Development Code as amended.
 2. Cross-sectional drawings of any water impoundments, high wall reductions, benching, terracing or other conservation practices.
 3. A description of the proposed reclamation, including final slopes, terracing and other structural slope stabilization.
 4. A description of how the phased reclamation will be conducted.
 5. A description of the anticipated topography, water impoundment, artificial lakes and future use of the site.
 6. A description of the method of disposal of over and undersized materials.
 7. A seeding plan that includes the methods of seedbed preparation, seed mixtures, seeding rates, mulching and other techniques to accomplish site stabilization.
 8. A map of the proposed reclamation with the proposed topography.
 9. Where the Planning Commission deems practical and necessary, such plans shall also include adjoining related areas where excavations have previously been made which remain under the control of the applicant or the owner(s) of the land on which the excavation or processing is proposed.

- (j) Indication of the major routes over which the mined material will be hauled or carried.
- (k) A description of the erosion control practices that will be used during mining.
- (l) A description of the measures taken to screen the operation from view of surrounding land.
- (m) Any other information requested by the Zoning Administrator or Planning Commission.

9.7.5 Use Restrictions

- (a) With the exception of those mining operations described in paragraph (b) of this section, mining operations may be conducted only in areas zoned agricultural district "A", Rural-Agricultural district "R-A", light industrial district "I-1", or heavy industrial district "I-2".
- (b) Any mining operation commenced prior to December 31, 1995, that is located in an area zoned "R-1", "R-2", "B" or "B-2" may continue to operate in compliance with the requirements of the permit issued for the site.

9.7.6 Performance Standards

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

All equipment used for mining operation(s) shall be kept operational and shall be maintained and operated in such a manner as to minimize as far as is practicable noises and vibrations. The mining operation shall conform to all noise standards contained in Minnesota Rules, Chapter 7030.

Abandoned machinery and rubbish shall be removed from the mining operation(s) site and shall not be allowed to accumulate.

- (b) Water Resources. The mining operation(s) shall not be allowed to interfere with surface water drainage beyond the boundaries of the mining operation(s) site.

Surface water originating outside and passing through the mining site shall, at its point of departure from the mining site, be of equal quality to the water at the point where it enters the mining site. The permittee shall perform any

water treatment necessary to comply with this provision and shall, at a minimum, meet the requirements specified in subparagraph (k) hereof.

- (c) Safety Fencing. Any mining operation(s) adjacent to a residential zone, or within three hundred feet of four or more residential structures, shall adhere to the following standards:
- i. Where collections of water occur that are one and one-half feet, or more, in depth, exist for any period of greater than seven consecutive days and occupy an area of seven hundred square feet or more, all access to such collections of water shall be barred by a fence or similarly effective barrier of at least four feet in height with support posts spaced no farther apart than ten feet.
 - ii. In locations where slopes occur that are steeper than one foot vertical to three feet horizontal existing for a period of seven days or more, access to such slopes shall be barred by a fence or some similarly effective barrier at least four feet in height with support posts spaced no farther apart than ten feet.
 - iii. As an alternative to the fencing requirements of Section 9.7.6(c) i. and ii., the entire perimeter of the property on which a mining operation is located may be fenced or protected by some other similarly effective barrier at least four feet in height with support posts spaced no farther than ten feet.
- (d) Mining Access Roads. The intersection of mining access roads with any public roads shall be located in such a manner that traffic on the access roads will have a sufficient length of the public road in view so that any turns onto the public road can be completed safely. The permittee shall specifically request the Road Authority access for a mining operation prior to excavation. A turn lane shall be provided at the entrance prior to excavation if determined necessary by the Road Authority prior to excavation.

All mining access roads shall be gated or cabled and closed when not in operation.

Trucks shall not queue on public roads while waiting to load or unload. Ingress and egress points from or onto any public road shall be clearly signed "Trucks Hauling" advising traffic in both directions of this activity with temporary signs during heavy hauling (average of fifteen or more trucks per hour).

Intersections of public roads with the access road shall be maintained by the mine operator and shall be kept free from excessive mud, debris or asphalt tract out of the mining site.

- (e) Screening Barrier. The permittee shall not cause trees and ground cover existing at the time of issuance of the initial permit and present within the depth of the roadside setback to be harmed or destroyed, except where traffic safety requires that said trees and/or ground cover be cut and/or trimmed or except where alteration or destruction of the trees and/or ground cover is necessary for a rehabilitation plan approved by the Planning Commission.
- (f) Setback. All mining operations shall be conducted within the confines of the site described in the permit.

Processing shall not be conducted closer than three hundred feet to any residential or commercial structures existing prior to the commencement of mining operation(s) without the approval of the Planning Commission and written consent of all owners and residents of said structures. Structures owned by the applicant or permittee shall be exempt from the setback requirement. A photocopy of said consent(s) shall be filed by the permittee with the Director of Development.

There shall be no mining activities or storage of materials within ten feet of a property line without the approval of the Planning Commission and written consent of all owners. The area within thirty feet of the property line may only be excavated if the permittee restores the area within ninety days of excavation to meet a 4:1 slope.

Mining operations shall not be conducted closer than thirty feet to the right-of-way line of any existing or platted street, road or highway, or any other right-of-way except that excavation, if not otherwise prohibited, may be conducted within such limits in order to reduce the elevation thereof in conformity to the existing or platted street, road or highway or other right-of-way and approved by the Road Authority.

Mining operations shall not be conducted closer than 150 feet from the ordinary high water mark of any stream, river, lake or pond, as defined in the Benton County Development Code, as amended.

- (g) Appearance. All buildings, structures, and plants used for mining operation(s) shall be maintained in such a manner as is practicable, and according to acceptable and industrial practice, so as to assure that such buildings, structures, and plants will not become dangerously dilapidated.

- (h) Dust and Dirt. Permittees shall use all practical means to reduce the amount of fugitive dust generated by mining operation(s). In any event, the amount of dust or other particulate matter generated by the mining operation(s) shall not exceed air pollution control standards established by the Minnesota Pollution Control Agency, including those set forth in Minnesota Rules, Chapters 7005, 7009, 7011, 7017 and 7023.

All access roads from mining operation(s) to public highways, roads, or streets, or to adjoining property shall be maintained to minimize dust conditions.

- (i) Noise. Maximum noise level at the site shall comply with the limits or standards established by the Minnesota Pollution Control Agency, including those set forth in Minnesota Rules, Chapter 7030.
- (j) Hours. No mining operation(s) shall be conducted during restricted hours specified in the applicable mining operation(s) permit.
- (k) Water Pollution. Permittees shall comply with all applicable Minnesota Pollution Control Agency regulations, including those set forth in Minnesota Rules, Chapters 7001, 7050, and 7060; Department of Natural Resources regulations, and all applicable United States Environmental Protection Agency Regulations for the protection of water quality. In addition, no waste products or processed residue shall be deposited in any public (i.e. protected) waters or wetlands in Benton County (as designated by the Minnesota Department of Natural Resources).
- (l) Topsoil Preservation. Sufficient topsoil shall be retained at the excavation site to ensure completion of rehabilitation in accordance with the rehabilitation plan. Mining operators/owners are prohibited from removing topsoil from the mining site unless sufficient topsoil is retained to cover the entire site to a minimum depth of three inches.
- (m) Slopes During Mining Operation(s). During the entire period of operation(s), all excavation other than the working face shall be sloped on all sides to a maximum ratio of one foot horizontal to one foot vertical, unless a steeper slope is approved by the Planning Commission; or, in the alternative, the permittee shall install an effective barrier enclosing the site, the barrier to be no less than a four strand wire fence four feet in height with support posts spaced no farther apart than ten feet. In any event, where excavations are adjacent to a public roadway or other right-of-way, the terrain shall have a maximum slope of four feet horizontal to one foot vertical. Slopes adjacent to waterways shall not exceed four feet horizontal to one foot vertical.

- (n) Reports. The permittee shall comply with the reporting requirements, if applicable, mandated in Minnesota Statutes Section 298.75, Subd. 3, Aggregate Material Removal Tax as the statute shall prescribe at the time of reporting.

Failure to submit the reports to the County shall be considered grounds to revoke the interim use permit.

- (o) Investigations. In order to ensure compliance with the performance standards set forth above, the Planning Commission, after being presented with information alleging the permittee's violation of this section of the ordinance, may require the permittee to complete such investigations, surveys 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 Planning Commission.

- (p) Surety Bond. Prior to excavation the permittee shall post a surety bond executed by a corporate surety company acceptable to the county and authorized to do business in the State of Minnesota, or cash escrow, in the sum of \$1,000 per acre for 40% of the total excavated area.

The Planning Commission, at its discretion, may increase or decrease the bond amount if deemed necessary to protect the public health, safety, or welfare. Said bond shall run in favor of the county, and said bond shall remain in full force and effect for a minimum period of one ~~(1)~~ year after termination or revocation of the permit, which bond shall guarantee the required rehabilitation as well as all other requirements of this section 9.7, et seq. and pay, up to its face value, all expense the county may incur for non-compliance.

All bonds shall be renewed to the minimum required amount in the case of partial or total default.

- (q) Non-assignment. Permittee shall not allow any other person, firm, partnership, association, or corporation to conduct mining operation(s) at the site, other than hauling to or from the pit, without (1) obtaining the prior written consent of the Planning Commission and (2) receiving written acknowledgement of said other person, firm, partnership, association, or corporation that he/she/they/it agree(s) to be bound by the requirements of the mining operation(s) permit in effect, and has obtained a surety bond guaranteeing the other entity's performance as a permittee. Subcontractors to the permittee shall be allowed to perform mining operations under the direct supervision of the permittee. The subcontractor must follow all applicable rules, standards, laws, regulations or permit conditions pertaining

to mining operations. The permittee shall be responsible for any violations of this ordinance caused or committed by any subcontractor.

- (r) Signage: A 4'x8' information sign shall be erected at the access to the site identifying the operator, telephone number and name of the contact person.
- (s) Phasing: As each phase of an operation is completed that phase shall be rehabilitated in accordance to Section 9.7.7. At no time shall more than 40% of the total proposed excavation area be open to excavation unless the Planning Commission specifically approves a higher or lower percentage of the area.
- (t) Insurance: The operator shall provide proof of bodily injury, property damage, and public liability insurance in the amount of \$1,000,000 for any occurrence. If blasting is proposed the operator shall provide proof of blasting insurance.
- (u) Additional Requirements. The governing body may impose additional performance standards as part of the owner(s) interim use permit.

9.7.7 Land Rehabilitation

Within a period of three months after the termination of mining operation(s), or immediately after abandonment of such operation(s) for a period of twelve months, or within three months after termination or revocation of a permit, all buildings, structures, and plants incidental to such mining operation(s) shall be dismantled and removed by and at the expense of the permittee last utilizing such buildings, structures and plants.

Within a period of three months after the termination of mining operation(s), or immediately after abandonment of such operation(s) for a period of twelve months, or within three months after termination or revocation of a permit, the peaks and depressions of the site shall be graded and backfilled to a surface which will result in a gently rolling topography in substantial conformity to the land area immediately surrounding and which will minimize erosion due to rainfall. Overall, the finished grade shall be such that it will not adversely affect the adjacent land and shall have slopes that do not exceed four feet horizontal to one foot vertical.

Reclaimed areas shall be surfaced with soil of quality at least equal to the topsoil of land areas immediately surrounding and to a depth of at least three inches; provided, however, that the permittee need not import topsoil to supplement the topsoil existing at the site prior to the commencement of the excavation. The finished reclaimed areas shall be planted with legumes and grassed upon all parts where revegetation is possible. Trees and shrubs may also be planted but not as a substitute for legumes and grasses. Such ground cover shall be sufficient to hold

the topsoil in place and shall be tended by the permittee as necessary until ground cover is self-sustaining.

Excavations completed to a water producing depth need not be backfilled; however, banks shall be sloped to a grade no steeper than four feet horizontal to one foot vertical.

9.8 Motor Fuel Stations

9.8.1 General Provisions

- (a) For architectural purposes, each side of a motor fuel station shall be considered as a front face.
- (b) The storage of items for sale outside the principal building shall be displayed in specially designed areas.
- (c) All trash, waste materials, and obsolete parts shall be stored within a separate enclosure.
- (d) All goods for sale, other than those required for the operation and maintenance of motor vehicles, shall be displayed within the principal structure.
- (e) Open dead storage of motor vehicles shall not be permitted for a period of more than 48 hours.
- (f) All rental campers, trailers, or motor vehicles shall be stored within the rear and/or side yard not adjacent to the street.

9.8.2 Site Requirements

- (a) Wherever a motor fuel station abuts residential property, a fence or compact evergreen hedge not less than 50 percent opaque, nor less than 6 feet high, shall be erected and maintained along the side and rear property line that abuts the residential property. Application of this provision shall not require a fence within 15 feet of any street right-of-way line.
- (b) The entire motor fuel station site, other than the part devoted to landscaping and structure, shall be maintained and operated in such a manner as to minimize, as far as is practicable, conditions which are injurious or substantially annoying to persons living in the vicinity.

- (c) Driveways shall not exceed 30 feet in width, nor be spaced closer than 30 feet apart measured at the property line. No more than two (2) access drives to any street shall be permitted.

9.8.3 Setbacks

		Side Yard				
	Lot Width	Front Yard	Adjacent to another lot	Adjacent to street	Rear Yard	Pump Setback
Motor Fuel Station	200'	70'	30'	70'	30'	30'
Truck Stop	200'	80'	60'	80'	60'	30'

- (b) The setback of any overhead canopy or weather protection, free standing or projecting from the station structure, shall be not less than 10 feet from the street right-of-way line, nor less than 20 feet from an adjacent property line.

9.9 Essential Services

9.9.1 Essential Services that are not specifically listed as conditional uses are permitted uses in all zoning districts and are not subject to height, yard, setback requirements, or permits or certificates of any kind; subject only to the provisions of these sections 9.9.2 through 9.9.7.

9.9.2 Public utility buildings shall be permitted uses in all zoning districts, except that a conditional use permit shall be required before construction in any residential district.

9.9.3 Since some essential services, as defined by this Ordinance, may have an effect upon county parks and recreation areas, the location of all such essential services in any zoning district shall be filed with the Zoning Administrator prior to commencement of any construction by the applicant.

9.9.4 Except as otherwise provided herein, essential services not located within highway and street right-of-ways shall observe the following procedure:

- (a) The applicant shall file with the Zoning Administrator maps indicating the location, alignment, and type of service proposed.
- (b) The Zoning Administrator shall review the location and alignment to determine whether the same encroaches upon a County park or recreation

area existing or approved by the County Board; and if there is no such encroachment, he shall so indicate on the application.

- (c) The Zoning Administrator shall furnish the applicant with information as to land use which may be of assistance to the applicant in the development of the proposed service.

9.9.5 An application for a permit for essential services located within any County highway or County State Aid highway right-of-ways shall observe the following procedure:

- (a) The applicant shall file with the County Engineer, on forms supplied by the County, an application for such permit accompanied by maps indicating the locations, alignment and type of service proposed.
- (b) The application and accompanying data shall be reviewed by the County Engineer, and the County Engineer may issue the permit after determining that the application is acceptable and in the best interest of the County.
- (c) The County Engineer may require in conjunction with the issuance of such permit that:
 - (1) The applicant submit as-built drawings of the essential service after construction.
 - (2) The applicant construct the essential service to take into consideration contemplated widening, regrading, or relocation of a County highway or County State Aid highway, providing the County owns such additional right-of-way.

9.9.6 Recognizing the need for adequate and timely service by applicants for construction of essential services, the designated County officials shall act upon all information filings or permit applications within thirty (30) days of receipt thereof. Failure to act within thirty (30) days shall constitute approval.

9.9.7 No filing shall be necessary to maintain, reconstruct, or relocate existing lines or facilities where the general line and conformation thereof remain essentially the same. Nor shall any filing be necessary for electric lines unless the voltage is in excess of 35 KV. Emergency work otherwise requiring a permit or filing may be accomplished provided such filings are made as soon thereafter as possible.

9.9.8 Prior to the issuance of a conditional use permit for a high voltage transmission line between 100 and 200 kilovolts or substation with a voltage designed for and capable of operations at a nominal voltage of 100 kilovolts or more an Environmental

Assessment of the project must be completed as required by MN Statute 116C.575 Subd. 5. (Ord. #354 adopted 01/21/03)

9.10 Manufactured Home Parks

9.10.1 Every new manufactured home park constructed in the county shall provide a storm shelter for the protection of the residents of the park. When additions to the capacity of a park are approved, the storm shelter capacity shall also be increased to provide shelter equal to the projected population of the entire park.

Storm shelters may be multi-purpose and may be used day-to-day as utility rooms, recreation areas or other uses, so long as the area is readily accessible to the residents of the park.

9.10.2 All storm shelters shall be constructed to withstand wind pressure as required by the applicable section of the Uniform Building Code as adopted under Minnesota Statutes.

9.10.3 Minimum Lot Size Per Homesite -- 6,000 square feet.

9.10.4 All homesites must have two-car off-street parking -- minimum 20' x 20'.

9.10.5 All streets shall have a minimum width of 30 feet and streets and parking areas shall be hard surface.

9.10.6 There shall be a minimum of a 20-foot front yard setback and 10 feet from the rear lot line.

9.11 Deleted by Ord. #431, adopted 10/07/08

9.12 Field Windbreak

(Ord. #425, adopted 02/19/08)

Field windbreaks and the management of them are intended to reduce the amount of suspended soil in air that causes a nuisance. The use of windbreaks and other erosion control practices promotes the protection of the public health and safety and protects the productivity of the soil for future generations.

No person shall remove or destroy any field windbreak or pine plantation, nor remove trees or stumps remaining after a field windbreak or pine plantation is destroyed by natural causes or any cause, on soils listed within wind erodability groups 1-2 or Wind Erodability Index 134 or above within any zoning district of the county without first making an application for and obtaining a land use permit. No such permit shall be issued unless the land owner has agreed, to a deed restriction for the parcel, to utilize Best Management Practices (BMP's) for erosion control. BMP's include, but are not limited to, crop residue management, conservation tillage, permanent grass or tree plantings, ridge orientation, cover crops, wind barriers, perennial grass barriers, ridge roughness, strip-cropping and buffer strips. More than one BMP may be needed to minimize erosion on the site.

As a part of the land use permit application the applicant shall specify the BMP's that will be utilized on the site and provide enough information regarding the specified practice so the practice may be monitored. If a windbreak or portion of a windbreak is to be removed for conversion to a non erosive land use then the use shall be stated on the permit and no BMP's shall be required.

No permit shall be required for the normal harvest of trees planted for harvesting, for ornamental or decorative purposes, or for the normal and necessary thinning of trees in a field windbreak or pine plantation. (Ord #373, adopted 2/17/04)

9.13 Communication Towers

(Ord. #287, adopted 5/19/98)

9.13.1 Tower Definition

A communication tower is any pole, spire, structure, or combination thereof, including supporting lines, cables, wires, braces and masts, intended primarily for the purpose of mounting an antenna, meteorological device, or similar apparatus, 50 feet or greater in height, above grade.

9.13.2 Purpose

The purpose of this section is to accommodate the communication needs of residents and businesses while protecting public health, safety and general welfare of the community. The County finds that these regulations are necessary in order to:

- A. Facilitate the provision of wireless communication services to residents and businesses;
- B. Minimize adverse visual effects of towers through careful design and site standards;
- C. Avoid potential damage to adjacent properties from tower failure; and;
- D. Maximize the use of existing and approved towers and buildings to accommodate new wireless communication antennas in order to reduce the number of towers needed to serve the community.

9.13.3 Permitted Zoning Districts

The construction and maintenance of a commercial tower shall be permitted within the zoning classification, I-1, I-2, A, R-A, R-S, B, B-2, pursuant to a conditional use permit granted in accordance with the Zoning Ordinance. Amateur radio, television towers and exempted dishes shall not require a conditional use permit.

For construction of a communications tower equal to or in excess of 500 feet in height, or 300 feet in height within 1,000 feet of any protected water or protected wetland or within two miles of the Mississippi River, Benton County is the RGU and an Environmental Assessment Worksheet is required before construction of the tower may be approved.

All applicants shall submit the following information upon application.

- A. A plan illustrating all known future location sites for communications towers and/or antennas.
- B. Legal description of the property
- C. Survey and/or general site plan of the tower and related facilities, as determined by the Planning Department
- D. One or more color computer generated photographs depicting the proposed tower located on the site.
- E. Written authorization by the owner of the land for the tower construction.
- F. A statement that affirmatively ensures that the use is consistent with any land use restrictions that apply to the site.

No land may be subdivided for the purpose of providing space for any antenna unless all lot size requirements for the relevant zoning district are met and subdivision approval is obtained.

Towers located within a five (5) mile radius of an FAA approved airstrip shall provide evidence of FAA consent.

Only one communication tower is permitted on a parcel of land. All other standards contained in this ordinance must be met.

9.13.4 General Performance Standards

The applicant shall submit a capacity analysis and coverage analysis, as required, prepared by a qualified radio frequency analyst, showing that the proposed tower site is necessary to meet the needs of the system, and that the tower cannot be located in a less restrictive district, or be accommodated by co-location on an existing tower or structure.

All towers shall meet the following performance standards:

- A. A proposal for a new commercial wireless communication tower shall not be approved unless the County finds that the telecommunications equipment plans for the proposed tower cannot be accommodated by an existing or approved tower or building within a one-half mile search radius of the proposed tower due to one or more of the following reasons:
 - 1. The planned equipment would exceed the structural capacity of the existing or approved tower, as documented by a qualified and licensed professional engineer, and the existing or approved tower

cannot be re-enforced, modified or replaced to accommodate planned or equivalent equipment at a reasonable cost.

2. The planned equipment would cause interference materially impacting the useability of other existing or planned equipment at the tower as documented by a qualified and licensed professional engineer, and the interference cannot be prevented at a reasonable cost.
3. Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonable as documented by a qualified and licensed professional engineer.
4. Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.

Any proposed commercial wireless telecommunication service tower shall be designed (structurally and electronically) in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users. The tower must be designed to allow for future re-arrangement of antennas upon the tower and to accept antennas mounted at various heights.

All towers should be of a monopole design unless the Planning Commission deems that an alternative design is necessary or preferred due to the topography or to better blend with existing structures, for safety reasons, or if necessary to allow co-location.

The tower location shall provide screening for the base as deemed appropriate by the Planning Commission. Screening includes but is not limited to trees, set backs, and fences. Associated base equipment must be located within a structure whenever possible or housed at the base of the tower and screened from view for adjoining residents by fencing or landscaping. Tower accessory structures shall be constructed of materials designed to minimize visibility to surrounding areas. The Planning Commission reserves the right to require design measures to camouflage facilities by integrating them with existing buildings and other existing uses. Existing on-site vegetation shall be preserved to the maximum extent practicable. (Ord. #410, 4/17/07)

All towers shall be constructed and maintained in accordance with the Electronic Industry Association Standards and all applicable building codes.

Minimum spacing between commercial tower locations is one-fourth (1/4) mile; except antennas wholly contained within a building or other structure and not visible to the general public shall be exempt from this spacing regulation.

All towers shall be reasonably protected against unauthorized climbing. The bottom of the tower from ground level to twelve (12) feet above ground shall be designed in a manner to preclude unauthorized climbing or shall be enclosed by a 6 foot fence with three strands of barbed wire at the top with a locked gate.

9.13.5 Tower Setbacks

The tower should be setback from all property lines a distance deemed appropriate by the Planning Commission. (Ord. #410, adopted 4/17/07)

Buildings accessory to a tower shall comply with the setback requirements of the zone in which the tower is located.

Commercial towers shall be setback a minimum of one thousand (1,000) feet from schools or structures used as dwellings and a minimum of six hundred (600) feet from property zoned for residential use.

Towers and accessory structures shall be situated in the rear yard when located with another principal residential use, unless the Planning Commission finds that another location on the parcel is more appropriate.

9.13.6 Tower Lighting

A tower shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other state or federal authority for a particular tower. When incorporated into the design standards of the tower, light fixtures to illuminate ball fields, parking lots or similar areas may be attached to the tower. Antennas in the "Agricultural District" may be lighted to facilitate identification to low flying aircraft used for crop spraying.

9.13.7 Signs And Advertising

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

9.13.8 Abandoned Or Unused Telecommunication Towers

Abandoned, unused telecommunications towers or portions of telecommunications towers shall be removed as follows:

- A. All abandoned, unused towers and associated facilities shall be removed within twelve (12) months of the cessation of operations at the site unless a time extension is approved by the County.
- B. Any unused portions of towers above a manufactured connection shall be removed within six (6) months of the time of antenna relocation.

9.13.9 Interference Of Public Safety Communications

No new or existing telecommunication service shall interfere with public safety communications. All applications for a conditional use permit for new service shall be accompanied by an intermodulation study which provides the technical evaluation of existing and proposed transmission and indicates all potential interference problems. Before the introduction of a new service or change in existing service, telecommunication providers shall notify the County at least ten (10) calendar days in advance of such changes and allow the County to monitor interference levels during the testing process.

9.13.10 Conditional Use Application Submittal

In addition to the information generally required to accompany a request for a conditional use permit as found in the Zoning Ordinance, applications for towers shall include the following supplemental information:

- A. A report from a qualified and licensed engineer which:
 - 1. Describes the tower height and design, including a cross section and elevation;
 - 2. Documents the height above grade for all potential mounting positions for collocated antennas and the minimum separation distance between antennas;
 - 3. Describes the towers capacity, including the number and type of antennas it can accommodate;
 - 4. Describes how the applicant will take action to avoid interference with established public safety communication;
 - 5. Describes the lighting to be placed on the tower if such lighting is required by the FCC or FAA;
 - 6. Includes the engineer's stamp and registration number
 - 7. Includes other information necessary to evaluate the request.

- B. Letter of intent committing the tower owner, and successors, to allow the shared use of the tower if any additional user agrees in writing to meet reasonable terms and conditions for shared use.
- C. Proof that the proposed tower complies with regulations administered by the Federal Aviation Administration.
- D. A report from a qualified and licensed professional engineer which demonstrates the tower's compliance with all applicable structural and electrical standards.
- E. A site plan showing the boundaries of the property on which the tower is located, adjacent land uses, the location of the tower and any accessory buildings within the property, distance setbacks from property lines for the tower and accessory buildings, fence locations, and proposed landscaping or screening.
- F. Proof of insurance against injury and property damage.

9.13.11 Building Mounted Antennas

An antenna is defined as any device consisting of a metal, carbon fiber, or other electromagnetically conductive rods or elements on a single supporting pole or other structure, and used for the transmission and reception of wireless communication radio waves including cellular, personal communication services (PCS), enhanced specialized mobilized radio (ESMR), paging and similar services and including the wiring, related ground equipment and the support structure thereof.

The placement of a wireless telecommunication antennas on roofs or walls of existing buildings or structures may be approved by the County as a conditional use provided that the antennas meet the requirements of this ordinance, after submittal of a final site and building plan, and a report prepared by a qualified licensed professional engineer indicting the existing building structure suitability to accept the antenna as well as a proposed method for affixing the antenna to the structure. Complete details of all fixtures, couplings, and the precise point of attachment shall be indicated.

The antennas shall be located on an existing structure, if possible, and shall not extend more than fifteen (15) feet beyond the height of the structure to which they are attached.

The structural design, mounting, and installation of any antenna and support structure shall be in compliance with the manufacturer's specifications. The

construction plans and design of any antenna requiring a permit shall be approved and certified by a registered professional engineer.

All obsolete and unused antenna shall be removed within twelve (12) months of cessation of use, unless a written exemption is granted by the Zoning Administrator.

All antenna shall be in compliance with all Federal, State and local building, electrical and other relevant code requirements.

No advertising message nor identification shall be affixed to any antenna structure.

Antennas shall not be artificially illuminated unless required by law or by a governmental agency to protect the public health and safety. Guy wires or guy wire anchors shall not be erected within public or private utility and drainage easements, and shall be set back a minimum of five (5) from all lot lines. Guy wires within ten feet of the ground surface must be fenced within an enclosure or maintained with a cover of highly reflective material to prevent accidental collision.

When applicable, proposals to erect new antenna shall be accompanied by any required federal, state, or local agency licenses or proof of application thereof.

Antenna support structures under two hundred (200) feet in height shall be painted or coated silver or have a galvanized finish to reduce visual impact, unless otherwise required by federal law. Silver or galvanized finishes shall be required unless the setting or natural surroundings can be used to justify another color.

No land may be subdivided for the purpose of providing space for any antenna unless all lot size requirements for the relevant zoning district are met and subdivision approval is obtained.

9.13.12 Amateur Radio Towers

Residential radio and television reception antennas and amateur radio station antennas shall be for non-commercial uses and less than 50 feet in height. The setback for the antenna shall be 50 ft. (Ord. #410, adopted 4/17/07)

9.13.13 Prohibited Uses

1. No tower or accessory structure shall be erected in any public or private drainage easements.

2. No temporary mobile cell sites are permitted except in the case of equipment failure, equipment testing, or in the case of emergency situation as authorized by the County Zoning Administrator. Use of temporary mobile cell sites for testing purposes shall be limited to twenty-four (24) hours, use of temporary mobile cell sites for equipment failure or in the case of emergency situations shall be limited to a term of thirty (30) days. These limits can be extended by the Zoning Administrator.
3. Permanent platforms or structures, exclusive of antennas, other than those necessary for safety purposes or for tower maintenance are prohibited.

9.14 Large Scale Feedlots (Intensive Livestock/Poultry Farming)

(Ord. #292, adopted 5/19/98) (Ord. #407 adopted 11/14/06)
 (Ord. #342, adopted 4/16/02) (Ord. #431 adopted 10/07/08)
 (Ord. #352 adopted 12/17/02)

9.14.1 Permitted Uses

Tier I feedlots shall be a permitted use in areas zoned A or R-A, subject to the restrictions set forth in Section 9.14.3.

9.14.2 Conditional Uses

- A. Tier II feedlots shall be conditional uses in areas zoned A and R-A. Conditional use permits for feedlots may only be granted if the following requirements are met:
 1. The applicant must obtain a valid MPCA certificate of compliance, as defined in Minnesota Rules Part 7020.0300, pertaining to the feedlot site.
 2. The feedlot must be located in compliance with the minimum setbacks and minimum parcel size restrictions described in Section 9.14.3.
 3. The feedlot must meet the criteria of Section 11.6.
- B. Livestock waste storage facilities shall be conditional uses in areas zoned A or R-A unless the proposed waste storage facility is covered by a building and has been specifically permitted by the Minnesota Pollution Control Agency (MPCA). If the livestock waste storage facility is covered by a building and has been approved by MPCA a conditional use shall not be required. Conditional use permits for waste storage facilities may only be granted if the following requirements are met:
 1. The applicant must have obtained a valid MPCA feedlot permit.

2. The waste storage facility must comply with all applicable state requirements for soil, water and air pollution.
3. The facility shall not be located within 660 feet of any non-feedlot residence at which the storage facility is located.
4. The facility must be at least 200 feet from a road right-of-way.

9.14.3

Minimum Setbacks and Parcel Size

Number of Animal Units (au) Permitted:	Tier I 50-999 au 10-999 au in shoreland	Tier II 1,000 – 2,500 au
Non-Feedlot Residence	660 feet	660 feet
Centerline of Road	100 feet	100 feet
Incorporated City with a Population over 500	660 feet	660 feet
Lake	1000 feet	1000 feet
River, Creek, Stream or Water course	300 feet	300 feet
Property Line	80 feet	80 feet
Existing Feedlot	660 feet	660 feet
Minimum Contiguous Parcel	35 acres	75 acres

9.14.4

Feedlot Expansion

- A. A land use permit or conditional use permit obtained for a Tier I or Tier II Feedlot shall authorize the feedlot owner/operator to maintain any number of animal units within the allowable range for that tier. The number of animal units contained in the feedlot must not exceed the maximum allowed in the permitted tier. If the number of animal units contained in the feedlot at any time exceeds, or is anticipated to exceed, the number allowed in the permitted tier, the property owner must obtain a new or amended conditional use permit for the appropriate higher tier.
- A. Notwithstanding Section 4.2, any otherwise lawful feedlot which is rendered nonconforming solely by expansion or extension of a municipal boundary may be expanded, provided that the expansion shall not encroach upon the affected municipality to any greater extent than the preexisting feedlot, and provided that the feedlot owner has obtained an appropriate land use permit or conditional use permit, as required by Section 9.14.

9.14.5 Residential Setbacks

Non-feedlot residences must meet the minimum setbacks from a feedlot set forth in Section 9.14.3. However, a feedlot or non-feedlot residence that was previously permitted to be within 660 feet of one another shall be permitted to expand or enlarged provided that the expansion does not encroach closer to the other to any greater extent than the existing residence or feedlot.

9.14.6 Permits

All proposed feedlots shall require a separate permit to be submitted to the Department of Development for review. The following information shall be submitted as part of this permit:

- A. A complete land use permit with a map or aerial photo indicating dimensions of feedlot and showing all existing homes, buildings, lakes, ponds, water courses, wetlands, dry-runs, rock outcroppings, roads, wells, and general contour and north arrow.
- B. A copy of approval from the Pollution Control Agency to operate a feedlot.
- C. No feedlot shall be located within the Flood Plain.

9.15 Home Occupations

(Ord. #308 adopted 11/4/99) (Ord. #407 adopted 11/14/06)

9.15.1 Home Occupations, where allowed as a permitted accessory use in this Ordinance, shall be subject to the following conditions:

- (a) Only persons who are members of the household residing on the premises may be employed in the home occupation.
- (b) Not more than 25 percent of the square footage of the dwelling including attached garage, as measured by using the horizontal perimeter of the dwelling, shall be used for a home occupation. No part of the home occupation area shall displace the original purpose of the garage.
- (c) Adequate off street parking shall be provided and not more than three parked vehicles may be present at one time.
- (d) Any sign(s) on the premises shall meet the requirements of the zoning district.

- (e) Any home occupation in existence prior to the adoption of Ord. #308 adopted 11/4/99 will be allowed to continue as a legal Non-conforming Use subject to Section 4 of this Ordinance.
- (f) Home occupations include, but are not necessarily limited to, the following:
 - 1. Antique shops, not including refurbishing
 - 2. Artists and sculptors.
 - 3. Authors and composers.
 - 4. Beauty Shop/Barber Shop
 - 5. Dressmakers, seamstresses and tailors.
 - 5. Home crafts, such as model making, rug weaving, lapidary work, and ceramics.
 - 6. Office facilities, other than home professional offices.
 - 7. Schools of special education whose class size does not exceed more than four (4) pupils at any given time and not more than eight (8) pupils in any one day.
- (g) Home Occupations Not Permitted include the following:
 - 1. Antique repair and refurbishing shops
 - 2. Auto Repair
 - 3. Eating establishments
 - 4. Gift shops
 - 5. Veterinary hospitals
 - 6. Other uses specifically listed as a conditional use for the zoning district
- (h). A permit for a home occupation is valid for only the original applicant and is not transferable to any resident, address or any other occupation. Upon termination of the applicant's residency, the home occupation permit shall become null and void.

9.15.2 Home Extended Business where allowed as a conditional use in this Ordinance, shall be subject to the following conditions:
(Ord. #352 adopted 12/17/02)

- (a) The proposed activity shall be clearly incidental and secondary to the residential use of the property, and shall only include the sale of merchandise incidental to the Home Extended Business.
- (b) The principal operator of the home extended business must reside on the parcel and have homestead status on the parcel. No person other than the residents of the property shall be employed or engaged in such home extended business.
- (c) Only articles made or originating on the premises shall be sold on the premises unless the articles for sale are incidental to the home extended business.
- (d) Operation of the home extended business shall be limited to accessory or agricultural buildings on the same parcel. Residential accessory building shall meet the provisions of Section 6.2.
- (e) All materials and vehicles, incidental to the use, shall be stored with in the dwelling or the accessory building.
- (f) Adequate off street parking shall be provided, but not more than three parked vehicles may be present at one time.
- (g) A sign shall meet the requirements of the zoning district.
- (h) There shall be no indication of offensive noise, vibration, smoke, dust, odors, heat or glare at or beyond the property line.
- (i) The home extended business shall not generate hazardous waste unless a plan for off-site disposal of the waste is approved by the Planning Commission.

9.16 Wind Energy Conversion Systems (WECS)

(Ord. #440, adopted 10/20/09)

9.16.1 Purpose

The purpose of this section is established to regulate the installation and operation of Wind Energy Conversion Systems (WECS) not otherwise subject to siting and oversight by the State of Minnesota under the Minnesota Power Plant Siting Act (MS 116C.51-116C.697.)

In order to ensure adequate wind access, the County does encourage the use of private easements and restrictive covenants as a means to protect wind access.

9.16.1 Applications

Land use and building permits shall be required for all WECS. Micro-WECS shall require a building permit and possible land use permit. Conditional use, land use and building permits shall be required for commercial WECS.

A. The land use permit application for all WECS shall include the following information:

1. A completed land use permit in accordance with Section 11.7.
2. A description of the project including: number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the electrical grid.
3. Engineer's certification per Section 9.16.5.
4. Letter of approval from the Benton County Sheriff stating that the proposed WECS would not interfere with the public communication systems.
5. Decommissioning plan in accordance with Section 9.16.6.
6. Completed building permit.
7. Additional information as required by the Building Inspector or Department of Development.

B. The application for Commercial WECS shall include:

1. A completed conditional use permit in accordance with Section 11.6.
2. The latitude and longitude of individual wind turbines.

3. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other WECS within 10 rotor diameters of the proposed WECS.
4. Location of wetlands, scenic, and natural areas, including bluffs, within 1,320 feet of the proposed WECS.
5. An acoustical analysis
6. FAA permit application if 200 feet or taller
7. Location of all known communications towers within 5 miles of the proposed WECS.
8. Decommissioning plan in accordance with Section 9.16.6.
9. Letter of approval from the Benton County Sheriff stating that the proposed WECS would not interfere with public communication systems
10. Completed land use and building permit.
11. Additional information as required by the Building Inspector or Department of Development.

C. Applications for a micro-WECS shall include:

1. Engineer's certification and additional information as required by the building inspector.
2. Completed land use permit if not located on an existing structure.

D. Application for WECS meteorological tower shall include:

1. A USGS topographical map, or map with similar data, of the property and surrounding area
2. Location of all known communications towers within 5 miles of the proposed tower.
3. Decommissioning plan. The WECS tower shall be limited to four years as a permitted use. If additional time is required the meteorological tower shall be a conditional use.
4. Letter of approval from the Benton County Sheriff stating that the proposed tower would not interfere with public communication systems
5. Completed land use and building permit.
6. Additional information as required by the Building Inspector or Department of Development.

9.16.2 Exception

WECS that are by nature ornamental, rather than functional, shall be exempt from this Ordinance if the total height is less than twenty- five feet and not located within a required setback for an accessory building.

9.16.3 Setbacks and Lot Size

- A. Non-Commercial WECS shall be setback a minimum of 1.1 times the height of the WECS to the property line and right-of-way or road setback if greater and be located on a minimum lot size of 2 acres.
- B. Meteorological towers shall be setback 1.1 times the times the height of the tower to the property lines and right-of-way or road setback if greater and be located on a minimum lot size of 20 acres.
- C. Mirco-WECS may be placed on any existing structure but shall not be located within a required setback. Micro-WECS that are not placed on an existing structure shall be placed 1.1 times the total height of the Micro-WECS to the property line and right-of-way road setback if greater but shall not be located within a front yard setback or the required setback for an accessory building.
- D. Commercial WECS setbacks
 - 1. Right-of-way and property line: 1.25 times the height of the WECS or road setback if greater.
 - 2. Type III, IV and V wetlands: 600 feet
 - 3. Public conservation land managed as grassland: 600 feet
 - 4. County Park: 1,000 feet
 - 5. Protected River or Stream: 300 feet
 - 6. Lake: 1,000 feet
 - 7. Commercial WECS: 1,320 feet (excludes WECS that are part of the same application)
 - 8. Located on a minimum lot size of 20 acres

9.16.4 Standards

- A. Total height:
 - 1. Non-Commercial WECS total height shall be 150 feet.
 - 2. Total height of a meteorological tower shall be 200 feet.
 - 3. Commercial WECS total height shall be subject to the Planning Commission approval with the conditional use permit.
- B. Color and Finish: All WECS shall be white, grey or another non-obtrusive color. Blades may be black in order to facilitate deicing. Finishes shall be matte or non-reflective. Exceptions may be made for meteorological towers, where concerns exist relative to aerial spray applicators.

- C. Lighting: Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by Federal Aviation Administration permits and regulations. Red strobe lights are preferred for night-time illumination to reduce impacts on migrating birds. Red pulsating incandescent lights should be avoided. Exceptions may be made for meteorological towers, where concerns exist relative to aerial spray applicators.
- D. Design: All wind turbines, which are part of a commercial WECS, shall be installed with a tubular, monopole type tower.
- E. Signage: All signage on site shall comply with Section 9.1 of the Development Code. Only the manufacturers or owner's company name and/or logo may be placed upon the compartment containing the electrical generator of the WECS.
- F. Feeder Lines: All communications and feeder lines, equal to or less than 34.5 kV in capacity, installed as part of a WECS shall be buried where reasonably feasible. Feeder lines installed as part of a WECS shall not be considered an essential service.
- G. Orderly Development: Upon issuance of a conditional use permit, all Commercial WECS shall notify the Environmental Quality Board Power Plant Siting Act program staff of the project location and details on the survey form specified by the Environmental Quality Board.
- H. Noise: All WECS shall comply with Minnesota Rules 7030 governing noise.
- I. Electrical codes and standards: All WECS and accessory equipment and facilities shall comply with the National Electrical Code and other applicable standards.
- J. Federal Aviation Administration: All WECS shall comply with FAA standards and permits.
- K. Uniform Building Code: All WECS shall comply with the Uniform Building Code adopted by the State of Minnesota as amended and the National Electric Code as amended.
- L. Interference: All WECS shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals cause by any WECS. Non-Commercial WECS shall notify all communication tower operators within one mile of the proposed

WECS location upon application to the County for permits. Commercial WECS shall notify all communication tower operators within five miles of the proposed WECS location upon application to the county for permits. No WECS shall be constructed so as to interfere with County or Minnesota Department of Transportation microwave transmissions.

- M. Maintenance: All WECS shall have routine maintenance as recommended by the manufacturer and at a minimum of once every three years. A copy of the maintenance report shall be provided to the Department of Development upon written request.

9.16.5 Safety Design Standards

A. Engineering Certification

All WECS, Equipment shall conform to applicable industry standards for wind turbines design and related standards adopted by the American Standards Institute (ANSI) and a copy of an engineer's certification shall accompany the application. A professional engineer registered in the State of Minnesota shall certify that the design, construction and operation of the tower and foundation are compatible with and appropriate for the turbine to be installed, given the local soil and climate conditions.

B. Clearance

Rotor blades or airfoils must maintain at least 12 feet of clearance between their lowest point and the ground.

C. Warnings

1. All WECS to be installed shall be equipped with redundant braking systems, including aerodynamic, variable pitch over speed controls and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode, whereby they are engaged in case of a loss of load on the generator. Stall regulation shall not be considered a sufficient braking system for over speed protection.
2. The WECS shall be guarded against unauthorized climbing. The first twelve feet of the tower shall be unclimbable by design or be enclosed by a six foot high, unclimbable fence with a secured access.
3. A WECS shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other state or federal

authority for a WECS. Exceptions may be made for meteorological towers, where concerns exist relative to aerial spray applicators.

4. For all commercial WECS, a sign or signs shall be posted on the tower, transformer and substation warning of high voltage. Signs with emergency contact information shall also be posted on the turbine or at another suitable location.
5. For all guyed towers, visible and reflective objects, such as plastic sleeves, reflectors or tape, shall be placed on the guy wire anchor points and along the outer and innermost guy wires up to a height of 8 feet above the ground. Visible fencing shall be installed around anchor points of guy wires.

9.16.6 Decommissioning

The owner of the WECS that is to be dismantled must accomplish such act within forty five days after one year of discontinued use/operation or the County is empowered to dismantle such WECS and assess the costs against the property. Each commercial WECS shall have a Decommissioning plan outlining the anticipated means and cost of removing WECS at the end of their serviceable life or upon becoming a discontinued use. The cost estimates shall be made by a competent party; such as a professional engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning. The plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the WECS and accessory facilities. The decommissioning plan shall include: removal of the structure and debris to a depth of four feet and restoration of the vegetation consistent with the surrounding vegetation.

9.17 Seasonal Worker Housing

(Ord. #361, adopted 06/17/03)

- A) Seasonal worker housing shall be located on the property where the migrant and/or seasonal worker is employed.
- B) Housing shall only be occupied during the time of employment.
- C) Seasonal worker housing shall be occupied by workers only and the applicant shall provide written notice to the Department two weeks before the housing will be occupied.
- D) Submitted site plan showing the following:
 - a. Location of the housing unit on the subject property
 - b. Location of the access to the housing unit
 - c. Location of the sewage treatment system
 - d. Setbacks based upon the zoning district
 - e. Adjacent land uses
- E) Occupancy is based upon the amount of habitable space calculated at 80 square feet per occupant. Habitable space is the square footage of the bedroom(s), living room(s) and kitchen areas, excluding bathrooms, corridors and/or hallway areas.
- F) Severe weather plan shall be provided.
- G) Site and structural improvements (parking, recreation space, site layout, etc.) as applicable, shall be determined by the Planning Commission.
- H) Seasonal worker housing shall not be considered in the calculation of any residential density determination as set forth in this Ordinance.

9.18 Cluster Subdivision

(Ord. #398 adopted 5/8/06)

The clustering of houses in order to preserve open space, agricultural land and purposes and/or environmentally sensitive areas in some cases can be an asset to the community and when appropriate is encouraged by permitting a density up to 6 dwelling units per 40 acres.

A. Permitted Uses within a Cluster Subdivision

Daycare Facilities, Licensed Group Family serving fourteen (14) or fewer children

Dwelling, Single Family

Essential services and necessary appurtenant structures in accordance with Section 9.9.

Horticulture uses and structures designed for storage of products and machinery pertaining and necessary thereto.

Nonresidential Program Facilities with a licensed capacity of twelve (12) or fewer persons

Residential Program Facilities with a licensed capacity of six (6) or fewer persons

B. Permitted Accessory Uses within a Cluster Subdivision

Accessory Buildings in accordance with Section 6.2 of this Ordinance.

Decorative Landscape Features

Home Occupations in conformance with the provisions of Section 9.15 of this Ordinance.

Residential garages, parking spaces, carports

Private Swimming Pools

Private Tennis Courts

Signs as regulated by Section 9.1

C. Conditional Uses within Cluster Subdivision

Energy efficient subterranean dwellings

Fences located in a front yard or side yard with a height between 4 feet and 6 feet (Ord. #407 adopted 11/14/06)

High voltage transmission lines of between 100 and 200 kilovolts according to Section 9.9

Home extended business in conformance with the provisions of Section 9.15 of this ordinance

Nurseries and greenhouses with retail sales of home grown products;

Pre-existing single family dwellings moved from another site onto a lot
Recreational Facilities if located within the cluster subdivision open space
Residential garages on parcels without a principal building according to
Section 6.2

Substations with a voltage designed for and capable of operations at a nominal
voltage of 100 kilovolts or more according to Section 9.9.

D. Setbacks

Setbacks and lot coverage shall be in accordance with Section 7.1.30 of the
Development Code.

E. Accessory Buildings

Accessory building size and height shall be subject to the requirements of
Section 6.2 of the Development Code and shall not be located closer to the front
lot line than the principal building on the lot.

F. Open Space and Buffers

1. The Planning Commission as part of the review of the conditional use
permit shall determine the need for buffers and open space to be preserved.
2. The open space and/or residual parcel shall be limited to recreational
facilities associated with the clustered subdivision, open space, and
cropland. No structures shall be permitted except those specifically
permitted by conditional use for a recreational facility.

G. Density

Density for the cluster subdivision shall be calculated in accordance with
Section 6.5 (b). Density transfer is prohibited.

H. Cluster Siting Standards

1. Cluster developments should be sited to achieve the following goals to the
extent deemed practicable by the Planning Commission:
 - a. Avoid prime farmland soils, tillable farmland, large tract of land in
agricultural use; and
 - b. Avoid interference with adjacent or on-site agricultural uses; and
 - c. Minimize the fragmentation of agricultural land; and
 - d. Ensure the right to farm for adjacent agricultural lands by careful siting
and provision of screening and buffers; and

- e. Minimize the disturbance of woodlands or other significant stands of vegetation; and
- f. Avoid encroachment upon or disturbing rare plant communities identified in the department of Natural Resources' County Biological Survey for Natural Communities and rare Species; and
- g. Avoidance of wetlands or other environmentally sensitive areas; and
- h. Cluster developments shall result in contiguous tracts and shall only be allowed where land features and topography allow for contiguous tracts to be sited.

2. To meet the above stated goals the applicant shall provide the following with a conditional use permit:

- a. Site plan depicting the general layout and size of the lots.
- b. Plan depicting the proposed access to the subdivision and individual lots,
- c. Soil borings for each lot depicting the potential for two standard systems or a centralized system,
- d. Location of environmentally sensitive areas, woodlands, or agricultural land being preserved,
- e. Location of existing vegetation that will be preserved within a restricted open space or proposed vegetation located within a restricted open space to buffer the development from adjacent uses

I. Subdivision

- 1. The clustered lots shall be contiguous to one another, which may include the separation by an internal street, and may not exceed 6 dwelling units per 40 acres; however, clustering on less than 40 acres may be permitted proportionate to the tract owned. If the tract contains less than 40 acres but described by the rectangular survey system as a quarter, quarter section, in common ownership, the tract shall be considered eligible for up to 6 dwelling units per quarter, quarter section.
- 2. There shall be a minimum of two lots and a maximum of 6 lots within a cluster subdivision.
- 3. There shall be no transfer of development rights from one parcel to another to create more than 6 dwelling units.
- 4. Access requirements shall be determined by the Planning Commission in coordination with the road authority and County Engineer. Every lot, tract or plot of land, including outlots, shall abut or have a minimum road frontage equal to the required lot width; however, the Board of Commissioners with approval of a final plat or the Planning Commission with approval of a conditional use permit for a cluster development may

approve a flag lot that has ownership to a dedicated public right-of-way by a minimum thirty-three (33) foot wide access. The public right-of-way shall meet the minimum requirements stated in Section 10.11.2 of the Development Code; however, the construction design standards of the road shall be subject to the requirements of the Township for which the road is so located.

5. The remaining portion of the tract shall be deed restricted to prohibit structures, except those specifically permitted by conditional use for a recreational facility and further subdivision to ensure the density will not exceed 6 dwelling units.
6. The development shall meet all subdivision standards and regulations per Section 10 of the Development Code.

9.19 Solid Waste Management/Recycling Facilities

(Ord. #447 adopted 12/20/11)

- 9.19.1 The facility/operation is in compliance with the Benton County Solid Waste Ordinance and any other applicable ordinance.
- 9.19.2 The facility /operation is in compliance with the adopted Comprehensive Plan and the Solid Waste Master Plan.
- 9.19.3 The site shall not be located within the Shoreland or Floodplain Districts.
- 9.19.4 The site shall not be located within a wetland as defined in MN Statute 103G.005.
- 9.19.5 Any required environmental assessment documents have been developed and required review procedures have been completed.
- 9.19.6 Any required County, State, or federal licenses have been issued.
- 9.19.7 The facility/operation is in compliance with all applicable Minnesota Pollution Control Agency (MPCA) and U. S. Environmental Protection Agency (EPA) rules and regulations.
- 9.19.8 An Operation plan shall be developed and the activity conducted in accordance with the operational plan.
- 9.19.9 The permit shall be subject to annual renewal. Renewal shall occur during the same month as the County license renewal.

- 9.19.10 A site plan is submitted showing adjacent land uses and the type of measures that will be used to buffer the physical impacts to these sites.
- 9.19.11 Reports as required by MPCA/EPA rules and regulations.
- 9.19.12 The facility/operation must not be constructed or used until the property owner complies with all local ordinances and has obtained the appropriate permits(s) from the MPCA.
- 9.19.13 Buildings and any exterior storage shall meet the setback requirements of the underlying zoning district.
- 9.19.14 All parking areas and access drives to parking areas shall be durable and dustless.
- 9.19.15 The site shall be located at least five hundred feet from any residential dwelling unit.

9.20 Solar Energy Systems

(Ord. #455, adopted 6/21/16)

9.20.1 Purpose

The purpose of this section is to regulate the installation and operation of Solar Energy Systems not otherwise subject to siting and oversight by the State of Minnesota under the Minnesota Power Plant Siting Act (Minn. Stat. §§116C.51-116C.697) to protect and promote health, safety and general welfare within the county through uniform standards, regulation and procedures governing the type, size, structure, location, height, erection and use of Solar Energy Systems.

In order to ensure adequate solar skyspace, the County does encourage the use of a solar skyspace easement as a means to protect solar skyspace.

9.20.2 Standards for Solar Farms

Solar Farms shall be subject to the requirements of Section 11.6 or 11.6.3 and the following additional performance standards:

- (1) Foundations. A professional licensed engineer in the state of Minnesota shall certify that the foundation and design of the solar panels is within accepted professional standards, given local soil and climate conditions.
- (2) Other standards and codes. All solar farms shall comply with any applicable local, state and federal regulatory standards, including the State of Minnesota Uniform Building Code, as amended, the National Electric Code, as amended

and shall be in compliance with all applicable federal, state and local wetland laws, rules and regulations, as amended.

- (3) Power and communication lines. Power and communication lines running between banks of solar panels and to electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted by the planning commission in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines.
- (4) Setbacks. Solar farms must meet the minimum principal building setback for the zoning district and be located a minimum of one hundred (100) feet from a residential dwelling unit not located on the property.
- (5) Application Requirements. The following information shall be provided to the Department as part of the CUP or IUP permit:
 - (1) A site plan of existing conditions showing the following:
 - (a) Existing property lines and property lines extending one hundred (100) feet from the exterior boundaries, including the names of the adjacent property owners and current use of those properties.
 - (b) Existing public and private roads, showing widths of the roads and any associated easements.
 - (c) Location and size of any existing or abandoned wells, and sewage treatment systems
 - (d) Existing buildings and any impervious surface.
 - (e) Topography at two (2) foot intervals and source of contour interval, a contour map of surrounding properties may also be required.
 - (f) Existing vegetation (list type and percent of coverage; i.e. grassland, pasture, plowed field, wooded areas, etc.)
 - (g) Waterways, watercourses, lakes and public water wetlands
 - (h) Delineated wetland boundaries
 - (i) The one Hundred (100) - year flood elevation and Regulatory Flood Protection Elevation, if applicable

- (j) Floodway, flood fringe and/or general flood plain district boundary, if applicable
 - (k) The shoreland district boundary, if any portion of the project is located within a shoreland overlay district
 - (l) In the shoreland overlay district, the toe and top of any bluffs within the project boundaries
 - (m) Surface water drainage patterns
- (2) Site Plan of Proposed Conditions:
- (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) New electrical equipment other than at the existing building or substation that is the connection point for the solar farm
 - (e) Sketch elevation of the premises accurately depicting the proposed solar energy conversion system and its relationship to structures on adjacent lots (if any);
- (3) Manufacturer's specifications and recommended installation methods for all major equipment, including solar panels, mounting systems and foundations for poles or racks;
- (4) The number of panels to be installed;
- (5) A description of the method of connecting the array to a building or substation;
- (6) A copy of the interconnection agreement with the local electric utility or a written explanation outlining why an interconnection agreement is not necessary;
- (7) A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life. Decommissioning of solar panels must occur in the event they are not in use for twelve (12) consecutive months. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and a plan ensuring financial resources will be available to fully

decommission the site. Disposal of structures and/or foundations shall meet all applicable rules and regulations to proper disposal. The Board may require the posting of a bond, letter of credit or the establishment of an escrow account to ensure proper decommissioning.

- (8) Aviation Analysis. If the project is within two miles of an airport, the applicant must complete and provide the results of the Solar Glare Hazard Analysis Tool (SGHAT) for the Airport Traffic Control Tower cab and final approach paths, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federally Obligated Airports, or successor policy. The applicant must also complete the Air Space Case Analysis (Form 7460) and provide the results.
- (9) Visual Impact Analysis. An analysis of the potential visual impacts from the project including solar panels, roads and fencing along with measures to avoid, minimize or mitigate the visual effects shall be required. A plan may be required showing vegetative screening or buffering of the system from those items to mitigate for visual impacts.

9.20.3 Standards for Solar Energy Systems, Accessory.

Solar Energy Systems, Accessory shall be a permitted accessory use in all zoning districts, subject to the following criteria:

- (1) Accessory Building Limit. Ground mounted systems shall count as an accessory building for the purpose of meeting limits on the number of accessory structures allowed per lot and the coverage limits, as set in Section 6 of this ordinance. Ground mounted systems less than 120 square feet shall not be required to obtain a land use permit, but shall meet the setback requirements of an accessory structure.
- (2) Height. Active solar energy systems are subject to the following height requirements:
 - (a) Building or roof-mounted solar energy systems shall not exceed the maximum allowed height in any zoning district. For the purposes of height measurement, solar systems other than building-integrated systems shall be considered to be mechanical devices and are restricted consistent with other building-mounted mechanical devices for the zoning district.
 - (b) Ground or pole-mounted solar energy systems shall not exceed twenty-five (25) feet in height when oriented at maximum tilt.
- (3) Location within Lot. Solar energy systems must meet the accessory structure setback for the zoning district.

- (a) Roof-mounted Solar energy systems. In addition to the building setback, the collector surface and mounting devices for the roof-mounted solar systems that are parallel to the roof surface shall not extend beyond the exterior perimeter of the building on which the system is mounted or built. The collector and racking for roof-mounted systems that have a greater pitch than the roof surface shall be set back from all roof edges by at least two (2) feet. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side yard exposure.
 - (b) Ground-mounted Solar Systems. Ground-mounted solar energy systems may not extend into the side-yard or rear yard setback when oriented at minimum design tilt.
- (4) Compliance with State Electric Code. All photovoltaic systems shall comply with the Minnesota State Electrical Code.
 - (5) Compliance with all applicable federal, state and local wetland laws, rules and regulations.