CHAPTER 6.

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**1-6-29: STANDARDS FOR TEMPORARY USES**

**1-6-1: PURPOSE:**

The standards in this chapter are established to supplement the general regulations in this Ordinance to address the unique characteristics and impacts of certain land uses.

**1-6-2: APPLICABILITY:**

The standards in this Chapter apply to the uses listed below within the zoning districts in which they are allowed, whether the uses are permitted or conditional. The standards in this Chapter for conditional uses shall apply in addition to the general criteria for conditional uses in Section 1-5-6C of this Ordinance and all other applicable regulations. When granting a conditional use permit, the Planning Commission shall include the standards listed for uses in this Article as specific conditions of the permit.

**AGRICULTURAL AND RELATED USES**

**1-6-3: STANDARDS FOR ANIMAL FEEDLOTS:**

Animal feedlots in any district shall meet the following standards:

1. **Compliance with State and Federal Regulations:** All feedlots shall comply with state and federal feedlot or confined animal feeding operation regulations.
2. **Registration:** Feedlot owners shall provide proof that they are registered in accordance with Minnesota Pollution Control Agency rules 7020.0100 to 7020.1900.
3. **Notification of County Planning Department:** Owners of newly established or expanding feedlots shall provide a copy of the registration required in subsection B, above, to the Hawley Township Planning Commission within five (5) days of registration.
4. **Manure Storage:** Animal waste produced by an animal feedlot or stable facility shall not be stored within three hundred feet (300’) of edge of a drainage ditch, wetland or public water.
5. **Manure Spreading:** Application of manure shall be setback the following distances from dwellings, churches, campgrounds and any incorporated municipality:
   1. **One hundred fifty** feet (150’) if incorporated within **forty-eight (**48) hours.
   2. **Three hundred feet (**300’) if not incorporated
6. **Standards for Feedlots within Shoreland Districts:**
   1. **New Feedlots:** New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of three hundred feet (300') from the ordinary high water level of all public waters basins; and
   2. **Modifications, Expansions:** Modifications or expansions to existing feedlots that are located within three hundred feet (300') of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.
7. **Permit for Feedlots with Under 250 Animal Units:** Feedlots with more than forty-nine (49) but less than two hundred fifty (250) animal units shall obtain a permit from the Zoning Administrator verifying that requirements of this Ordinance are met. The permit application shall be accompanied by a site plan indicating structures and feeding areas, and by proof that the proposed feedlot meets state requirements.
   1. **Setbacks:** Animal feedlots of more than forty-nine (49) and less than two hundred fifty (250) animal units and their associated manure storage areas shall maintain following setbacks:

**Table 1-6-1 Required Structure Setbacks from Animal Feedlots**

|  |  |  |
| --- | --- | --- |
| Use of structure on adjacent property | Setback required from animal feedlot with total confinement | Setback required from all other animal feedlots |
| Residence | 1,000 feet | 1,320 feet (1/4 mile) |
| All other structures | 1,320 feet (1/4 mile) | 2,000 feet |

* 1. **Additional Setbacks for New Feedlots:**
     1. **Two (**2) miles from any incorporated community or **one-half (**1/2) mile from any platted subdivision.
     2. **One-hundred feet (**100’) from property lines, rights of way and ditches (to include a 2 rod grass buffer strip adjacent to ditch).
  2. **Responsibility:** Incorporating structure setbacks in Table 1-6-1 shall be the sole responsibility of the landowner proposing a new use whether it is the feedlot landowner or the landowner adjacent to an existing feedlot. New development must maintain the same setbacks from an existing feedlot as a new feedlot would be required to maintain from an existing development of the same type.
  3. **Measurement:** The setbacks shall be measured horizontally and in a straight line, from the closest point of a structure, use, lagoon or district to the closest point of another structure, use, lagoon or district.

1. **Conditional Use Permit for Feedlots Over 249 Animal Units:** Feedlots with two-hundred fifty (250) or more animal units shall require a conditional use permit and shall comply with the provisions in subsections A through F, of this Section. Conditional feedlots shall not be permitted to have lesser setback than the requirements for smaller feedlots in subsection G.

**RESIDENTIAL AND RELATED USES**

**1-6-4: STANDARDS FOR TWO-FAMILY DWELLINGS:**

1. **Location Limited:** Two-family dwellings shall be allowed only in approved cluster subdivisions or major subdivisions.
2. **Density Calculation:** Two-family dwellings shall be counted as two dwelling units for density calculations.
3. **Design:** Two-family dwellings shall have two dwelling units located within the same structure side-by-side or on separate floors.
4. **Septics and Wells:** Two-family dwellings shall have shared septic systems and drinking water wells.

**1-6-5: STANDARDS FOR DAY CARE IN A PRIMARY RESIDENCE, ADULT OR CHILD**

1. **In a Residence:** The day care shall be located within a primary residence.
2. **Home Occupation:** An allowed day care in a primary residence shall be considered a home occupation and shall meet the standards for home occupations in Section 1-3-7 (A) or (B) except the size limits in dwellings shall not apply. Day care may be allowed as a conditional home occupation.
3. **Standards and Licensing:** A day care allowed under this section shall meet the requirements of Minnesota Rules Chapter 9502.0300 through 9502.0445 and the operator shall obtain the required license specified in Minnesota Rules Chapter 9502.0300 through 9502.0445.

**1-6-6: STANDARDS FOR SUPERVISED RESIDENTIAL PROGRAMS:**

1. **Licensing:** The facility shall meet all state and federal license requirements.
2. **In a Dwelling.** The facility must be located within an existing single-family detached dwelling or, if a new facility, in a dwelling meeting the density provisions of this Ordinance.

**1-6-7: STANDARDS FOR MANUFACTURED HOMES IN A FLOOD HAZARD ZONE:**

1. **Placement**: The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in a Flood Hazard Zone will be treated as a new structure and may be placed only if located in the Flood Fringe District and elevated in compliance with Section 1-5A-7 of this Chapter.
2. **Anchoring:** All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State or local anchoring requirements for resisting wind forces.
3. **Nonexempt Recreational Vehicles:** Recreational vehicles, located in a Floodway, Flood Fringe or General Floodplain District, that do not meet the criteria specified in 1-6-27 (A) thru (D) must be located in the Flood Fringe District, and shall be subject to the provisions in Section 1-5A-7 relating to elevating and anchoring manufactured homes.

**RECREATIONAL USES, PUBLIC AND PRIVATE**

**1-6-8: STANDARDS FOR CAMPGROUNDS:**

1. **Licensing:** The facility shall meet all state and federal license requirements.
2. **Mobile homes prohibited.** No mobile homes shall be allowed in campgrounds.
3. **Year-round residential use prohibited.** Residential use of camping vehicles, except as permitted for a campground owner or caretaker, shall be prohibited from November 1 to April 1.

**1-6-9: STANDARDS FOR SHOOTING RANGE**

1. **Performance Standards**: Shooting ranges shall meet the noise and performance standards in Minnesota Statutes Chapter 87A.
2. **Nonconforming Shooting Ranges:** Shooting ranges that do not meet the performance standards in Minnesota Statutes Chapter 87A shall be considered nonconforming shooting ranges. Nonconforming shooting ranges shall be allowed to continue and conduct shooting activities within the range’s lawful property boundary as of May 21, 2005 provided that the shooting range remains in compliance with the noise and shooting range performance standards in Minnesota Statutes Chapter 87A.
3. **Authorized Activities:**  Shooting ranges that meet the performance stand standards in Minnesota Statutes Chapter 87A shall be allowed to engage in the following authorized activities within the property boundaries of the range:
   1. **Discharge of Firearms:** Operate the range and conduct activities involving the discharge of firearms.
   2. **Membership:** Expand or increase its membership or opportunities for public participation related to the primary activity as a shooting range.
   3. **Meet Standards:** Make those repairs or improvements desirable to meet or exceed requirements of shooting range performance standards.
   4. **Activities:** Increase events and activities related to the primary activity as a shooting range.
   5. **Time of Operations:** Conduct shooting activities and discharge firearms daily between 7:00 a.m. and 10:00 p.m.
   6. **Purchase Additional Land:** Acquire additional lands to be used for buffer zones or noise mitigation efforts or to otherwise comply with this chapter.
4. **Mitigation Area:**  A mitigation area is established for a distance of seven hundred and fifty feet (750’) from the perimeter property line of an outdoor shooting range. Within the mitigation area, the following provisions apply:
   1. **Development Prohibited:** No change in use, new development, or construction of a structure shall be approved for any portion of property within the mitigation area.
   2. **Exemption for Existing Development:** Uses, development and structures in existence or for which approval has been granted by October 1, 2005 are exempt from the mitigation area requirements.
   3. **Exemption if Mitigation Provided:** A change in use, new development, or construction of a structure may occur within the mitigation area if the person seeking the approval agrees to provide any mitigation necessary to keep the shooting range in compliance with the performance standards. The mitigation agreement shall be signed by the person seeking approval and the shooting range. If no mitigation is required to keep the shooting range in compliance with the performance standards, an agreement shall be signed by the person seeking approval and the shooting range stating that mitigation is not required. Agreements required under this section shall be in written form and subject to approval by the Hawley Township Board. Failure to obtain an agreement required under this section shall exempt the shooting range from being found out of compliance with the performance standards in relation to the property or person where the agreement was not obtained if the failure to provide mitigation is the sole reason for the shooting range being out of compliance with the performance standards.

**COMMERCIAL AND INDUSTRIAL USES**

**1-6-10: STANDARDS FOR ALL COMMERCIAL AND INDUSTRIAL USES:**

1. Access Management / Access Plan: Proposed commercial and industrial uses where any portion of the boundary of the proposed parcel is adjacent to Highways 10, 336, 9, 32, 34 or Interstate 94 shall submit an access management plan with any conditional use, rezoning, platting or subdivision request. The access management plan shall conform to the access management submittal requirements, provisions and criteria as set forth in the Clay County Development Code.
2. Environmental Mitigation: Proposed commercial and industrial uses shall avoid environmentally sensitive areas and ensure mitigation measures are taken whenever there is a potential adverse impact.

**1-6-11: STANDARDS FOR ADULT ENTERTAINMENT USES:**

1. **Separation Requirements:** Adult entertainment uses shall be located the following minimum distances from the listed uses that are present at the point in time at which the adult entertainment use is permitted:
   1. Five-hundred (500) feet from residential, day care, public parks or playgrounds, religious institutions or educational institutions as measured in a straight line from the entrance to the structure where the adult entertainment use occurs to the nearest property boundary of the listed use.
   2. Five-hundred (500) feet from another adult entertainment use as measured in a straight line between the closest property boundary points.
2. **Maximum Building Size:** The maximum size of a structure where an adult entertainment use occurs shall be no larger than ten-thousand (10,000) square feet.
3. **Signs and Window Displays:** Sexually explicit matter shall not be displayed on signs, window displays, or the exterior of any structure.
4. **Hours of Operation:** The hours of operation shall be set in the conditional use permit and shall not have an adverse impact on adjacent property owners.
5. **No Alcohol:** Alcoholic beverages shall not be consumed or sold anywhere within the structure housing an allowed adult entertainment use.
6. **Exterior Colors:** The colors of the exterior of structures where adult entertainment uses occur shall be muted and blend with surrounding structures, and shall not be neon, bright or multi-colored.

**1-6-12: STANDARDS FOR AGRICULTURAL SERVICE ESTABLISHMENTS:**

1. **Setbacks**: All establishments shall be located to allow at least three hundred feet (300') between its driveway and any driveway affecting access to a dwelling or farm field, other than that of the owner. All structures and activities (outdoor storage, corrals, etc.) associated with the Agricultural Service Establishment shall be located at least five hundred feet (500') from any dwelling.
2. **Related to Agriculture:** All establishments shall be necessary to the conduct of agriculture within the district.
3. **Compatible with Agriculture:** The use shall not be one to which the noise, odor, dust or chemical residues of commercial agriculture or horticulture might result in creation or establishment of a nuisance or trespass.

**1-6-13: STANDARDS FOR AIRPORTS, PRIVATE:**

The facilities and approach zones of allowed private airports shall meet the following standards:

1. **Dirt and Debris:** Such measures are taken to reduce adverse effects from blowing dirt and debris.
2. **Adjacent Property:** Such safeguards are taken to minimize any adverse effect on adjacent property.

**1-6-14: STANDARDS FOR ASPHALT BATCH PLANTS AND ASSOCIATED USES:**

1. Standards for asphalt batch plants and associated uses shall be the same as the standards in Section 1-6-18 Standards for Redi-Mix Cement Plant and Associated Uses.

**1-6-15: STANDARDS FOR BUILDING MATERIAL SALES YARDS:**

1. **Fencing:** Building material sales yards, if enclosed on all sides by a six foot (6’) sight-obscuring fence

**1-6-16: STANDARDS FOR EXTRACTIVE USES:**

The following standards shall be met for any new extractive use or for any extractive use that has been out of operation for a period of twelve (12) months or longer:

1. **Administrative Permit:** The Planning Director may administratively approve a permit for an extractive use if all of the flowing conditions are met:
   1. **Intent:** The intent of the administrative permit is to allow small, limited extractive use operations. The administrative permit shall not be used to allow exploration in anticipation of further extraction in subsequent years, nor shall it be used to extract minerals incrementally when if considered in total the operations would require a conditional use permit.
   2. **RP-BIO District:** The extractive use shall not be located in a Resource Protection – Biologically Significant Area District.
   3. **Size:** The proposed surface area for the extractive use shall not exceed ten (10) acres in total for all areas to be opened.
   4. **Duration:** The duration of the extractive use shall not exceed one (1) year. If an administratively permitted extractive use exceeds one year, the landowner shall be barred from obtaining an extractive use permit of any type for a period of five (5) years.
   5. **Extraction Only:** The proposed extractive use shall not include on-site crushers or asphalt plants or other on-site processing of extracted materials.
   6. **Agreement of Surrounding Landowners:** The applicant for an administrative extractive use permit shall provide signed, notarized agreements from all owners of land within one-half (1/2) mile of the proposed exterior boundary of the extractive use area stating their agreement in allowing the proposed use. These agreements shall be submitted with the application and shall include the following information:
      1. Name, phone number and address of the owner of land where the use is proposed;
      2. Name, phone number and address of the proposed operator of the extractive use if different than the landowner;
      3. The proposed area of the extractive use;
      4. The proposed daily times of operation and months in which the operation will be active; and
      5. Proposed hauling routes and estimated number of daily truck trips.
   7. **Required Conditions of the Permit:** An administrative extractive use permit shall require the following conditions:
      1. Provide a plan, with timeline, for reclaiming the site after materials are extracted. At the time of closure, a dike shall be installed along the edge of the mining pit of sufficient height to prevent all surface water runoff from entering the mining pit.
      2. Provide adequate planting, fencing, or berming in areas where extractive uses are adjacent to public roads or residential uses. Sight-obscuring screening may be required between mined areas and adjacent residential property within three hundred feet (300’) of the excavation activities.
      3. During operation, keep any excavation in such condition as not to be dangerous from caving or sliding banks.
      4. Properly drain, fill or level any excavation, after created, so as to make the same safe and healthful.
      5. Restrict runoff from the site to lake, rivers, streams or adjacent properties.
      6. Maintain and operate all equipment in a manner that minimizes noise and vibration to the greatest extent possible. Noise levels shall never exceed the acceptable locational thresholds established by the Minnesota Pollution Control Agency (MPCA).
      7. Provide a plan for dust control during operations.
      8. Provide an access plan with approval of the access sites from the appropriate authority. Access shall be limited to one entrance and exit to the site.
      9. Provide a plan for truck hauling on roads of adequate capacity. The owner/operator shall maintain all roadways within the excavation site and the haul road from the site to the nearest paved highway. Spillage of material on any roadway shall be removed by the owner/operator as quickly as possible.
      10. Provide adequate signage for public safety, such as “Trucks Hauling” signs.
      11. Reseed areas where topsoil is removed within thirty (30) days of removal of topsoil.
      12. **Setbacks:** Structures, storage of excavated materials, and the excavation edge shall be setback the following distances:
          1. One hundred feet (100’) from the boundary of adjoining property lines, unless written consent from the adjoining property owner is secured and a variance is granted from the Board of Adjustment.
          2. Two hundred feet (200’) from the right-of-way of existing roads and highways.
          3. Three hundred feet (300’) from the boundary of adjoining property lines on sites where dust, smoke and noise producing activities are being conducted.
          4. Five hundred feet (500’) from the boundary of adjoining property upon which residences, schools, churches, public or commercial establishments are located.
          5. Two hundred feet (200’) from the shoreline of any protected water.
          6. The operation shall be completely located outside of the one-hundred (100) year floodplain.
   8. **Bonding required.**  As a condition of granting the permit, the Township shall require the owner or operator to post a bond, in such form and sum as the Township shall determine, with sufficient surety running to the Township, conditioned to pay the Township the cost and expense of repairing, from time to time, any highways, streets, township roads, or other public ways where such repair work is made necessary by the special burden resulting from hauling and travel, in removing materials from any pit, excavation or impounded waters, the amount of such cost and expense to be determined by the County Engineer; and conditioned further to comply with all the requirements of this Ordinance and the particular permit, and to pay any expense the Township or County may incur by reason of doing anything required to be done by any applicant to whom a permit is issued, including the cost of required reclamation.
2. **Conditional Use Permit:** The owner of the land where an extractive use is proposed that does not meet the requirements of subsection A, immediately above, shall obtain a conditional use permit meeting the following standards:
   1. **Application requirements.** A map of the proposed pit or excavation shall be prepared by a professional engineer or land surveyor and filed with the application showing the confines or limits thereof, together with a plan indicating the topography and overall condi­tion of the site after extraction is completed.
   2. **EAW in RP-BIO District:** An application for an extractive use in a Resource Protection - Biologically Significant Areas District shall include an Environmental Assessment Worksheet conforming to the requirements of the Minnesota Environmental Policy Act of 1973 and 6 MCAR 3.021.
   3. **Required Conditions of the Permit:** A conditional use permit for an extractive use shall require the following conditions:
      1. Provide a plan, with timeline, for reclaiming the site after materials are extracted. At the time of closure, a dike shall be installed along the edge of the mining pit of sufficient height to prevent all surface water runoff from entering the mining pit.
      2. Provide adequate planting, fencing, or berming in areas where extractive uses are adjacent to public roads or residential uses. Sight-obscuring screening may be required between mined areas and adjacent residential property within three hundred feet (300’) of the excavation activities.
      3. During operation, keep any excavation in such condition as not to be dangerous from caving or sliding banks.
      4. Properly drain, fill or level any excavation, after created, so as to make the same safe and healthful.
      5. Restrict runoff from the site to lake, rivers, streams or adjacent properties.
      6. Maintain and operate all equipment in a manner that minimizes noise and vibration to the greatest extent possible. Noise levels shall never exceed the acceptable locational thresholds established by the Minnesota Pollution Control Agency (MPCA).
      7. Provide a plan for dust control during operations.
      8. Provide an access plan with approval of the access sites from the appropriate authority. Access shall be limited to one entrance and exit to the site.
      9. Provide a plan for truck hauling on roads of adequate capacity. The owner/operator shall maintain all roadways within the excavation site and the haul road from the site to the nearest paved highway. Spillage of material on any roadway shall be removed by the owner/operator as quickly as possible.
      10. Provide adequate signage for public safety, such as “Trucks Hauling” signs.
      11. Reseed areas where topsoil is removed within thirty (30) days of removal of topsoil.
      12. **Setbacks:** Structures, storage of excavated materials, and the excavation edge shall be setback the following distances:
          1. One hundred feet (100’) from the boundary of adjoining property lines, unless written consent from the adjoining property owner is secured and a variance is granted from the Board of Adjustment.
          2. Two hundred feet (200’) from the right-of-way of existing roads and highways.
          3. One hundred feet (100’) from the boundary of adjoining property upon which a residence, school, church, public or commercial establishment is located and a minimum of five hundred feet (500’) from any structure used as a residence, school, church, public or commercial establishment.
          4. Two hundred feet (200’) from the shoreline of any protected water.
          5. The operation shall be completely located outside of the one-hundred (100) year floodplain.
   4. **Bonding required.**  As a condition of granting the permit, the Township shall require the owner or operator to post a bond, in such form and sum as the Township shall determine, with sufficient surety running to the Township, conditioned to pay the Township the cost and expense of repairing, from time to time, any highways, streets, township roads, or other public ways where such repair work is made necessary by the special burden resulting from hauling and travel, in removing materials from any pit, excavation or impounded waters, the amount of such cost and expense to be determined by the County Engineer; and conditioned further to comply with all the requirements of this Ordinance and the particular permit, and to pay any expense the Township or County may incur by reason of doing anything required to be done by any applicant to whom a permit is issued, including the cost of required reclamation.

**1-6-17: STANDARDS FOR KENNELS:**

1. Minimum lot area for a kennel is five (5) acres.
2. Minimum frontage required for a kennel is two hundred fifty feet (250') of continuous frontage on a public road right of way.
3. No structure or waste management area associated with a kennel shall be located in a Special Flood Hazard Area (SFHA).
4. Any kennel proposed to be located in the shoreland of a river or stream shall be located in a building that existed prior to the adoption of this Ordinance. Said building and any/all outdoor exercise/run areas must be setback from the ordinary high water level a minimum of 150 feet. No new structures shall be erected in the shoreland of a river or stream for use as a kennel. Any structure associated with a kennel or any outdoor exercise/run areas must be setback at least 300 feet from the ordinary high water level of a lake or basin.
5. All kennel operations require an Interim Use Permit and shall submit a facility operations plan along with the Interim Use Permit application. The facility operations plan shall contain the following information:
   1. Name of kennel operator and landowner, address, phone number, signature and date;
   2. Type of kennel operation (i.e. breeding, boarding, rescue, sled dog, etc.);
   3. Number of dogs under six months of age to be permanently housed on property;
   4. Number of dogs over six months of age to be temporarily housed on property;
   5. Site plan, to include:
      1. Property location and acreage;
      2. Location of all residences within 600 feet of the proposed kennel area;
      3. Floor plan of kennel structure(s);
      4. Location of kennel on the property, including any alternate or temporary sites;
      5. Setback distances from kennel area to property lines, neighboring homes, wells and any protected public waters and/or wetlands;
      6. Any existing or proposed vegetative buffer strips;
      7. Location of waste management area (i.e. composting site, spreading area or storage bin);
      8. Location of any wells and septic systems; and
   6. Location of dwellings on property. Waste management plan;
   7. Noise management or mitigation plan.
6. All kennel operations, including waste management areas, shall be set back a minimum of 100 feet from all wells in accordance with the state well code Minnesota Rules Chapter 4725, herein adopted by reference.
7. All kennel operation areas shall be set back a minimum of 100 feet from all adjoining property lines, except that kennels may be set back 50 feet from any property lines that abut state or federal properties.
8. A vegetative buffer strip, 100 feet in width, shall be established and/or maintained between any part of the kennel area and any protected waters, wetlands or officially designated drainage ways that lead to protected waters. The width of the buffer strip may be increased by the Planning Commission after considering the slope of the property, its proximity to protected waters, and any lake/river classification. Please reference the Clay County Soil and Water Conservation District and NRCS for buffer strip best management practices and technical standards.
9. The Planning Commission, at its discretion, may impose additional setbacks on new kennel operational areas on a case-by-case basis upon the review of each interim use permit request. In creating the site plan, the greatest distance from neighboring residences shall be considered by the applicant, encouraging a minimum setback distance of 600 feet from the closest residence.
10. The noise standards shall be enforced in conformance with Minnesota Pollution Control Agency Rules Chapter 7030, herein adopted by reference.

**1-6-18: STANDARDS FOR REDI-MIX CEMENT PLANT AND ASSOCIATED USES:**

1. **Setbacks:** Redi-mix cement plants, asphalt batch plants and associated processing facilities and structures shall be setback the following distances:
   1. Three hundred feet (300’) from the boundary of adjoining property lines.
   2. Five hundred feet (500’) from the right-of-way line of the nearest road or highway.
   3. One thousand feet (1,000’) from the boundary of adjoining property upon which residences, schools, churches, public or commercial establishments are located.
2. **Location:** Redi-mix cement plants, asphalt batch plants and associated processing facilities and structures should be located, to the greatest extent possible, downwind from any inhabited residential structure located within one-quarter (1/4) mile of the proposed site.
3. **Bonding required.**  As a condition of granting the permit, the Township shall require the owner or operator to post a bond, in such form and sum as the Township shall determine, with sufficient surety running to the Township, conditioned to pay the Township the cost and expense of repairing, from time to time, any highways, streets, township roads, or other public ways where such repair work is made necessary by the special burden resulting from hauling and travel, in removing materials from any pit, excavation or impounded waters, the amount of such cost and expense to be determined by the County Engineer; and conditioned further to comply with all the requirements of this Ordinance and the particular permit, and to pay any expense the Township or County may incur by reason of doing anything required to be done by any applicant to whom a permit is issued, including the cost of required reclamation.

**1-6-19: STANDARDS FOR SALVAGE YARDS:**

1. **Separation Distance:** The exterior boundaries of a parcel on which a salvage yard is located shall maintain the following separation distances:
   1. A salvage yard shall not be located within two thousand feet (2000’) of the boundaries of a parcel where another salvage yard is located.
   2. A salvage yard shall not be located within one thousand feet (1,000’) of the exterior wall of any residence, school or church.
2. **Screening:** The salvage yard storage area shall be completely screened with an opaque fence of acceptable design a minimum of eight feet (8’) feet high, and additional landscape materials required where the salvage yard adjoins a residential district.
3. **Stacking of Materials:** Materials stored outside in a salvage yard shall not be stacked above the height of the fence.

**1-6-20: RETREAT CENTERS:**

1. **Conditional Use:** Retreat centers shall be processed as a conditional use permit meeting the requirements of this section in addition to the general requirements for a conditional use permit. A site plan shall be submitted with the conditional use permit application showing the location of all existing structures and describing the proposed use.
2. **Review of Permit:** Retreat center permits shall be reviewed and inspected by the Planning Commission at least once every five years for compliance with conditions.
3. **Minimum Lot Size:** The minimum lot size required for a lot on which a retreat center is permitted shall be ten (10) acres.
4. **Where Located:** Retreat centers shall not be located in platted subdivisions. Retreat centers may be located within a primary dwelling or in separate residential, nonresidential or farm buildings.
5. **Sign:** One non-illuminated sign only of a maximum size of thirty-two (32) square feet is allowed to advertise the retreat center use on site. Such sign shall meet the setbacks for structures for the zoning district within which the retreat center is located.
6. **Traffic and Roads:** Traffic generated by the use shall be considered by the Planning Commission and traffic generated by the retreat center shall not exceed that which is reasonable for such a use in the area in which it is located and for the road adjacent to the use. If necessary, application of dust control may be required as a condition of the permit.
7. **Adverse Effect:** The use shall not adversely affect the character of the uses permitted in the zoning district in which it is located.
8. **Performance:** No equipment or processes used at a retreat center shall create noise, vibration, glare, fumes, odors or electrical interference that could create a nuisance off the premises.
9. **Buffering:** Buffering may be required by the Planning Commission to minimize adverse effects to adjacent properties and roadways.
10. **Utilities:** The retreat center shall not create usage exceeding the capacity of the available on-site sewage treatment system and drinking water capacity.
11. **Parking:** Additional parking spaces may be required by the Planning Commission for the use of clients, employees, deliveries, etc.
12. **Permit(s):** The facility must receive the appropriate building permit(s) for any new building(s) or addition(s) to any existing building(s) and must receive appropriate septic permit(s) for all proposed restroom facilities.
13. **Licenses(s):** The facility must receive all federal, state, and local licenses required for operations, including food, beverage and lodging licenses as necessary.
14. **Setbacks:** Any structures associated with a Retreat Center must be located at least 500 feet from a residential structure located on adjacent property.
15. **Short Term:** Shall mean a period not to exceed fourteen (14) consecutive days.

**PUBLIC SERVICE AND UTILITY USES**

**1-6-21: STANDARDS FOR TOWERS:**

1. **Purpose:** The purposes of the provisions regulating telecommunication towers in this section are to:
   1. Maximize the use of existing and approved towers and buildings in order to reduce the number of new towers necessary to provide telecommunications services to the Community;
   2. Ensure telecommunication towers are designed, sited, and constructed in a manner consistent with the protection of the public health, safety, and general welfare; and
   3. Require tower sites to be secured in order to discourage trespassing and vandalism.
2. **Exemptions:** 
   1. The following tower facilities and activities shall be allowed in all zoning districts of Hawley Township without obtaining either a building permit or a conditional use permit:
      1. Antennas incidental to residential use including, but not limited to, television, citizens band, business band and similar type of antennas;
      2. Routine maintenance of existing tower facilities; and
      3. The addition of antennas to a tower facility that meets the standards of this Section and does not increase the height of the tower facility; additional support structures shall require a building permit.
   2. The following tower facilities shall be allowed in all zoning districts in Hawley Township without a conditional use permit, but do require a building permit:
      1. The addition of an antenna or antennas on existing structures including, but not limited to, buildings, flag poles, church steeples, cupolas, ball field lights, or power line support device where no modifications are required to the existing structure and where the antenna does not increase the height of the structure by more than twenty feet (20’).
      2. Towers and antennas used primarily for agricultural purposes, provided that all such towers: 1) are freestanding (no guy wires); 2) meet all appropriate FAA/FCC requirements; and 3) do not exceed a maximum height of 110 feet above ground level (including tower and antennae).
   3. All other tower facilities require a conditional use permit and building permit pursuant to the terms of this ordinance.
3. **Application:** Application for a conditional use permit shall be submitted pursuant to the requirements of Section 1-4-7 of this Ordinance and shall be accompanied by the following:
   1. A site plan for the proposed tower facility site which shall include the following:
      1. Graphic scale of the plan, not less than one inch (1”) to twenty feet (20’);
      2. North directional arrow;
      3. Location and size of the proposed tower facility, support structures, accessory buildings, access driveways, public roads, parking fences, signs and landscaped areas;
      4. Building setback lines;
      5. Existing topography, with contour intervals of not more than ten feet (10’), related to the United States Geological Survey datum;
      6. The location of water courses, ravines, bridges, lakes, wetlands, wooded areas, rock outcroppings, bluffs, steep slopes, and other geological features within the site;
      7. Proposed surface drainage diagram for the site;
      8. Proposed screening; and
      9. Proposed removal of natural vegetation.
   2. A vicinity map showing current land uses and existing residences and businesses within one-half mile of the proposed tower.
   3. A sworn statement signed by applicant that the communications equipment for the proposed tower cannot be accommodated on an existing tower or building within a two-mile 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 or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced or modified to accommodate planned equipment at a reasonable cost.
      2. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer, and the interference cannot be prevented at a reasonable cost.
      3. No existing or approved towers or commercial/industrial buildings within a two-mile radius meet the radio frequency (RF) engineer requirements.
      4. Existing or approved towers and commercial/industrial buildings within a two-mile radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional radio frequency (RF) engineer.
      5. In spite of best efforts, the applicant is unable to negotiate reasonable business terms regarding the lease or purchase of space on an existing tower.
      6. The applicant must demonstrate that a good faith effort to co-locate on existing towers and structures within a two-mile radius was made, but an agreement could not be reached.
   4. A commitment in writing from the applicant committing the applicant and its successors to allow the shared use of the tower facility if an additional user agrees in writing to meet reasonable industry terms and conditions for shared use.
   5. If erection of the tower or construction of any tower facility will disturb any part of a bluff or a steep slope, the applicant shall provide an erosion control plan prepared by a landscape architect or professional engineer.
   6. Proof of filing of an application with the Federal Aviation Administration or an engineer statement showing that no filing with the Federal Aviation Administration is necessary.
   7. A copy of the National Environmental Protection Act study required by the Federal Communication Commission. No antenna shall be installed on any tower facility until a Federal Communication License is issued for that antenna.
   8. A copy of the Certificate of Insurance for liability and worker’s compensation insurance that requires notification to Hawley Township prior to cancellation. This insurance shall be kept in effect until the tower facility is removed.
   9. An acceptable financial guarantee equal to one and one-half times the estimated cost of removing the tower facility and restoring the site to its original condition. The estimated cost shall be determined by the Hawley Township Zoning Administrator.
   10. Filing fees as determined from time to time by the Hawley Township Board.
4. **Standards:**
   1. All telecommunication towers erected within Hawley Township shall be freestanding towers. No guyed telecommunication towers will be allowed in any zoning districts.
   2. No conditional use permit shall be issued for a tower facility within a subdivision intended for residential use.
   3. No tower facility shall be erected within 1,000feet of the ordinary high water mark of any public water unless there is a finding that there is no other practical alternative location outside of that distance.
   4. Any tower shall conform with the following minimum setback requirements:
      1. All towers shall be situated so as to be located entirely within a single tract of land.
      2. All towers shall be sited so as to be located a distance from any building equal to the height of the tower.
      3. All towers shall be located a distance from any public roadway at least equal to the height of the tower.
      4. The minimum distance to the nearest residential property line shall be equal to the height of the tower. The minimum distance to the nearest dwelling shall be the height of the tower plus 100 feet.
   5. The owner’s name, telephone number and site ID number shall be posted on the gate of the perimeter fence. No other advertising or identification sign of any kind is permitted on the tower facility, except warning and equipment information required by the manufacturer or by federal, state or local authorities.
   6. Removal or alteration of vegetation is allowed as necessary for the construction and erection of the tower facility including accessory buildings and supports, but shall be held to a minimum. If erection of the tower or construction of tower facility will disturb any bluffs or steep slopes, the erosion control plan submitted with the application shall be complied with.
   7. All towers erected or located within the Township and all wiring therefore shall comply with the following requirements:
      1. Towers and their antennas shall comply with all applicable provisions of the ordinance.
      2. Towers and their antennas shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards of the Uniform Building Code and all other applicable reviewing agencies.
      3. Towers and their antennas shall be designed to conform to accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.
   8. Metal towers shall be constructed of, or treated with, corrosive resistant material, shall be colored alternating red and white, and shall be marked in accordance with permit conditions.
   9. In order to reduce the number of tower facilities needed within the county in the future, any proposed tower shall be designed, structurally, electrically, and in all respects to accommodate both the applicant’s antennas and comparable antennas for additional users. For towers greater than 200 feet in height, the structure shall be designed to accommodate at least four additional providers. For towers less than or equal to 200 feet in height, the structure shall be designed to accommodate at least two additional providers. This requirement may be modified if the applicant demonstrates that such a design is not feasible for economic, technical or physical reasons. To allow for future rearrangement of antennas upon the tower, the tower shall be designed to accept antennas mounted at no less than 20 foot intervals.
   10. **Co-location Priority:** Government agencies shall have a right-of-first refusal for co-location on approved tower facilities. The tower owner shall file a written right-of-first refusal in favor of government agencies with the Planning Commission at the time of final approval of the tower facility. The right-of-first refusal shall, at a minimum, include the following provisions:
       1. A requirement for notification of the Planning Commission prior to any leasing of tower space.
       2. That if the right to co-locate is exercised by a government agency, the lease rate shall be not greater than the market rate for comparable leases in the area.
   11. All towers shall be reasonably protected against unauthorized climbing. The bottom of the tower (measured from ground level to 12 feet above ground level) shall be designed in a manner to preclude unauthorized climbing and shall be enclosed by a six-foot-high chain link fence with anti-climb barbed wire protection and a locked gate.
   12. All towers and their antennas shall**,** to the greatest extent possible, utilize building materials, colors, textures, screening and landscaping that effectively blend the tower facilities with the surrounding natural setting and built environment to the greatest extent possible. A landscaping plan for screening shall be submitted as part of the permit application process.
   13. Trees and large shrubs, native to the area, shall be planted so that the facility is screened from adjacent residential properties. These trees and large shrubs shall be maintained for the life of the tower facility.
   14. Towers and their antennas shall not be illuminated by artificial means, except for camouflage purposes (designed as a lighted tower for a parking lot or a ball field) or the illumination is specifically required by the Federal Aviation Administration or other authority. No night time strobes shall be allowed unless specifically required by the Federal Aviation Administration or other authority.
   15. No part of any antenna or tower, nor any lines, cable, equipment, wires, or braces shall at any time extend across or over any part of the right-of-way, public street, highway, or sidewalk, without approval of the Township through the conditional use permitprocess.
   16. All communication towers and their antennas shall be adequately insured for injury and property damage caused by collapse of the tower. A certificate of insurance shall be filed with the Planning Commission prior to commencing operation of the facility.
5. **Antennas mounted on roofs, walls, and existing towers:** In addition to the submittal requirements required elsewhere in this Ordinance, an application for a building permit for antennas to be mounted on an existing structure shall be accompanied by the following information:
   1. A site plan showing the location of the proposed antennas on the structure and documenting that the request meets the requirements of this Ordinance;
   2. A building plan showing the construction of the antennas, the proposed method of attaching them to the existing structure, and documenting that the request meets the requirements of this Ordinance;
   3. Proof of the structure’s or tower’s ability to support the antennas; and
   4. An intermodulation study to ensure there will be no interference with existing tenants or public safety telecommunication providers.
6. **Completion of Construction:** Construction of anapproved tower facility shall be completed within one (1)year from the date of the issuance of the conditional use permit. Landscaping and screening must be installed within the first growing season immediately following construction.
7. **Continued Use, Abandonment and Removal:**
   1. Existing tower facilities may continue in use and routine maintenance may be performed on them, but they may not be altered, converted, modified, transformed, varied, added to or changed in any way without complying with the terms of this Ordinance.
   2. The owner of an existing tower facility or any tower facility erected or constructed after the passage of this ordinance shall file an annual statement of operation on or before January 10 of each year following construction of the tower. This statement of operation shall certify that the tower is operational and shall include a summary of the current antenna configuration on the tower. If the statement is not filed by January 10 of any year, the Township shall notify the owner in writing of failure to file. Failure to file a statement within sixty (60) days of receiving a notice of failure to file shall be prima facie evidence that the tower facility is no longer in use and may be considered abandoned.
   3. Tower facilities that are not in use for 365 consecutive days (1 year) shall be deemed abandoned and shall be removed by the owner within 110 days from the date of the abandonment. Removal includes removal of the complete tower facility, including accessory buildings and related above ground infrastructures and restoration of the site to preexisting vegetative cover. An extension to this time-frame may be granted by the Planning Commission upon receipt of a written request from the owner/operator of the facility.
   4. In case of multiple operators sharing the use of a single tower, the tower shall not be deemed abandoned until all users cease operations for a period of 365consecutive days (1 year).
   5. If the tower facility is not removed in accordance with this subdivision, then the County, after 60 days’ notice to the owner or operator of the tower facility, may take legal action. The Township’s remedies may include obtaining a court order allowing the Township to remove the tower facility at the cost of the owner or last operators.
8. **Maintenance:** All tower facilities shall be maintained in a safe and clean condition. The tower facility owner shall be responsible for maintaining a graffiti, debris, and litter free site. The landscape plan shall be maintained for the life of the tower facility. If the facility is not maintained, the Township may bring legal action. The Township’s remedies may include, after 60 days’ notice to the owner or operators, an order allowing the Township to complete the maintenance at the cost of the owners or operators of the tower facility.

**STRUCTURES AND USES ACCESSORY TO PRINCIPAL USES**

**1-6-22: STANDARDS FOR ABOVE GROUND STORAGE OF PETROLUEM PRODUCTS**

1. **Size Limited:** Above-ground storage of petroleum products shall be limited to one-thousand (1,000) gallons in the AG Agricultural District.

**1-6-23: STANDARDS FOR OUTDOOR STORAGE OF AUTOMOBILES**

1. **Definition of Outdoor Storage:** Outdoor storage of automobiles means the presence any vehicles outside of a structure where such vehicles do not meet the following criteria:
   1. **Licensed and Insured:** The vehicle is currently licensed and insured.
   2. **Roadworthy:** The vehicle is roadworthy and in working order.
2. **Standards:** Outdoor storage of automobiles that do not meet the criteria in subsection A, above, shall conform to the following:
   1. **Number Limited:** The number of automobiles that are allowed to be stored under this section is (2) two.
   2. **Setbacks from Property Line and Screening:** All automobiles allowed to be stored under this section shall be setback twenty-five feet (25’) from all property lines and shall be screened from adjacent residential properties by a six foot (6’) tall solid fence.
   3. **No Parts Stored:** The storage of automobiles shall only include the storage of in-tact vehicles, and shall not include the storage of automobile parts.

**1-6-24: STANDARDS FOR FARM STANDS; SEASONAL AGRICULTURAL PRODUCT SALES**

1. **On-farm Produce:** Accessory farm stands shall sell only agricultural products produced on the farm where the stand is located.
2. **Size Limited:** Accessory farm stands shall be limited to one structure not exceeding six hundred (600) square feet.
3. **Parking:** Off-street parking shall be provided outside of any road right-of-way.

**1-6-25: STANDARDS FOR HORSES IN PLATTED SUBDIVISIONS**

1. **Horses in Platted Subdivisions:** The keeping of horses in platted subdivisions shall conform to the following:
   1. **Minimum Lot Size:** Horses may be kept on lots in platted subdivisions of three (3) acres in size or greater and shall be prohibited on lots of lesser size.
   2. **Number of Horses Per Lot:** Horses are limited to one (1) adult animal for the first three (3) acres of the lot and one (1) additional adult animal for each additional two (2) acres. The number of juvenile animals less than six (6) months of age is not limited provided they are offspring to an allowed adult mare.
   3. **Minimum Grazing Area:**  A minimum grazing area of one (1) acre, accessible within fencing, is required for the first allowed horse, and an additional one-half (1/2) acre of grazing area, accessible within fencing is required for each additional allowed horse.
   4. **Fences:** Fences confining any horses allowed under this section shall be located at least ten feet (10’) from adjoining property lines.

**1-6-26: STANDARDS FOR SWIMMING POOLS**

1. **Fencing:** All swimming pools shall be required to be fenced to restrict access to swimming areas. Fencing shall completely surround the swimming pool and shall be a minimum of four feet (4’) in height. Additional fencing shall not be required for above-ground pools, provided access to all swimming areas is restricted by deck railings.

**1-6-27: Standards for Accessory Recreational Vehicles.**

Accessory recreational vehicles shall meet all of the requirements of this section. If the licensing and highway ready requirements of subsections A and B below are not met, such recreational vehicles must be located in the Flood Fringe District and must meet the elevation, anchoring, and road access requirements of Section 1-5A-7 above.

1. **Current License:** Recreational vehicles shall have current licenses required for highway use.
2. **Highway Ready:** Recreational vehicles must be highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks and the recreational vehicle has no permanent structural type additions attached to it.
3. **Number Limited:** The maximum number of recreational vehicles combined, shall not exceed two (2).
4. **Location Limited:** Recreational vehicles shall be located on one of the following sites.
   1. Individual lots of record.
   2. Existing commercial recreational vehicle parks or campgrounds.
5. **Structural Additions Limited:** Recreational vehicles shall meet the elevation, anchoring, and road access requirements of Section 1-5A-7 when development occurs on the parcel exceeding five hundred dollars ($500) for a structural addition to the recreational vehicle or an accessory structure such as a garage or storage building. There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood free location should flooding occur.
6. **Floodplain Requirements for New Commercial Recreational Vehicle Parks and Campgrounds and Expansion of Any Similar Uses Exceeding Five (5) Units or Dwelling Sites:** 
   1. Any new or replacement recreational vehicle will be allowed in the Flood Fringe District provided said recreational vehicle and its contents are placed on fill above the regulatory flood protection elevation and proper elevated road access to the site exists in accordance with Section 1-5A-7A of this Ordinance. If the recreational vehicle does not meet the licensing and road ready requirements of A and B, immediately above, then the recreational vehicle must meet the anchoring requirements for manufactured homes in Section 1-5A-7E(7).
   2. All new or replacement recreational vehicles not meeting the criteria of subsection 1, immediately above, may, as an alternative, be allowed as a conditional use in all Flood Hazard Zones if in accordance with the following provisions and the provisions of Section 1-7-4 of this Ordinance. The applicant must submit an emergency plan for the safe evacuation of all recreation vehicles and people during the 100-year flood. Said plan shall be prepared by a registered engineer or other qualified individual, shall demonstrate that adequate time and personnel exist to carry out the evacuation, and shall demonstrate that the licensing and road ready provisions of subsections A and B, above, will be met. All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Section 1-5A-9 of this Ordinance.

1-6-28: STANDARDS FOR STORAGE YARDS FOR EQUIPMENT, MACHINERY, OR MATERIALS ACCESSORY TO COMMERCIAL USES

1. **Accessory Only:** Outside storage of equipment, machinery or materials shall not be a principal use and shall be accessory only to allowed commercial uses.
2. **Maximum Area:** Outside storage of equipment, machinery or materials shall occupy no more than ten percent (10%) of the lot area or ten-thousand (10,000) square feet, whichever is greater.
3. **Not in Setback:** Outside storage of equipment, machinery or materials within any structure setback area shall be prohibited.
4. **Screening:** Outside storage of equipment, machinery or materials shall be screened so as not to be visible from any residence on adjacent properties.

**TEMPORARY USES**

**1-6-29: STANDARDS FOR TEMPORARY USES**

1. Temporary uses shall be of a truly temporary nature, and
   1. Shall not involve the erection of substantial buildings or structures; and
   2. Shall not exist for a period of more than three (3) months.