

CHAPTER 5

ZONING DISTRICTS, LAND USE AND REQUIREMENTS

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1-5-1: CLASSIFICATION OF DISTRICTS:

The following zoning districts are hereby established as part of the Hawley Township Zoning Ordinance:

A. Flood Hazard Zones:

| | |
|-----|------------------------------|
| FW | Floodway District |
| FF | Flood Fringe District |
| GFP | General Flood Plain District |

B. Shoreland Zones:

| | |
|-------|--------------------------------------|
| SP | Special Protection District |
| RD | Residential District |
| SP-LD | Special Protection – Low Development |
| GD | General Use District |

C. Resource Protection Zone:

| | |
|--------|---|
| RP-WHP | Resource Protection – Wellhead Protection District |
| RP-BIO | Resource Protection – Biologically Significant Areas District |
| RP-AGG | Resource Protection – Aggregate Resources District |

D. Agricultural Zones:

| | |
|-----|--------------------------------------|
| AG | Agricultural General District |
| ASC | Agricultural Service Center District |

E. Residential Zone:

UED Urban Expansion District

F. Commercial Zones:

HC Highway Commercial District

LHC Limited Highway Commercial District

G. Special Zone:

LF Landing Field Overlay District

- H. **Detachments:** Any land detached from an incorporated municipality and placed under the jurisdiction of this Ordinance in the future shall initially be placed in the Agricultural General (AG) Zoning District until it is placed in another district by action of the Township Board upon recommendation from the Planning Commission.

1-5-2: ZONING MAP:

A. Identification; Copies On File:

The Official Zoning Map shall be identified by the signature of the Chairman of the Township Board, and attested by the County Auditor, together with its date of adoption. Copies of the original Zoning Map shall be filed in the office of the County Recorder and shall remain without changes to be used for reference purposes when there is a need to determine the original zoning. The Official Zoning Map shall be on file in the office of the County Auditor and County Zoning Administrator.

B. Changes:

Changes made on the Official Zoning Map shall be made promptly after an amendment has been approved by the Township Board, and bear the date of adoption, and follow the same form as indicated in this subsection.

C. Electronic Copies:

The original and copies of the Official Zoning Map may be kept and distributed in electronic format. A verification by the County Auditor shall be placed in the electronic file attesting to the identity of the Official Zoning Map.

D. Adoption of Official Zoning Map:

The Official Zoning Map which, together with all materials attached thereto, are hereby adopted by reference and declared to be part of this Ordinance. The attached material includes the Flood Insurance Study, Clay County, Minnesota and Incorporated Areas, Flood Insurance Rate Map Index (Map Number 27027CIND2A), and all Flood Insurance Rate Map panels as indicated on the Flood Insurance Rate Map Index that have been printed for the unincorporated areas of Clay County, all of these documents being dated April 17, 2012 and prepared by the Federal Emergency Management Agency (FEMA).

- E. **Detachments:** The Flood Insurance Rate Map panels adopted by reference into Section 1-5-2D above will include floodplain areas that lie inside of the incorporated boundaries of municipalities at the time of adoption of this Ordinance. If any of these floodplain land areas are detached from an incorporated municipality and placed under the jurisdiction of Hawley Township after the date of adoption of this Ordinance, the newly detached floodplain lands shall be subject to the provisions of this Ordinance immediately upon the date of the detachment.

1-5-3: DISTRICT BOUNDARIES:

A. Boundaries on Official Zoning Map:

The location and boundaries of the zoning districts are set forth on the Official Zoning Map.

B. Boundary Lines:

Unless otherwise specified, zoning district boundaries shall follow the center lines of streets, highways, railroad rights of way or waterways; section lines, subdivision lines, lot lines, city limits, or such lines extended.

C. Shoreline Boundaries:

Boundaries indicated as following shorelines of bodies of water shall be construed to follow the Ordinary High Water Level of such shorelands.

D. Measurement of Distances:

Distances not specifically indicated on the Official Zoning Map shall be determined by the scale on the Map.

E. District Boundaries Dividing Single Parcels:

Where a district boundary line divides a parcel which is in a single ownership at the time of passage hereof, the Board of Adjustment may permit the extension of the regulations for either portion of the parcel not to exceed fifty feet (50') beyond the district line into the remaining portion of the parcel.

F. Flood Plain Boundaries:

1. Location of Boundary Lines:

The location of boundary lines shall be determined by the Federal Emergency Management Agency (FEMA) and provided on Flood Insurance Rate Maps (FIRM) developed for Clay County. When necessary this subsection shall be amended by addition of the proper flood plain district boundaries as provided for in Section 1-5A-5 of this Chapter.

2. Removal of Flood Plain Designation:

The flood plain designation on the FIRM shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the Regulatory Flood Protection Elevation and is contiguous to lands outside the flood plain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if it is determined that, through other measures, lands are adequately protected for the intended use.

3. Determination of Boundaries; Interpretation:

Boundaries of the flood plain districts shall be determined by scaling distances on the FIRM. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the FIRM, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations of the regional (100-year) flood profile, the ground elevations that existed on the site at the time the Community adopted its initial floodplain ordinance or on the date of first National Flood Insurance Program map showing the area in the floodplain if earlier, and other available technical data. Persons contesting the location of the district boundaries shall be given reasonable opportunity to present their case to the Board of Adjustment and submit technical evidence.

4. Removal of Special Flood Hazard Area Designation:

The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

1-5-4: SHORELAND CLASSIFICATION SYSTEM AND SHORELAND LAND USE DISTRICTS:

A. Mapped Shoreland Zones:

The extent of the shoreland zones for the water bodies listed in subsection C, below, shall be as shown on the Official Zoning Map and shall include all land within the following distances from public waters:

1. One thousand feet (1,000') from the ordinary high water level or a lake, pond, or flowage; and
2. Three hundred feet (300') from the ordinary high water level of a river or stream.
3. The limits of shoreland districts may be reduced whenever the waters involved are bounded by natural topographic divides which extend landward for a lesser distance and when approved by the Commissioner of the Department of Natural Resources.

B. Relationship of Mapped Shoreland Zones to Zoning Districts:

Mapped shoreland zones are classified in subsection D, below. Each mapped and classified shoreland zone is regulated by zoning districts that establish permitted and conditional uses, density, lot size, dimensional standards and other provisions. Mapped shoreland zones that surround Natural Environment Lakes are regulated as SP Special Protection Districts or SP-LD Special Protection Low Development Districts, except Lake Fifteen which is regulated as an RD Residential Development District. Mapped shoreland zones that surround Recreational Development Lakes listed in Section 1-5-4D-2. and General Development Lakes listed in Section 1-5-4D-3. are regulated as RD Residential Development Districts. In addition to the zoning district provisions, other performance standards and provisions of this Ordinance shall apply to mapped shoreland districts.

C. Shoreland Classification System:

The public waters of the Township have been classified by the Department of Natural Resources as shown in the tables below consistent with the criteria found in Minnesota Rules Part 6120.2500, and the Protected Waters Inventory Map for the County. The criteria used for classification include the following:

1. Preservation of natural areas;
2. Present ownership and development of shoreland areas;
3. Shoreland soil types and their engineering capabilities;
4. Topographic characteristics;
5. Vegetative cover;
6. In-water physical characteristics, values, and constraints;
7. Recreational use of the surface water;
8. Road and service center accessibility;
9. Socioeconomic development needs and plans as they involve water and related land resources;

10. The land requirements of industry which, by its nature, requires location in shoreland areas; and
11. The necessity to preserve and restore certain areas having significant historical or ecological value.

D. Lakes:

1. Natural Environment Lakes:

| Inventory I.D.# | Lake Name | Section | Township | Range | Acres |
|--------------------|--------------------------|----------|----------|-------|-------|
| 14-1 | Maple | 31,36 | 137 | 43,44 | 34 |
| 14-2 | Anderson* | 6,1 | 139 | 43,44 | 59 |
| 14-3 | Anderson* | 30,25 | 139 | 43,44 | 25 |
| 14-4 | Tilde* | 24,25 | 141 | 43,44 | 256 |
| 14-5 | Homestead | 8,9,17 | 137 | 44 | 44 |
| 14-9 | Solem | 21 | 137 | 44 | 70 |
| 14-10 | Tansem | 22,27 | 137 | 44 | 36 |
| 14-11 | Ranum | 23,26,27 | 137 | 44 | 51 |
| 14-12 | Whiskey | 25,36 | 137 | 44 | 48 |
| 14-16 | One | 1,21 | 138 | 44 | 47 |
| 14-17 | Foulball | 1,2 | 138 | 44 | 45 |
| 14-18 | Eleven | 2,11 | 138 | 44 | 139 |
| 14-19 | Three | 31 | 138 | 44 | 106 |
| 14-21 | Ten | 9,10,15 | 138 | 44 | 83 |
| 14-24 | Unnamed | 11,14 | 138 | 44 | 28 |
| 14-26 | Thirteen | 13,14,23 | 138 | 44 | 60 |
| 14-28 | Fourteen | 14 | 138 | 44 | 33 |
| 14-30 | Fifteen | 15 | 138 | 44 | 128 |
| 14-33 | Nelson | 16,21 | 138 | 44 | 41 |
| 14-35 | Mayfield | 22,23 | 138 | 44 | 36 |
| 14-37 | Emma | 26 | 138 | 44 | 36 |
| 14-38 | Laura | 27 | 138 | 44 | 60 |
| 14-42 | Rollag | 31 | 138 | 44 | 42 |
| 14-44 | Anfinson | 4,5,33 | 138,139 | 44 | 53 |
| 14-46 | Backman | 2 | 139 | 44 | 34 |
| 14-47 | Moe | 2,11,12 | 139 | 44 | 60 |
| 14-49 | Lee | 9,16 | 139 | 44 | 148 |
| 14-52 | Solum | 11,12,13 | 139 | 44 | 57 |
| 14-53 | Christ Olson | 13,14 | 139 | 44 | 74 |
| 14-54 | Hoe | 14 | 139 | 44 | 55 |
| 14-56 | Knudson | 15 | 139 | 44 | 41 |
| 14-58 | Perch | 17 | 139 | 44 | 38 |
| 14-61 | Erickson | 23,24 | 139 | 44 | 53 |
| 14-62 | Jergenson | 25,26 | 139 | 44 | 67 |
| 14-63 | Overson | 25,26,35 | 139 | 44 | 60 |
| 14-65 | Burke (Burk) | 28 | 139 | 44 | 41 |
| 14-66 | Unnamed | 28 | 139 | 44 | 34 |
| 14-68 | Unnamed | 33,34 | 139 | 44 | 29 |
| 14-71 | Ness | 35,36 | 139 | 44 | 45 |
| 14-72 | Rustad-Melby (Rustad) | 11 | 140 | 44 | 82 |
| 14-78 | Swede Grove | 10,14,15 | 140 | 44 | 138 |
| 14-79 | Meyer | 15,16 | 140 | 44 | 106 |

| | | | | | |
|--------|-----------------------|------------|---------|-------|-----|
| 14-81 | Unnamed | 3,10 | 141 | 44 | 28 |
| 14-82 | Unnamed | 17 | 141 | 44 | 42 |
| 14-83 | Unnamed | 20 | 141 | 44 | 37 |
| 14-84 | Unnamed | 23,26 | 141 | 44 | 54 |
| 14-85 | Unnamed | 25,26 | 14 | 144 | 29 |
| 14-86 | Goose Prairie Marsh | 26,27 | 141 | 44 | 4 |
| 14-87 | Unnamed | 34,35 | 141 | 44 | 41 |
| 14-88 | Unnamed | 36 | 141 | 44 | 39 |
| 14-89 | Doran | 30,25 | 139 | 44,45 | 100 |
| 14-90 | Solwald | 7,1,12 | 140 | 44,45 | 58 |
| 14-91 | Buhaug | 1,31 | 140,141 | 44,45 | 48 |
| 14-92 | Tatlie | 31,36 | 141 | 44,45 | 60 |
| 14-94 | Unnamed | 36 | 137 | 45 | 25 |
| 14-95 | Rushfeldt (Rushfield) | 3,9,10 | 138 | 45 | 54 |
| 14-96 | Bjordahl | 12 | 138 | 45 | 56 |
| 14-99 | Maria (Marin) | 9,16 | 139 | 45 | 106 |
| 14-100 | Silver | 23,26 | 139 | 45 | 123 |
| 14-102 | Unnamed | 1 | 140 | 45 | 34 |
| 14-103 | Cromwell | 1,12 | 140 | 45 | 31 |
| 14-104 | Anderson | 12,13 | 140 | 45 | 41 |
| 14-105 | Horse Shoe | 21,28 | 140 | 45 | 44 |
| 14-106 | Hotsie | 6,32 | 140,141 | 45 | 38 |
| 14-107 | Unnamed | 26,27,34 | 141 | 45 | 41 |
| 3-658 | Long* | 13 | 138 | 44 | 89 |
| 3-659 | Sand* | 7,18;12,13 | 139 | 43,44 | 199 |
| 3-660 | Axberg* | 19,24 | 139 | 43,44 | 47 |
| 3-66 | Pump* | 31,36 | 139 | 43,44 | 57 |
| 3-662 | Cuba* | 6,31,1 | 139,140 | 43,44 | 52 |
| 84-15 | Unnamed** | 3,4,34 | 136,137 | 45 | 31 |

* Also in Becker County

** Also in Wilkin County

2. Recreational Development Lakes:

| Inventory I.D.# | Lake Name | Section | Township | Range | Acres |
|-----------------|-----------|------------|----------|-------|-------|
| 3-657 | Turtle* | 7,12 | 138 | 43,44 | 183 |
| 3-659 | Sand* | 7,18;12,13 | 139 | 43,44 | 199 |

* Also in Becker County

3. General Development Lakes:

| Inventory | Lake |
|-----------|------|
|-----------|------|

| <u>I.D.#</u> | <u>Name</u> | <u>Section</u> | <u>Township</u> | <u>Range</u> | <u>Acres</u> |
|--------------|-------------|----------------|-----------------|--------------|--------------|
| 14-80 | Flora | 4,34 | 140,141 | 44 | 66 |

E. Rivers and Streams:

| | | | |
|-------------------------------|--|--|--|
| <u>1. Transition Rivers</u> | | <u>From</u> | <u>To</u> |
| Red River of the North | | Confluence with Buffalo River 30, T142N, R48W | N. section line in Sec. Sec. 12, T142N, R49W |
| <u>2. Agricultural Rivers</u> | | | |
| Red River of the North | | Border of Wilkin and Clay Counties | North Section line Sec. 1, T139N, R49W |
| Red River of the North | | S. section line, Sec. 32, T140N, R48W | Confluence with Buffalo R. in Sec. 30, T142N, R48W |
| Red River of the North | | South section line, Sec. 1 T142N, R49W | Border of Norman and Clay Counties |
| Buffalo River | | Border of Becker and Clay Counties | Confluence with Red River of the North in Sec. 30, T142N, R48W |
| <u>3. Urban Rivers</u> | | | |
| Red River of the North | | South section line, Sec. 31, T139N, R48W | 15 th Ave. North in City of Moorhead |

4. Tributary Streams: All protected watercourses, including drainage ditches, shown on the Protected Waters Inventory Map for Clay County, a copy of which is hereby adopted by reference, and not given a classification in this subsection shall be considered "Tributary".

1-5-5: PERMITTED, CONDITIONAL AND ACCESSORY USES:

The following table establishes the allowed uses in zoning districts within Hawley Township. Articles 5A through 5I establish additional requirements for each of the zoning districts. The following rules shall apply to the use table:

- A. Permitted Uses:** Uses specified with a “P” are permitted as of right in the district or districts where designated provided that the use complies with all other applicable provisions of this Ordinance.
- B. Conditional Uses:** Uses specified with a “C” are allowed as conditional uses in the district or districts where designated if granted through the conditional use process described in Section 1-4-7 and provided that the use complies with all other applicable provisions of this Ordinance.
- C. Accessory Uses:** Accessory uses listed in Section G. of the use table and specified with a “P” are allowed as permitted accessory uses in the district or districts where designated provided that the use is accessory to a primary permitted or conditional use and provided that the use complies with all other applicable provisions of this Ordinance. Accessory uses listed in Section G of the use table and specified with a “C” are allowed as conditional accessory uses in the district or districts where designated provided that the use is accessory to a primary permitted or conditional use and provided that the use complies with all other applicable provisions of this Ordinance.
- D. Prohibited Uses:** Any use not listed as permitted, conditional or accessory in a particular district shall be prohibited in that district. Uses not listed may be added in a district through the text amendment process in Section 1-4-6.
- E. Specific Development Standards:** Any use listed in a row where an abbreviation is indicated in the column headed by “Std’s” must conform to specific development standards that are contained in this Ordinance. Specific development standards apply in addition to the general criteria for conditional uses in Section 1-4-7 of this Ordinance, and in addition to all other applicable regulations. The abbreviation indicates the Chapter or Article where the specific development standard is located. Abbreviations shall mean the following:

AG – Article 5D, *Agricultural General District*

FW – Article 5A, *Floodway District*

FF – Article 5A, *Flood Fringe District*

GFP – Article 5A, *General Floodplain District*

S – Chapter 6, *Standards for Specific Land Uses*

SL – Article 5B, *Shoreland Zone Land Use Districts*

1-5-6: INTERIM USE PERMITS

- A. Purpose:** To allow a use that is neither a permitted use nor a conditional use, for a limited period of time subject to conditions as set forth in this Ordinance.
- B. Conditional Uses:** The application, public hearing, public notice and procedure requirements for Interim Use Permits shall be the same as those for Conditional Use Permits as provided in the Hawley Township Land Development Ordinance. Any of the uses identified in Section 1-5-6E below that are currently identified in any zoning district as a conditional use shall be changed to Interim Uses. Table 5-1 shall be amended accordingly.
- C. Standards:** The Township Planning Commission shall issue such Interim Use Permits only if it finds that such use at the proposed location:

- D. Meets the General Review Standards of a Conditional Use Permit as set forth in the Hawley Township Land Development Ordinance.
- E. Will terminate upon a date or an event that can be identified with certainty.
- F. Will not impose, by agreement, additional costs on the public if it is necessary for the public to take the property in the future.
- G. Will be subject to, by agreement with the owner, any conditions that the Township has deemed appropriate for the permission of the use, including the condition that the owner may provide an appropriate financial surety to cover the cost of removing the Interim Use and any Interim structures upon expiration of the Interim Use Permit.
- H. **Termination:** An Interim Use Permit shall terminate upon the occurrence of any of the following events, whichever occurs first:
 - 1. Within 90 days of change of ownership of property, unless extended by the Planning Commission.
 - 2. The date or event stated in the permit, occurs;
 - 3. A violation of conditions under which the permit was issued;
 - 4. The use has been discontinued for a period of 12 or more consecutive months; or
 - 5. The zoning district is amended and such a use is no longer allowed.
- I. **Uses that will be considered for Interim Use Permits:**
 - 1. An occasional special event or short-term use. (i.e. music concert, flea market, carnival, house storage, etc.)
 - 2. A second dwelling on the parcel to be used by parent(s), grandparent(s), children, sibling(s) by blood, marriage, adoption, or other special relationships consistent with the purpose that meets the following standards:
 - 3. Said dwelling must be a manufactured home (single or double-wide).
 - 4. Dwelling must not be placed on a permanent foundation.
 - 5. Dwelling must have a septic system that meets County Health requirements.
 - 6. Dwelling must share a common well with the principal dwelling.
 - 7. No more than one (1) additional dwelling shall be allowed on a parcel.
 - 8. Parcel must be at least five (5) acres in size.
 - 9. Meteorological towers
 - 10. Portable concrete and asphalt mixing plants
 - 11. Farm produce stands or farmers' markets not located on property used in the farming operation.
 - 12. Aggregate mining and its associated operations
 - 13. A Bed and Breakfast
 - 14. A Home Occupation located in an accessory building
 - 15. Temporary tire and/or waste collection and/or recycling operations
 - 16. Yard waste composting site (community or neighborhood)

17. Kennels

18. Horse Boarding/Stables.

| Use Type | Std | FW | FF | GFP | SP LD | SP | RD | RP- WHP | RP- BIO | RP- AGG | AG | ASC | UED | HC | LHC |
|---|------------------|----|--|-----|----------|----|----|------------|------------|------------|----|-----|-----|----|-----|
| A. Agricultural and Related Uses | | | | | | | | | | | | | | | |
| Commercial agriculture including the accessory raising of less than fifty (50) animal units of livestock or poultry and their associated manure storage areas | FW SL | P | Uses are those allowed in the base district – See Flood Fringe District for standards | P | P | P | P | P | P | | P | P | P | P | P |
| Farm buildings not used as dwellings | | | | | P | P | P | P | P | | P | | | | |
| Farm drainage and irrigation systems | | | | | | | | P | P | | P | | | | |
| Forest management | FW | P | | P | P | P | P | P | P | P | P | P | P | P | P |
| Animal feedlots or poultry lots of more than fifty (50) animal units of livestock or poultry and less than five hundred (500) animal units | SL S | | | | | C | | | C | C | P | | | | |
| Animal feedlots or poultry lots of five hundred (500) or more animal units | SL S | | | | | | | | C | C | C | | | | |
| Use Type | Std | FW | FF | GFP | SP LD | SP | RD | RP- WHP | RP- BIO | RP- AGG | AG | ASC | UED | HC | LHC |
| B. Residential and Related Uses | | | | | | | | | | | | | | | |
| Single-family dwelling | | | Uses are those allowed in the base district – See Flood Fringe District | | P | P | P | P | P | P | P | P | P | | |
| Two-family dwelling (in cluster or subdivision only) | S | | | | | | | | | | P | P | P | | |
| Bed and Breakfast in primary residence | S | | | | | | | I | I | I | I | I | I | | |
| Controlled access lot | SL | | | | P | P | P | | | | | | | | |
| Day care in a primary residence, adult or child | S | | | | P | P | P | P | P | P | P | P | P | | |

| Use Type | StdS | FW | FF | GFP | SP LD | SP | RD | RP- WHP | RP- BIO | RP- AGG | AG | ASC | UED | HC | LHC |
|---|------|----|----|-----|----------|----|----|------------|------------|------------|----|-----|-----|----|-----|
| Facility for supervised residential program up to six residents | S | | | | P | P | P | P | | | P | P | P | | |
| Facility for supervised residential program with more than six residents | S | | | | | | | | | | | | C | | |
| Second dwelling on the parcel to be used by parent(s), grandparent(s), children, sibling(s) by blood, marriage, adoption, or other special relationships. | S | | | | | | | I | I | I | I | I | I | | |

| Use Type | StdS | FW | FF | GFP | SP LD | SP | RD | RP- WHP | RP- BIO | RP- AGG | AG | ASC | UED | HC | LHC |
|--|---------|----|---|-----|----------|----|----|------------|------------|------------|----|-----|-----|----|-----|
| C. Recreational Uses, Public and Private | | | | | | | | | | | | | | | |
| Campground | FW S | C | Uses are those allowed in the base district – See Flood Fringe District for standards | C | | C | C | | | | C | | | C | |
| Golf course or driving range | FW | | | | | | | | | | C | | | | |
| Marinas and boat rentals | FW | C | | C | | | C | | | | | | | | |
| Park | FW | P | | P | C | C | C | C | C | | P | P | P | | |
| Picnic ground | FW | P | | P | | | | C | C | | | | | | |
| Hunting or game reserve | FW | P | | P | | | | P | P | P | P | | | | |
| Retreat Center | S | | | | | | C | | C | C | C | | | | |
| Shooting preserve, shooting range, archery range | FW S | P | | P | | | | | | C | C | | | | |
| Trails, motorized and non-motorized | FW | P | | P | P | P | P | P | C | P | P | P | P | | |
| Wildlife and nature preserve | FW | P | | P | P | P | P | P | P | P | P | | | | |

| Use Type | Std | FW | FF | GFP | SP LD | SP | RD | RP- WHP | RP- BIO | RP- AGG | AG | ASC | UED | HC | LHC |
|---|-----|----|--|-----|----------|----|----|------------|------------|------------|----|-----|-----|----|-----|
| Occasional special event or short-term use | | I | | I | I | I | I | I | I | I | I | I | I | I | I |
| Use Type | Std | FW | FF | GFP | SP LD | SP | RD | RP- WHP | RP- BIO | RP- AGG | AG | ASC | UED | HC | LHC |
| D. Civic, Educational and Institutional Uses | | | | | | | | | | | | | | | |
| Cemetery | | | Uses allowed in base district – See FF Dist. for standards | | | | | | | C | C | C | C | | |
| Designated historic site | FW | P | | P | C | C | C | C | C | C | P | C | C | C | C |
| Government buildings and facilities | | | | | | | | P | | C | C | P | P | P | P |
| Religious institutions w/o schools or residences | | | | | C | C | C | C | | | C | P | P | | |
| Schools, public or private | | | | | | | | | | | C | C | P | | |
| Use Type | Std | FW | FF | GFP | SP LD | SP | RD | RP- WHP | RP- BIO | RP- AGG | AG | ASC | UED | HC | LHC |
| E. Commercial and Industrial Uses | | | | | | | | | | | | | | | |
| Adult entertainment uses | S | | See FF Dist. | | | | | | | | | | | C | C |
| Agricultural service establishments | S | | | | | | | | | | C | P | | | |
| Airport, private | S | | | | | C | | | | | C | | | | |
| Asphalt batch plant and uses associated with such facilities | S | | | | | | | | | I | I | | | I | |
| Automobile and truck service facility including sleeping facilities for truck operators | | | | | | | | | | | | | | P | C |
| Automobile, truck, trailer, and garden and farm equipment sales | | | | | | | | | | | | | | P | C |

| Use Type | StdS | FW | FF | GFP | SP LD | SP | RD | RP- WHP | RP- BIO | RP- AGG | AG | ASC | UED | HC | LHC |
|--|------|----|----|-----|----------|----|----|------------|------------|------------|----|-----|-----|----|-----|
| Bar or cocktail lounge, dance hall or night-club | | | | | | | | | | | | C | | P | C |
| Bowling alley, pool hall or billiard parlor | | | | | | | | | | | | C | | P | C |
| Building material sales yard | S | | | | | | | | | | | C | | P | C |
| Extractive uses including aggregate and peat mining | S | | | | | | | | I | I | I | | | | |
| Farm produce stand / farmers' market | | | | | I | I | I | I | I | I | I | I | I | I | I |
| Kennels | S | | | | | | | | | I | I | I | | I | I |
| Landscape, nursery and garden store | | | | | | | | | | | | P | | P | C |
| Motel or motor hotel | | | | | | | | | | | | C | | P | C |
| Motor fuel station | | | | | | | | | | | | C | | P | |
| Motor sports facilities | | | | | | | | | | | C | | | C | |
| Occasional special event or short term use ?? | | | | | | | | | | | | | | | |
| Office | | | | | | | | | | | | P | | P | C |
| Outdoor recreation facilities – non-motorized | FW | C | | C | C | C | C | C | | C | P | P | | P | C |
| Redi-mix cement plant and uses associated with such facilities | S | | | | | | | | | I | I | | | I | I |
| Restaurants, with or without drive-in | | | | | | | | | | | | C | | P | C |
| Retail or commercial business | | | | | | | | | | | | P | | P | C |
| Salvage yards | S | | | | | | | | | | C | | | C | |
| Service business | | | | | | | | | | | | P | | P | C |
| Temporary tire and/or waste collection and/or recycling operations | | | | | | | | I | I | I | I | I | I | I | I |

| Use Type | Std | FW | FF | GFP | SP LD | SP | RD | RP- WHP | RP- BIO | RP- AGG | AG | ASC | UED | HC | LHC |
|--|---------|----|--|-----|----------|----|----|------------|------------|------------|----|-----|-----|----|-----|
| Wholesale business and warehousing | S | | | | | | | | | | C | P | | P | C |
| Use Type | Std | FW | FF | GFP | SP LD | SP | RD | RP- WHP | RP- BIO | RP- AGG | AG | ASC | UED | HC | LHC |
| F. Public Service and Utility Uses | | | | | | | | | | | | | | | |
| Essential services | G | | Uses are those allowed in the base district See Flood Fringe District for standards | | | | | C | C | C | C | C | | C | C |
| Landfill, public | | | | | | | | | | | P | | | | |
| Landfill, demolition wastes only | | | | | | | | | | | C | | | | |
| Communication or other towers | S | | | | | | | C | | C | C | C | C | C | C |
| Meteorological towers | | | | | | | | | | | | | | | |
| Radio and television transmission tower, including station office and studio | | | | | | | | C | | C | C | | | C | C |
| Railroad, street, bridge, utility transmission line, or pipeline | FW | C | | C | P | P | P | P | P | P | P | P | P | P | P |
| Towers exclusively for governmental or national defense purposes | FW S | C | | C | C | C | C | C | C | C | C | C | C | C | C |
| Use Type | Std | FW | FF | GFP | SP LD | SP | RD | RP- WHP | RP- BIO | RP- AGG | AG | ASC | UED | HC | LHC |
| G. Structures and Uses Accessory to Principal Uses | | | | | | | | | | | | | | | |
| Aboveground storage of petroleum products intended for direct use by a permitted activity (i.e., fuel oil for heating) (1100 gal limit in AG District) | FW S | | Uses are those allowed in the base district – See Flood | | | | | | | | P | | | | C |
| Automobiles, storage of | S | P | | P | P | P | P | P | P | P | P | P | P | P | P |

| Use Type | Std | FW | FF | GFP | SP LD | SP | RD | RP- WHP | RP- BIO | RP- AGG | AG | ASC | UED | HC | LHC |
|--|---------------|----|--|-----|----------|----|----|------------|------------|------------|----|-----|-----|----|-----|
| Energy systems associated with a principal use (i.e. solar collectors/wind energy systems) | S | | | | P | P | P | P | P | P | P | P | P | P | P |
| Farm stand, seasonal ag product sales | S | | | | | | | P | P | P | P | | | | |
| Garage, private | FW | P | | P | P | P | P | P | P | P | P | P | P | P | P |
| Home occupation, Permitted | G | | | | P | P | P | P | P | P | P | P | P | | |
| Home occupation, Conditional | G | | | | | | I | I | I | I | I | | | | |
| Keeping Animals on Residential Parcels | S | P | | P | P | P | P | P | P | P | P | P | P | | |
| Horse Boarding / Stables | | | | | | | | I | I | I | I | I | I | | |
| Parking and loading areas | FW G | P | | P | P | P | P | P | P | P | P | P | P | P | P |
| Placement of fill | FW SL S | C | Uses are those allowed in the base district – See Flood Fringe District for standards | C | C | C | C | P | P | P | P | P | P | P | P |
| Playhouses | | | | | P | P | P | P | P | P | P | P | P | | |
| Roadside stands for the sale of agricultural produce grown on the site | S | | | | P | P | | P | P | P | P | P | | | |
| Storage buildings (accessory, non-commercial) | | | | | P | P | P | P | P | P | P | P | P | P | P |
| Storage yards for equipment, machinery, or materials accessory to a commercial use | FW S | C | | C | | | | | C | C | C | C | C | C | |
| Swimming pool, fenced | S | | | | | | | P | P | P | P | P | P | | |
| Travel trailers and travel vehicles | FW S | C | | C | P | P | P | P | P | P | P | P | P | P | P |

| Use Type | Stds | FW | FF | GFP | SP LD | SP | RD | RP- WHP | RP- BIO | RP- AGG | AG | ASC | UED | HC | LHC |
|--|------|----|----|-----|----------|----|----|------------|------------|------------|----|-----|-----|----|-----|
| Yard waste composting site (community or neighborhood) | | | | I | I | I | I | I | I | I | I | I | I | I | I |
| Levee, dike or floodwall built by a unit of government | FW | P | | P | P | P | P | P | P | P | P | P | P | P | P |
| Levee, Farmstead Ring | FW | C | | C | C | C | C | C | C | C | C | C | C | C | C |
| Use Type | Stds | FW | FF | GFP | SP LD | SP | RD | RP- WHP | RP- BIO | RP- AGG | AG | ASC | UED | HC | LHC |
| Temporary use | S | | | | I | I | I | | | I | I | I | I | I | I |

ARTICLE 5A. FLOOD HAZARD ZONE AND DISTRICTS (GFP, FW, FF)

1-5A-1: PURPOSE

1-5A-2: INFORMATION PROVIDED BY COUNTY

1-5A-3: DISCLAIMER OF LIABILITY

1-5A-4: DISTRICTS AND AREA INCLUDED

1-5A-5: RELATIONSHIP OF OVERLAY DISTRICTS TO OTHER ZONING DISTRICTS

1-5A-6: FLOODWAY DISTRICT (FW)

1-5A-7: FLOOD FRINGE DISTRICT (FF)

1-5A-8: GENERAL FLOODPLAIN DISTRICT (GFP)

1-5A-9: STANDARDS FOR UTILITIES, RAILROADS, ROADS AND BRIDGES IN FW, FF OR GFP DISTRICTS

1-5A-1: PURPOSE:

The purpose of the Flood Hazard Zone is to designate floodplain overlay districts that will maintain Hawley Township's eligibility in the National Flood Insurance Program, to minimize losses due to periodic flooding including loss of life and loss of property, minimize health and safety hazards, minimize disruption of commerce and governmental services, and minimize the risk of extraordinary public expenditures. The purposes of this Zone may be met by the applicant through floodproofing measures that meet the requirements of this Article, such as elevating structures, or through a map amendment initiated by the landowner that removes the land from the Flood Hazard Zone.

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

1-5A-2: INFORMATION PROVIDED BY TOWNSHIP:

Information on flood hazard zones, the location of flood district boundaries, and flood elevation levels may be provided to a landowner or applicant by Township staff. Such information is derived directly from the Federal Emergency Management Agency (FEMA). Hawley Township does not guarantee the accuracy of such information.

1-5A-3: WARNING AND DISCLAIMER OF LIABILITY:

This Ordinance does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This Ordinance will not create any liability on the part of Hawley Township or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decisions lawfully made there under.

1-5A-4: DISTRICTS AND AREA INCLUDED:

The Flood Hazard Zone designates an area that shall be regulated as the FW Floodway District, the FF Flood Fringe District, and the GFP General Floodplain District. The Flood Hazard Zone area shall include those areas designated as Zone AE or A on the Flood Boundary and Floodway Map Official Zoning Map and/or attachments thereto as adopted in Section 1-5-2D of this Chapter.

1-5A-5: RELATIONSHIP OF FLOOD HAZARD OVERLAY DISTRICTS TO OTHER ZONING DISTRICTS:

The Flood Hazard Districts (FF, FW and GFP) are overlay districts. These districts overlay other underlying zoning districts such as the AG and RR districts. The requirements of the overlay districts in this Article provide regulations that shall apply to structures and the use of land in addition to the regulations of the underlying zoning districts. Where requirements in this Article impose greater restrictions than the underlying zoning district, the provisions of this Article shall apply.

1-5A-6: FLOODWAY DISTRICT (FW):

- A. Areas Included:** The Floodway District shall include those areas designated as floodway on the Flood Insurance Rate Map adopted in Section 1-5-2D of this Chapter. For lakes, wetlands and other basins, the Floodway District shall include those areas designated as Zone A and Zone AE on the Flood Insurance Rate Map panels adopted in Section 1-5-2D that are at or below the ordinary high water level as defined in Minnesota Statutes Section 103G.005, subdivision 14.
- B. Uses:** Because of the potential for flood damage in the FW Floodway District uses are very limited. Permitted and conditional uses in the FW Floodway District are those specified in Table 5-1. All other uses shall be prohibited.
- C. Standards for Permitted Uses:** Within the FW Floodway District, permitted uses shall conform to the listed standards.
 - 1. The use shall have a low flood damage potential.
 - 2. The use shall be permissible in the underlying zoning district.
 - 3. The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.
- D. Standards for FW Floodway District Conditional Uses:**

The following standards shall apply to structures and uses in the FW Floodway District:

- 1. **All Uses:** No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.
- 2. **Placement of Fill:** Placement of fill shall meet the following conditions:
 - a. A site plan has been submitted showing: the location of proposed fill, and the volume and components of the proposed fill;
 - b. An engineering and hydrology/hydraulics impact analysis has been completed and submitted; and
 - c. An authorized representative of the Federal Emergency Management Agency has approved the application for placement of fill. (FEMA reviews and approves CLOMR involving fills that cause stage increase. Community may want to limit approval to the No Rise model approved at the local and state levels).
- E. Recreational Vehicles:** Recreational vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, shall meet the requirements of Section 1-6-28 of this Ordinance.

F. Accessory Structures:

1. Accessory structures shall not be designed for human habitation.

2. Construction and Location of Accessory Structures:

- a. Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.
- b. Whenever possible, accessory structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and
- c. So far as practicable, accessory structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

3. Floodproofing of Accessory Structures:

Accessory structures, if permitted, shall be elevated on fill or structurally dry floodproofed in accordance with the FP-1 or FP-2 floodproofing classifications in the State Building Code. As an alternative, an accessory structure may be floodproofed to the FP-3 or FP-4 floodproofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed five hundred seventy-six (576) square feet in size at its largest projection, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage.

- a. **Anchoring:** The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls;
- b. **Mechanical and Utility Equipment:** Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly floodproofed; and
- c. **Hydrostatic Pressure:** To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.
- d. **Accessory Structures Within Farmstead Ring Levee:** Within farmstead ring levee systems, as described in subsection 6-d-3 below, agricultural structures exceeding five hundred (500) square feet in size may be constructed with the lowest floor below the regulatory flood protection elevation provided the structure is internally wet floodproofed as outlined in subsection 6-d below.

4. Storage of Materials and Equipment:

- a. **Prohibited:** The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
- b. **Allowed:** Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the governing body.

5. Permanent Structural works for flood control:

- a. Structural works for flood control that will change the course, current or cross section of

protected wetlands or public waters shall be subject to the provisions of Minnesota Statute Chapter 103G.

- b. Levees, dikes or floodwalls intended to remove areas from the regulatory flood plain shall not be allowed in the floodway.
- c. Structural works for flood control constructed in the floodway to protect individual structures or agriculture crops or farmsteads shall not cause an increase to the 100-year or regional flood.
- d. **Farmstead Ring Levee:** Within farmstead ring levee systems, as described in (3) below, agricultural structures exceeding five hundred (500) square feet in size may be constructed with the lowest floor below the regulatory flood protection elevation provided the structure is internally wet floodproofed as outlined in the following floodproofing and administrative provisions:
 - a. **Agricultural Structures Defined:** For the purposes of this subsection 1-5A-6D(6) only, agricultural structures shall be defined as structures related to the growing of crops or raising of livestock. This definition of agricultural structures shall include barns, machine sheds, storage buildings, and garages for the storage of farming machinery and equipment. This definition of agricultural structure does not include a principal or accessory structure to a residential, commercial, or other use not needed for the growing of crops or raising of livestock and shall specifically not include a structure used for human habitation or for parking of non-farming related vehicles for the human occupants of structures within the farmstead ring levee system.
 - i. **Habitable Space Defined:** For the purposes of this subsection 1-5A-6D(6) only, habitable space (room) is space in a structure used for living, sleeping, eating, or cooking. Bathrooms, toilet compartments, closets, halls, storage rooms, laundry or utility space and similar areas, are not considered habitable space. Further, no space within an agricultural structure constructed in accordance with this Section with a floor below the regulatory flood protection elevation shall be used as habitable space.
 - ii. **Farmstead Ring Levee Criteria:** Agricultural structures with the lowest floor below the regulatory flood protection elevation authorized by this Chapter must be located within the confines of a ring levee system meeting the following criteria:
 - 1. **Part of Watershed District Program:** The ring levee system must have been constructed as part of a cost share program of a watershed district established pursuant to Minnesota Statute Chapter 103D;
 - 2. **Design Certification:** A registered professional engineer or qualified watershed district staff person must certify that the farmstead ring levee system was constructed in accordance with the design criteria specified by the watershed district as a condition of state/local cost share funding;
 - iii. **Elevation:** The low point of the ring levee system must be at a minimum at least two (2) feet above the flood of record or one (1) foot above the 100-year flood level, whichever is the greater of the two. A registered professional engineer or land surveyor must establish the elevation of the low point of the ring levee system in a datum as specified by the Township. A qualified hydrologist, watershed district staff person, or registered professional engineer must establish the 100-year flood elevation and flood of record elevation for the location of the farmstead ring levee system. A farmstead ring levee constructed in the floodway

shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

- iv. **Additional Administrative Provisions:** In addition to the permitting and administrative provisions of this Ordinance, the following additional provisions apply to subsection 1-5A-6D(6):
1. **Application Requirements:** The application materials for the conditional use permit must clearly indicate the floodproofing classification that is being proposed and shall include a set of floodproofing plans and specifications prepared by a registered professional engineer or architect.
 2. **CUP Requirements:** The conditional use permit issued by the Community must specify the floodproofing classification that is being authorized and the regulatory flood protection elevation for the site.
 3. **Engineering Certification:** After construction of an agricultural structure authorized by subsection 1-5A-6D(6) the applicant shall be required to provide certification by a registered professional engineer or architect that the structure was constructed in accordance with the building/floodproofing specifications authorized in subsection (v) below.
 4. **Zoning Compliance Permit Required:** Upon completion, the Community must issue a certificate of zoning compliance prior to the use of the structure.
 5. **Flood Insurance Coverage and Cost Notification:** The applicant shall be advised in writing by Hawley Township that the internal (wet) floodproofing techniques authorized herein will not be credited for insurance rating purposes by the National Flood Insurance Program. Therefore, the lowest floor for flood insurance rating purposes will be the base or floor level of the internally flooded space. Should flood insurance be purchased, the premiums may be extremely expensive.
 6. **Document to be Recorded:** A document must be prepared and recorded that references the property in question such that it would appear in the chain of title and clearly states all of the conditions that have stipulated in the conditional use permit authorizing construction of a structure with the lowest floor below the regulatory flood protection elevation.
- v. **Structural Design:** The following structural design specifications shall be met for any farmstead ring levee authorized under this subsection:
1. **Floodproofing:** The structure must be designed to the FP-3/FP-4 Floodproofing Classification (W-4 spaces only) found in the 1995 version of the US Army Corps of Engineers document titled "Flood Proofing Regulations," a copy of which is hereby adopted by reference and declared to be a part of this Ordinance. If there is a conflict of terms found in Flood Proofing Regulations and the definition of terms used in this Ordinance, the latter shall prevail.
 2. **Design of Openings:** The design of the structure must include a minimum of two "automatic" openings in the outside walls of the structure to allow for the equalization of hydrostatic flood forces on all spaces inside the outer walls of the structure. The automatic openings

shall be placed on at least two sides of the structure and the bottom of all openings shall be placed no higher than one foot above the lowest adjacent grade of the structure. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. Opening a garage door during flooding is not considered an automatic opening and shall not meet the requirement for automatic openings. The sizing of the automatic openings shall be in accordance with a design certified by a registered professional engineer or architect. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention. In the design of the openings, the engineer or architect may consult the Federal Emergency Management Agency's publication entitled "Openings in Foundation Walls for Buildings in Special Flood Hazard Areas in accordance with the National Flood Insurance Program," a copy of which is hereby adopted by reference and declared to be a part of this Ordinance.

3. **Storage of Materials:** Special care must be taken to make sure that all contents stored in the structure are placed in accordance with Chapter 11 of the Federal Emergency Management Agency's publication entitled "Flood Proofing Regulations." Specifically, the conditional use permit issued shall indicate those types of chemicals and similar contents for agricultural uses that are: 1) "extremely hazardous (Class XX)" and require prohibition from the floodplain; and 2) "sufficiently hazardous (Class X)" and, if stored in the structure, must be stored above the regulatory flood protection elevation.

1-5A-7: FLOOD FRINGE DISTRICT (FF):

- A. **Areas Included:** The Flood Fringe District shall include those areas designated as floodway fringe on the Insurance Rate Map adopted in Section 1-5-2D of this Chapter, as being within Zone AE but being located outside of the floodway. For lakes, wetlands and other basins, the Flood Fringe District shall include those areas designated as Zone AE and Zone A on the Flood Insurance Rate Map panels adopted in Section 1-5-2D that are below the 1% annual chance flood elevation (100-year flood elevation) but above the ordinary high water level as defined in Minnesota Statutes Section 103G.005, subdivision 14.
- B. **Uses:** Permitted, conditional and accessory uses in the FF Flood Fringe District shall be those permitted, conditional and accessory uses allowed in the underlying zoning district and as indicated in Table 5-1.
- C. **Standards for Permitted Structures and Uses in the FF Flood Fringe District:** The following standards shall apply to structures and uses in the FF Flood Fringe District:
 1. **Finished Floor Elevation:** All structures, including accessory structures, must be elevated on fill so that the lowest floor is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than one foot (1') below the regulatory flood protection elevation and the fill shall extend at such elevation at least fifteen feet (15') beyond the outside limits of the structure erected thereon.
 2. **Internal Floodproofing for Small Accessory Structures:** As an alternative to elevation on fill,

accessory structures that constitute a minimal investment and that do not exceed five hundred seventy-six (576) square feet at its largest projection at ground level may be internally floodproofed in accordance with subsection 1-5A-6D(4) of this Article.

3. **Cumulative Placement of Fill:** The cumulative placement of fill where at any one time in excess of one thousand (1,000) cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless said fill is specifically intended to elevate a structure in accordance with subsection 1 above.
4. **Storage of Materials and Equipment:** The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.

D. Standards for Conditional Uses in the FF Flood Fringe District:

Conditional Uses: Any structure that is not elevated on fill or floodproofed in accordance with C1 or 2 above, or any use of land that does not comply with the standards in C3 or 4 above shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in Section 1-4-7 of this Ordinance.

1. Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck-under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: 1) the enclosed area is above-grade on at least one side of the structure; 2) it is designed to internally flood and is constructed with flood resistant materials; and 3) it is used solely for parking of vehicles, building access or storage. The above noted alternative elevation methods are subject to the following additional standards:
 - a. **Design And Certification:** The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.
 - b. **Specific Standards for Above-Grade, Enclosed Areas:** Above-grade, fully enclosed areas such as crawl spaces or tuck-under garages must be designed to internally flood and the design plans must stipulate:
 - i. **Openings:** A minimum area of "automatic" openings in the walls where internal flooding is to be used as a floodproofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one foot (1') above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention; and
 - ii. **Flood Resistant Materials:** The enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

2. Basements: "Basements", as defined by Section 1-2-2 of this Ordinance, shall be subject to the following:

- a.** Nonresidential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry floodproofed in accordance with subsection D-3 below.
- b.** Residential basements, as defined by Section 1-8-2, may be constructed below the regulatory flood protection elevation if in compliance with the FP-1 floodproofing classification (i.e., a W1 space) of the Minnesota State Building Code and in accordance with the following minimum requirements, consistent with 44 Code of Federal Regulation 60.6(c):
 - i.** Flood depth: Flood depths shall not be more than five feet for developable lots that are contiguous to land above the 100-year flood or three feet for other lots;
 - ii.** Flood velocity shall be limited to five feet per second;
 - iii.** Flood warning time shall be at least 12 hours. Flood warning times of two hours or greater may be approved if the Community demonstrates that it has flood warning system and an emergency plan in operation that is adequate to ensure safe evacuation of affected residents.
 - iv.** Basement structural requirements:
 - 1.** Basements shall be designed and constructed so that any basement area, utilities and sanitary facilities below the floodproofed level would be floodproofed in accordance with the FP-1 floodproofing classification (e.g. watertight with walls impermeable to the passage of water without human intervention);
 - 2.** Basement walls shall be built with the capacity to resist the hydrostatic and hydrodynamic loads as well as the effects of buoyancy resulting from flooding to the floodproofed design level, and shall be designed so that minimal damage will occur from floods exceeding that level.
 - 3.** Floodproofing design level shall be an elevation no lower than the regulatory flood protection elevation where the difference between the 100-year flood and the 500-year flood levels is three feet or less and two feet above the 100-year flood level where the difference between the 100-year flood and 500-year flood levels is greater than three feet.
 - v.** The top of basement floor shall be no lower than five feet below the Regulatory Flood Protection Elevation.
 - vi.** Fill:
 - 1.** The area surrounding the structure must be filled to the 100-year flood level plus one (1) foot or higher on all four sides;
 - 2.** Fill must be compacted; and
 - 3.** Slopes must be protected by a vegetative cover.
 - vii.** A registered professional engineer or architect shall develop or review the building's structural design, specifications, and plans, including consideration of depth, velocity, and duration of flooding and type and permeability of soils at the building site, and certify that the basement design and methods of construction proposed are in accordance with accepted standards of practice for

meeting the provisions of this paragraph; and

- viii. The community building inspector or authorized representative shall inspect the structure to verify that it meets the provisions of this section.

3. **Floodproofing of Non-Residential Structures:** All areas of nonresidential structures including basements to be placed below the regulatory flood protection elevation shall be floodproofed in accordance with the structurally dry floodproofing classifications in the State Building Code. Structurally dry floodproofing must meet the FP-1 or FP-2 floodproofing classification in the State Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures floodproofed to the FP-3 or FP-4 classification shall not be permitted.
4. **Erosion/Sedimentation Control Plan:** When at any one time more than one thousand (1,000) cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted.
5. **Storage of Materials and Equipment:**
 - a. **Prohibited Materials:** The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
 - b. **Removable Materials, Equipment:** Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the governing body.
6. **Historical, Ecological Value:** Areas having significant historical or ecological value shall be preserved and restored.

E. Standards for All Flood Fringe Uses:

1. **Vehicular Access:** All new principal structures must have vehicular access at or above an elevation not more than two feet (2') below the regulatory flood protection elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.
2. **Commercial Uses:** Accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the regulatory flood protection elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four (4) upon occurrence of the regional flood.
3. **Manufacturing and Industrial Uses:** Measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in subsection 7 above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.
4. **Fill:** Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation

for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

5. **Hydraulic Capacity:** Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.
6. **Recreational Vehicles:** Recreational vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, shall meet the requirements of Section 1-6-28 of this Ordinance.
7. **Manufactured Homes:** All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State or local anchoring requirements for resisting wind forces.

1-5A-8: GENERAL FLOOD PLAIN DISTRICT (GFP) AND ZONE A LAKES AND WETLANDS:

A. General Flood Plain District

1. **Areas Included:** The GFP General Flood Plain District shall include those streams designated as Zone A or Zone AE without delineated floodway on the Flood Insurance Rate Map adopted in Section 1-5-2D(3) of this Chapter, as these areas do not meet the definition of floodway and flood fringe areas in 1-5A-6(A) and 1-5A-7(A). Floodway and flood fringe areas are not currently mapped for the GFP General Flood Plain District.
2. **Permissible Uses:**
 - a. The floodway permitted uses listed in Table 5-1 shall be permitted uses in the General Floodplain District.
 - b. All other uses shall be subject to the floodway/flood fringe evaluation criteria in subsection 3-5 below. Section 1-5A-6 shall apply if the proposed use is in the Floodway District. Section 1-5A-7 shall apply if the proposed use is in the Flood Fringe District.
3. **Application; Required Information for Development Permits and Other Approvals:** Upon receipt of an application for a Development permit or other approval for a use within the General Flood Plain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Zoning Administrator for the determination of the regulatory flood protection elevation and whether the proposed use is within the Floodway or Flood Fringe District:
 - a. **Typical Valley Cross-Section:** Typical valley cross sections showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.
 - b. **Surface View Plan:** Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type.
 - c. **Profile:** Profile showing the slope of the bottom of the channel or flow line of the stream for at least five hundred feet (500') in either direction from the proposed development.

4. **Technical Assistance:** The applicant shall submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining the 1% annual chance flood (100-Year Flood Elevations), if not available, whether the proposed use is in the Floodway or Flood Fringe District and to determine the regulatory flood protection elevation. Procedures consistent with Minnesota Regulations Parts 6120.5000 through 6120.6200 and 44 Code of Federal Regulations (CFR) Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources area hydrologist prior to commencing the analysis. The designated engineer or expert shall:
 - a. **Peak Discharge:** Estimate the peak discharge of the regional flood.
 - b. **Water Surface Profile:** Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
 - c. **Necessary Floodway:** Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than five-tenths foot (0.5'). A lesser stage increase than five-tenths foot (0.5') shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.
 5. **Action on Application:** The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the Township Board. The Township Board must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary or deny the permit application. The Township Board, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, the Department of Natural Resources or the Planning Commission for review and comment. Once the floodway and flood fringe boundaries have been determined, the Township Board shall refer the matter back to the Zoning Administrator who shall process the permit application consistent with the applicable conditions for the proposed conditional use in Section 1-5A-6 and 1-5A-7 this Article.
- B. Zone A Lakes:** Procedures for determining the 1% annual chance flood elevations (100-Year flood elevations) for lakes and wetlands located in Zone A:
1. Upon receipt of an application for a development permit or other approval within a Zone A for a lake or wetland, the Zoning Administrator will use the 1% annual chance flood elevation for that basin that has previously been determined in accordance with approved FEMA methods, if available. If the 1% annual chance flood elevation has not been previously determined, the applicant shall be required to furnish all necessary information as deemed necessary by the Zoning Administrator for the determination for the 1% annual chance flood elevation in accordance with approved FEMA methods.
 2. The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining the 1% annual chance flood elevation (100-year flood elevation). Procedures consistent with Minnesota Regulations Parts 6120.5000 through 6120.6200 and 44 CFR Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis.

Once the 1% annual chance flood elevation (100-year flood elevation) has been determined, the Zoning Administrator shall process the permit application consistent with the applicable provisions of Section 1-5A-6 and 1-5A-7 of this Ordinance depending on whether the use is in the Floodway District or the Flood Fringe District, respectively, as determined by the criteria in Sections 1-5A-6A

and 1-5A-7A of this ordinance.

1-5A-9: STANDARDS FOR UTILITIES, RAILROADS, ROADS AND BRIDGES AND ON-SITE SEWAGE TREATMENT SYSTEMS AND WATER SUPPLY SYSTEMS IN FW, FF AND GFP DISTRICTS

The following standards shall apply to the location and construction of public utilities, public transportation facilities and on-site sewage treatment and water supply systems in Flood Hazard Zones:

- A. Public Utilities:** All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in a Flood Hazard Zone shall be floodproofed in accordance with the State Building Code or elevated to above the regulatory flood protection elevation.
- B. Public Transportation Facilities:**
 - 1. Compliance Required:** Railroad tracks, roads, and bridges to be located within the Flood Hazard Zone shall comply with the provisions of this Article.
 - 2. Elevation:** Railroad tracks, roads, and bridges shall be elevated above the regulatory flood protection elevation where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area.
 - 3. Minor Roads or Auxiliary Roads or Railroads:** Minor roads or auxiliary roads or railroads may be constructed at a lower elevation than the base flood elevation where failure or interruption of transportation services would not endanger the public health or safety.
- C. On-site Sewage Treatment and Water Supply:** Where public utilities are not provided:
 - 1. Water Supply System:** On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems and meet Minnesota Department of Health requirements in Minnesota Rules Chapter 4725 for wells including the requirement that casings extend at least five feet (5') above the base flood elevation for on-site water supply systems; and
 - 2. Sewage Treatment System:** New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section.

ARTICLE B. SHORELAND ZONE LAND USE DISTRICTS (SP, RD, SP-LD)

- 1-5B-1: PURPOSE**
- 1-5B-2: DISTRICTS ESTABLISHED (SP, RD, SP-LD)**
- 1-5B-3: TIERS – RIPARIAN AND NON-RIPARIAN**
- 1-5B-4: PERMITTED, CONDITIONAL AND ACCESSORY USES**
- 1-5B-5: DIMENSIONAL STANDARDS FOR SP, RD AND SP-LD DISTRICTS**
- 1-5B-6: CONTROLLED ACCESS LOTS FOR NON-RIPARIAN LOTS**
- 1-5B-7: GENERAL STANDARDS FOR STRUCTURES AND USES IN SP, RD AND SP-LD DISTRICTS**
- 1-5B-8: SIGNIFICANT HISTORIC SITES**
- 1-5B-9: STEEP SLOPES**
- 1-5B-10: SHORELAND ALTERATIONS**
- 1-5B-11: VEGETATION ALTERATIONS**
- 1-5B-12: TOPOGRAPHIC ALTERATION; GRADING AND FILLING**
- 1-5B-13: STORM WATER MANAGEMENT**
- 1-5B-14: STANDARDS FOR COMMERCIAL, INDUSTRIAL, PUBLIC AND SEMI-PUBLIC USES:**
- 1-5B-15: AGRICULTURAL USE STANDARDS**
- 1-5B-16: FOREST MANAGEMENT STANDARDS**
- 1-5B-17: MINING OF PEAT**
- 1-5B-18: WATER SUPPLY**
- 1-5B-19: SEWAGE TREATMENT**

1-5B-1: PURPOSE:

The establishment of land use districts in the shoreland zones shall implement the following goals and policies of the Clay County 2002 Comprehensive Plan and County Water Plan:

A. Natural Resource Goal #1: Identify, protect, and preserve the County's high quality natural, scenic, cultural and open space areas.

1. Policy 13. Continue to enforce shoreland regulations on the County's lakes, rivers and streams.

2. Policy 22. Adopt by reference the goals and policies of the County's Water Plan.

1-5B-2: DISTRICTS ESTABLISHED (SP, RD, SP-LD)

Within the shoreland zones, as described in Section 1-5-4 of this Chapter, the following zoning districts shall be established:

- A.** Within shoreland zones of public waters classified as Natural Environment Lakes in Section 1-5-4D(1), except those Natural Environment Lakes designated by Clay County as Special Protection Low Development Lakes and except for Lake Fifteen, the SP Special Protection District provisions shall apply.
- B.** Within shoreland zones of public waters classified as Recreational Development Lakes in Section 1-5-4D(2), Lake Fifteen, and public waters classified as General Development Lakes in Section 1-5-4D(3), the RD Residential District provisions shall apply.
- C.** Within shoreland zones of public waters classified as Transitional, Agricultural, Urban Rivers and Tributary Streams in Section 1-5-4E, the SP Shoreland Protection District Rivers and Streams

provisions shall apply.

- D.** Within shoreland zones of public waters classified as Natural Environment and designated as protected wetlands, the SP-LD Special Protection Low Development District provisions shall apply.

1-5B-3: TIERS – RIPARIAN AND NON-RIPARIAN

SP Special Protection Districts, RD Residential Districts, and SP-LD Special Protection Low Development Districts shall be comprised of two tiers, a riparian tier and a non-riparian tier. Lots or parcels containing any shoreline shall be considered to be located in the riparian tier and subject to provisions applying to riparian tiers. Lots or parcels that do not contain any shoreline shall be considered to be located in the non-riparian tier and shall be subject to provisions applying to non-riparian tiers.

1-5F-4: PERMITTED, CONDITIONAL AND ACCESSORY USES

Permitted, conditional and accessory uses in the SP Special Protection District and the RD Residential District and SP-LD Special Protection Low Development District are those specified in Table 5-1. All other uses shall be prohibited.

1-5B-5: DIMENSIONAL STANDARDS FOR SP, RD AND SP-LD DISTRICTS

The placement, design and heights of structures within SP Special Protection, RD Residential, and SP-LD Special Protection Low Development Districts shall conform to the provisions of the following table (sf = square feet):

Table 1-5B-1 Dimensional standards for SP, RD and SP-LD Districts

| | | SP-LD | SP | RD | SP (River and Stream) |
|---|--------------|-----------------|-----------------|---|--------------------------|
| Minimum Lot Area (square feet) | | | | | |
| | Riparian | 10 acres | 90,000 sf | 80,000 sf | 120,000 sf |
| | Non-Riparian | 10 acres | 160,000 sf | 80,000 sf | 160,000 sf |
| Minimum Lot Width | | | | | |
| | Riparian | 400 feet | 300 feet | 200 feet | 400 feet |
| | Non-Riparian | 400 feet | 300 feet | 200 feet | 400 feet |
| Maximum Impervious Surface Coverage | | 10% of lot area | 25% of lot area | 25% of lot area | 25% of lot area |
| Minimum Setbacks from OHWL for all Structures, Except On-site Sewage Systems and Water-Oriented Accessory Structures | | 200 feet | 200 feet | 100 feet; except for NE lakes which shall be 150 feet | 200 feet |
| Minimum Setbacks from OHWL for On-site Sewage Systems | | 200 feet | 200 feet | 100 feet; except for NE lakes which shall be 150 feet | 200 feet |

| Minimum Setbacks for All Structures, Including On-site Sewage Systems and Water-Oriented Accessory Structures | | | | | |
|---|--|--|---------|---------|---------|
| | Shore impact zone | Structures, except stairways and landings, may not be located within either the shore impact zone or bluff impact zone | | | |
| | Bluff impact zone | | | | |
| | From edge of wetland | 100 feet | N/A | N/A | N/A |
| | From unplatted cemetery | 50 feet | 50 feet | 50 feet | 50 feet |
| | From right-of-way line of federal, state or County highway | 50 feet | 50 feet | 50 feet | 50 feet |
| | From right-of-way line of township road, public street, railroad, private road or other unclassified | 20 feet | 20 feet | 20 feet | 20 feet |
| | Side yard setback | 10 feet | 10 feet | 10 feet | 10 feet |
| | Highway setbacks | | | | |

1-5B-6: CONTROLLED ACCESS LOTS FOR NON-RIPARIAN LOTS

Riparian lots intended for use by owners of non-riparian lots are permissible if all of the following standards are met:

A. Suitability; Limitation on Use:

The proposed controlled access lot shall be suitable for the intended uses of controlled access lots such as boat launching, swimming, and fishing. Controlled access lots shall not be used as residential lots.

B. Minimum Lot Area, Width and Number of Lots Having Access:

A controlled access lot proposed for access by one non-riparian lot shall meet the minimum lot area and minimum lot width standards for a riparian lot in the SP or RD district where the proposed controlled access lot is located. The minimum lot area and minimum lot width of the controlled access lot shall both be increased by twenty percent (20%) for each additional non-riparian lot having access over the controlled access lot up to a maximum of ten (10) lots total having access rights over the controlled access lot. A nonconforming lot shall not be used for a controlled access lot.

C. Joint Ownership:

Controlled access lots shall be jointly owned by the owners of all lots having riparian access rights on the controlled access lot.

D. Design Requirements:

The controlled access lot shall meet the following design requirements:

- 1. Common Facilities:** Common facilities and activities shall be centralized in the most suitable locations on the controlled access lot to minimize topographic and vegetation alterations.
- 2. Screening:** All parking areas, storage buildings, and other facilities shall to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.
- 3. Impervious Surface:** Impervious surface on a controlled access lot shall be limited to twenty-five percent (25%) of the lot area. Impervious surfaces shall include gravel drives.

E. Covenants Required:

Covenants, or other equally effective legal instruments, shall be developed that specify the following:

1. **Owners:** Identification of lots and owners having rights to use the controlled access lot.
2. **Activities:** Activities that are allowed shall be specified and may only include watercraft launching, loading, storage, beaching, mooring, docking and other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights of adjacent property owners. Examples of activities that do not significantly conflict include swimming, sunbathing, or picnicking.
3. **Vehicle Limitation:** The covenants shall specify the total number of vehicles allowed to be parked on the controlled access lot.
4. **Watercraft Limitation:** The covenants shall specify the total number of watercraft allowed to be continuously moored, docked, or stored over water.
5. **Posting Required:** Information describing the covenants required in subsections 1 through 4, above, shall be conspicuously posted on the controlled access lot.
6. **Common Facilities:** Common facilities and activities shall be centralized in the most suitable locations on the controlled access lot to minimize topographic and vegetation alterations.
7. **Screening:** All parking areas, storage buildings, and other facilities shall to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

1-5B-7: GENERAL STANDARDS FOR STRUCTURES AND USES IN SP, RD AND SP-LD DISTRICTS

A. Measuring for Minimum Lot Area and Lot Width:

Only land above the ordinary high water level of public waters can be used to meet lot area standards; and lot width standards must be met at both the ordinary high water level and at the building line.

B. Application of Setback Requirements:

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

C. Bluff Impact Zones:

Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

D. Uses Without Water-Oriented Needs:

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

E. High Water Elevations:

Structures must be placed in accordance with the floodplain provisions of Article 5A applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or floodproofed must be determined as follows:

1. **Lakes:** For lakes, by placing the lowest floor at a level at least three feet (3') above the highest known water level, or three feet (3') above the ordinary high water level, whichever is higher;
2. **Rivers; Streams:** For rivers and streams, by placing the lowest floor at least three feet (3') above the flood of record, if data is available. If data is not available, by placing the lowest floor at least three feet (3') above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three (3) approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with parts Minnesota Rules 6120.5000 to 6120.6200 governing the management of flood plain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities.

F. Stairways, Lifts, and Landings:

Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:

1. **Maximum Width:** Stairways and lifts must not exceed four feet (4') in width on residential lots. Wider stairways may be used for commercial properties, public open space recreational properties;
2. **Landings:** Landings for stairways and lifts on residential lots must not exceed thirty-two (32) square feet in area. Landings larger than thirty-two (32) square feet may be used for commercial properties, public open space recreational properties;
3. **Canopies or Roofs:** Canopies or roofs are not allowed on stairways, lifts, or landings;
4. **Construction:** Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
5. **Location:** Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
6. **Physically Handicapped:** Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of subsections 1 through 5 of this Section are complied with in addition to the requirements of Minnesota Regulations Chapter 1340.

1-5B-8: SIGNIFICANT HISTORIC SITES:

No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.

1-5B-9: STEEP SLOPES:

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

1-5B-10: SHORELAND ALTERATIONS:

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

1-5B-11: VEGETATION ALTERATIONS:

A. Exemption:

Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by subsection 1-5B-12F of this Article, and except for agricultural and forest management uses as regulated in Sections 1-5B-15 and 1-5B-16 of this Article are exempt from the vegetation alteration standards that follow.

B. Standards for Removal:

Removal or alteration of vegetation, is allowed subject to the following standards:

- 1. Prohibited in Shore and Bluff Impact Zones.** Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed.
- 2. Outside Shore and Bluff Impact Zones -Erosion Control and Sedimentation Plan:** Intensive vegetation clearing for forest land conversion to another use outside of the shore and bluff impact zones is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.
- 3. Limited Clearing for View or Access:** In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:
 - a. Screening:** The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
 - b. Shading:** Along rivers, existing shading of water surfaces is preserved; and
 - c. Dead, Diseased Vegetation; Safety Hazard:** The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

1-5B-12: TOPOGRAPHIC ALTERATION; GRADING AND FILLING:

A. Grading, Filling and Excavations:

Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this Section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.

B. Public Roads and Parking:

Public roads and parking areas are regulated by subsection F of this Section.

C. Permit Required:

Notwithstanding subsections A and B of this Section, a grading and filling permit will be required for:

1. The movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and
2. The movement of more than fifty (50) cubic yards of material outside of steep slopes and shore and bluff impact zones.

D. Considerations; Conditions: The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:

1. **Wetland:** Grading or filling in any wetland is not allowed under the Minnesota Wetland Conservation Act (WCA) (Minn. Stat. Chapter 103G) unless the impacts are determined to be exempt or the impacts are replaced according to WCA. All wetland or water related grading and filling shall be evaluated by filing "Minnesota Local/State/Federal Forms for Water/Wetland Protection" with the Clay County Soil and Water Conservation District (SWCD). The SWCD shall review the application for compliance with WCA requirements.
2. **Alterations:** Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;
3. **Mulches:** Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible;
4. **Soil Erosion:** Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;
5. **Stabilization of Altered Areas:** Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Natural Resources Conservation Service;
6. **Unstable Slope Prohibited:** Fill or excavated material must not be placed in a manner that creates an unstable slope;
7. **Steep Slopes, Professionals Required:** Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of thirty percent (30%) or greater;
8. **Bluff Impact Zones:** Fill or excavated material must not be placed in bluff impact zones;
9. **Below Ordinary High Water Level:** Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner under Minnesota Statutes Annotated Section 103G.301;
10. **Topography:** Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and
11. **Riprap; Filter Blanket:** Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet (3') horizontal to one foot (1') vertical, the landward extent of the riprap is within ten feet (10') of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three feet (3').

E. Connections to Public Waters:

Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, must be controlled by local shoreland controls. Permission for excavations may

be given only after the Commissioner has approved the proposed connection to public waters.

F. Roads, Driveways and Parking Areas; Placement and Design:

1. **Design:** Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.
2. **Placement:** Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.
3. **Watercraft Access Ramps, Access Roads, Parking Areas:** Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provisions of Section 1-5B-12 must be met.

1-5B-13: STORM WATER MANAGEMENT:

A. General Standards:

1. **Use of Natural Drainage ways, Wetlands and Vegetated Soil Surfaces:** When possible, existing natural drainage ways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain storm water runoff before discharge to public waters.
2. **Minimum Disturbance:** Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.
3. **Constructed Facilities:** When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle storm water runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and manmade materials and facilities.

B. Specific Standards:

1. **Impervious Surface Coverage:** Impervious surface coverage of lots must not exceed twenty-five percent (25%) of the lot area.
2. **Design and Installation by Qualified Professionals:** When constructed facilities are used for storm water management, documentation must be provided by qualified professionals that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.
3. **Filtering or Settling of Suspended Solids; Surface Debris:** New constructed storm water outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

1-5B-14 STANDARDS FOR COMMERCIAL, INDUSTRIAL, PUBLIC AND SEMI-PUBLIC USES:

Surface water-oriented commercial uses and public, or semi-public uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:

- A. Topographic and Vegetative Screening:** In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this Ordinance, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;
- B. Short-Term Watercraft Mooring:** Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and
- C. Signs; Lighting:** Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:
 - 1. In or Upon Public Waters:** No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the County Sheriff;
 - 2. Shore Impact Zone:**
 - a. Allowed:** Signs conforming to Section 1-3-12 may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information.
 - b. Text:** They must only convey the location and name of the establishment and the general types of goods or services available.
 - c. Size:** The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten feet (10') above the ground, and must not exceed thirty thirty-two (32) square feet in size.
 - d. Lighting:** If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters; and
 - e. Outside Lighting:** Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.
- D. Uses Without Water-Oriented Needs:** Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

1-5B-15: AGRICULTURAL USE STANDARDS:

A. Permitted Uses:

General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan consistent with the field office technical guides of the local soil and water conservation districts or the Natural Resources

Conservation Service, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and fifty feet (50') from the ordinary high water level.

B. Animal Feedlots:

Animal feedlots must meet the following standards:

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;
3. **Certificate of Compliance:** Feedlots must be registered, permitted and/or have a certificate of compliance in accordance with Minnesota Pollution Control Agency Rules 7020.0100 to 7020.1900.

1-5B-16: FOREST MANAGEMENT STANDARDS:

The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Non-Point Source Pollution Assessment-Forestry and the provisions of Water Quality in Forest Management, "Best Management Practices in Minnesota." A conditional use permit is required when converting forested land to another type of use.

1-5B-17: MINING OF PEAT:

Mining of peat, as defined in Minnesota Statutes Annotated sections 93.44 to 93.51, shall be a permitted use provided the provisions of Minnesota Statutes Annotated sections 93.44 to 93.51, are satisfied.

1-5B-18: WATER SUPPLY:

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

1-5B-19: SEWAGE TREATMENT:

A. Required:

Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:

1. **Public System:** Publicly-owned sewer systems must be used where available.
2. **Private System:** All private sewage treatment systems must meet or exceed the Minnesota Pollution Control Agency's standards for individual sewage treatment systems contained in the document titled, "Individual Sewage Treatment Systems Standards", chapter 7080, a copy of which is hereby adopted by reference and declared to be a part of this Ordinance.
3. **On-Site System:** On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in subsection 1-5B-5 of this Article.

4. **Evaluation of Site for Individual System:** All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in subsections B1 through B4, below, of this Section. If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on-site field investigations.

B. Evaluation Criteria:

1. Depth to the highest known or calculated ground water table or bedrock;
2. Soil conditions, properties, and permeability;
3. Slope;
4. The existence of wetlands, local surface depressions, and rock outcrops;
5. Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with Section 1-2-4 of this Ordinance.

1-5B-20: PRIVATE STORAGE BUILDINGS

One private storage building may be allowed on a parcel which was legally created and which conforms to the lot standards and provisions of the zoning district in which it is located. Standards for private storage buildings are as follows:

- A. The structure shall not be used as a residence
- B. The structure shall not be serviced with sewer and/or water
- C. The structure may be placed on either a temporary or permanent foundation
- D. The structure's maximum square footage (foot print) is 5% of the total lot area or 1,500 square feet, whichever is less
- E. Structure must meet all applicable setbacks for the zoning district in which it is located
- F. The structure may not be used to house or support animals of any type
- G. The structure cannot be used for any commercial and/or business uses including the storage of materials, vehicles or other items used for commercial or business purposes
- H. May be located in Shoreland districts only
- I. The private storage building must be of a design and workmanship consistent with the surrounding area
- J. A Conditional Use Permit is required.

ARTICLE C. RESOURCE PROTECTION OVERLAY DISTRICTS
(RP-WHP, RP-BIO, RP-AGG)

1-5C-1: PURPOSE

1-5C-2: DESCRIPTION OF RESOURCE PROTECTION OVERLAY DISTRICTS

1-5C-3: RELATIONSHIP OF RESOURCE PROTECTION OVERLAY DISTRICTS TO OTHER ZONING DISTRICTS

1-5C-4: PERMITTED, CONDITIONAL AND ACCESSORY USES

1-5C-5: SPECIFIC STANDARDS FOR RP-BIO RESOURCE PROTECTION OVERLAY DISTRICT –BIOLOGICALLY SIGNIFICANT AREAS

1-5C-6: SPECIFIC STANDARDS FOR RP-AGG RESOURCE PROTECTION OVERLAY DISTRICT – AGGREGATE RESOURCES

1-5C-1: PURPOSE:

The purpose of the Resource Protection Overlay Districts is to implement the following goals and policies of the Clay County 2002 Comprehensive Plan, the Clay County Comprehensive Local Water Management Plan, and the Wellhead Protection Plan:

A. Comprehensive Plan Natural Resources Goal #1: Identify, protect, and preserve the County's high-quality natural, scenic, cultural and open space areas.

- 1. Policy 2.** Develop strategies for the protection, preservation and/or acquisition of identified significant natural and historic areas, where appropriate, through a number of means.
- 2. Policy 14.** Continue to work with the Soil and Water Conservation District to update and implement the County Water Plan.
- 3. Policy 23.** Coordinate and cooperate with other local units of government in developing wellhead protection plans, including identifying appropriate land use and pollution mitigation measures in wellhead protection zones.

B. Water Plan Goals and Objectives:

- 1. Goal:** Protect and improve the quality of surface water in the Township.
 - a. Objective B.** Enforce existing regulations and develop new regulations to protect surface water resources.
- 2. Goal:** Protect and preserve groundwater quality in the Township.
 - a. Objective B. Action 1.** Identify sensitive groundwater areas in the Township and establish land use practices for those areas.

C. Wellhead Protection Plan Implementation:

- 1. Quality Goal:** Preserve and protect the quality of groundwater resources to assure continued safe and useable water supply.
- 2. Measure A-1-2:** Require that new commercial businesses within the Wellhead Protection Area/Drinking Water Supply Management Area hook-up to municipal sewage treatment and water supply.
- 3. Measure A-2-1:** Clay County adoption of sensitive areas map RHA-3 from the Department of Natural Resources Hydrogeologic Assessment completed in 2000.
- 4. Measure A-2-2:** Propose land use zoning regulations to prevent placement of new underground

storage tanks or bulk storage of hazardous materials within designated sensitive areas.

5. **Measure A-2-3:** Propose setback and land use regulations on existing gravel pits within the DWSMA.
6. **Measure A-3-3:** Require construction of containment systems around dispensing areas and around above ground tanks larger than three hundred (300) gallons at new development sites within the Wellhead Protection Area Drinking Water Supply Management Area.

1-5C-2: DESCRIPTION OF RESOURCE PROTECTION OVERLAY DISTRICTS:

Two Resource Protection Overlay Districts are established by this Article each addressing the resource protection needs of a specific type of resource. The two districts and the resource they address are:

- A. **RP-BIO Resource Protection Overlay District – Biologically Significant Areas:** The Biologically Significant Areas Overlay District is intended to protect areas with biologically significant habitat as determined by the Minnesota Department of Natural Resources County Biological Survey. Many of these areas are under public ownership.
- B. **RP-AGG Resource Protection Overlay District – Aggregate Resources:** The Aggregate Resources Overlay District is intended to protect areas with existing significant aggregate resources as shown in the Clay County Aggregate Resources Inventory completed pursuant to Minnesota Statutes Chapter 84.94.

1-5C-3: RELATIONSHIP OF RESOURCE PROTECTION OVERLAY DISTRICTS TO OTHER ZONING DISTRICTS:

The two Resource Protection districts are overlay districts. These districts overlay other underlying zoning districts such as the AG districts. The requirements of the overlay districts in this Article provide regulations that shall apply to structures and the use of land in addition to the regulations of the underlying zoning districts. Where requirements in this Article impose greater restrictions than the underlying zoning district, the provisions of this Article shall apply. Two overlay districts may occur in the same area, for example significant biological resources may be present in a wellhead protection area. Where two overlay districts occupy the same area, the requirements that impose greater restrictions shall apply.

1-5C-4: PERMITTED, CONDITIONAL AND ACCESSORY USES

Permitted, conditional and accessory uses in the Resource Protection Overlay Districts are those specified in Table 5-1. The uses listed for Resource Protection Overlay Districts in Table 5-1 preempt the uses listed for any base district underlying a Resource Protection Overlay District. All uses not listed shall be prohibited.

1-5C-5: SPECIFIC STANDARDS FOR RP-BIO RESOURCE PROTECTION OVERLAY DISTRICT – BIOLOGICALLY SIGNIFICANT AREAS:

The following specific standards shall apply in the RP-BIO Resource Protection Overlay District – Biologically Significant Areas and shall preempt any conflicting standards for any base district underlying the overlay district:

- A. **Maximum Allowed Density of Dwellings:**

The maximum number of dwellings allowed per quarter-quarter section in the RP-BIO Resource Protection Overlay District – Biologically Significant Areas shall be one (1) provided that all of the dimensional standards and conditions in subsection B below, are met. Cluster subdivisions and major subdivisions shall not be allowed in the RP-BIO District.

B. Dimensional Standards for Residential Lots:

1. **Minimum Lot Size:** The minimum lot size shall be two (2) acres of which twenty thousand (20,000) square feet, exclusive of road frontage right-of-way, shall be above the base flood elevation (100 year).
2. **Minimum Road Frontage or Access Width:** The lot on which the additional allowed dwelling unit is located shall have a minimum of sixty-six feet (66') in direct road access owned in fee. Road access necessary to meet the requirements of this section shall not be met through an access easement.

3. Yard Requirements for All New Dwellings:

- a. **Highway Setbacks:** As provided in Section 1-3-3 of this Chapter.
- b. **Front Yard Width:** Two hundred feet (200') at building line.
- c. **Rear Yard Setback:** Twenty-five feet (25'), except unattached accessory structures may be five feet (5') from the lot line.
- d. **Side Yard Setback:** Fifteen feet (15') from the lot line, except unattached accessory structures may be ten feet (10') from the lot line.

- C. Site Plan Information Requirements:** A site plan shall be required to be submitted with all applications for development or building permits in the RP-BIO District. The site plan shall indicate the location of biologically significant areas as determined by the Clay County Biological Survey, such information to be provided to the applicant by the Hawley Township Planning Commission. The site plan shall also show all proposed structures, proposed topographic changes and proposed area of vegetation removal.

- D. Site Design Criteria:** The applicant shall be responsible for insuring that structures, topographic changes and vegetation removal shall not adversely impact biologically significant areas. Structures, dirt moving activities and vegetation removal shall not occur within one-hundred feet (100') of any identified biologically significant areas.

- E. Land Use Notification:** No permit for the construction of or addition to a dwelling unit, or permit for a septic system in the (AG, RP-CBS, RP-AGG) District shall be issued until the landowner reads and signs an (agricultural, biological, aggregate) land use notification and records it, at the owner's expense, against the property that is the subject of the permit of development. Once such a land use notification has been recorded against a property it does not need to be recorded again related to subsequent permits on the same property. Land use notification forms for the RP-BIO District shall inform the landowner that:

1. The land that is the subject of the permit or development is located within an area with significant biological resources where Clay County has determined that these are important resources.
2. The management of significant biological resources may include controlled burning of large areas. Such burning may produce smoke, dust, odor, light, and other off-site impacts.
3. If you live within an RP-BIO area, you should be prepared to accept inconveniences or discomfort associated with management of biological resources as a normal and necessary aspect of living in an RP-BIO area.

1-5C-6: SPECIFIC STANDARDS FOR RP-AGG RESOURCE PROTECTION OVERLAY DISTRICT – AGGREGATE RESOURCES:

The following specific standards shall apply in the RP-AGG Resource Protection Overlay District – Aggregate Resources and shall preempt any conflicting standards for any base district underlying the overlay district:

- A. Maximum Allowed Density of Dwellings:** The maximum number of dwellings allowed per quarter-quarter section in the RP-AGG Resource Protection Overlay District – Aggregate Resources shall be one (1) provided that the following dimensional standards is met:
 - 1. Minimum Lot Size:** The minimum lot size shall be two (2) acres of which twenty thousand (20,000) square feet, exclusive of road frontage right-of-way, shall be above the base flood elevation (100 year).
- B. Development Standards Near Mine Pits:** New structures and on-site sewage treatment systems shall be setback at least one-hundred fifty feet (150') from the top edge of an aggregate mining pit. New development on parcels adjacent to mining pits shall install a dike between any structures and the edge of the mining pit of sufficient height to prevent all surface water runoff from entering the mining pit.
- C. Land Use Notification:** No permit for the construction of or addition to a dwelling unit, or permit for a septic system in the (AG, RP-CBS, RP-AGG) District shall be issued until the landowner reads and signs an (agricultural, biological, aggregate) land use notification and records it, at the owner's expense, against the property that is the subject of the permit of development. Once such a land use notification has been recorded against a property it does not need to be recorded again related to subsequent permits on the same property. Aggregate land use notification forms shall inform the landowner that:
 - 1.** The land that is the subject of the permit or development is located within an aggregate resource area where Clay County has determined that aggregate resources are important resources.
 - 2.** Aggregate removal practices may be accompanied by noise, dust, odor, light, and other off-site impacts at any time of day and year.
 - 3.** Aggregate removal uses are given preference over other residential uses in RP-AGG areas.
 - 4.** If you live within an RP-AGG area, you should be prepared to accept inconveniences or discomfort associated with aggregate removal as a normal and necessary aspect of living in an RP-AGG area.
- D. Compliance with CUP:** Aggregate operations shall comply with the requirements of the conditional use permit for the operation. New aggregate operations shall comply with the requirements in Section 1-6-16 of this Ordinance.

ARTICLE D. AGRICULTURAL GENERAL DISTRICT (AG)

1-5D-1: PURPOSE

1-5D-2: PERMITTED, CONDITIONAL AND ACCESSORY USES

1-5D-3: LAND USE NOTIFICATION

1-5D-4: DENSITY AND DIMENSIONAL STANDARDS IN AG DISTRICTS

1-5D-1: PURPOSE

The purpose of the AG Agricultural General District is to implement the following goals and policies of the Clay County 2002 Comprehensive Plan:

A. Land Use Goal #2: Support the long-term protection of agriculture in the County.

1. **Policy 2.** Establish clear and distinct zoning districts outside Planned Urban Growth Areas that provide for long-term agriculture and limit residential density in the agricultural areas of the County.
2. **Policy 3.** Allow and promote density transfers to permit cluster design techniques for non-farm, residential development as a means to concentrate development in less agriculturally productive areas and preserve large tracts of farmland, while still allowing farmland owners to benefit from development.
3. **Policy 7.** Identify prime agricultural areas and develop effective strategies to ensure their preservation and viability.
4. **Policy 8.** Encourage the enrollment of prime agricultural areas in the state's Agricultural Land Preservation Program and/or other federal, state or local conservation programs.

B. Land Use Goal #5: Plan land uses and implement standards to minimize land use conflicts.

1. **Policy 1.** Prepare and adopt a land use plan that designates land use areas to ensure desirable land use patterns and minimize conflicts.
2. **Policy 8.** Strengthen the County's land use ordinance related to feedlots in a manner that allows these uses in the agricultural areas, while protecting groundwater and surface water resources and mitigating potential adverse effects on surrounding properties.

1-5D-2: PERMITTED, CONDITIONAL AND ACCESSORY USES

Permitted, conditional and accessory uses in the AG Agricultural General District are those specified in Table 5-1. All other uses shall be prohibited.

1-5D-3: LAND USE NOTIFICATION

No permit for the construction of or addition to a dwelling unit, or permit for a septic system in the (AG, RP-CBS, RP-AGG) District shall be issued until the landowner reads and signs an (agricultural, biological, aggregate) land use notification and records it, at the owner's expense, against the property that is the subject of the permit of development. Once such a land use notification has been recorded against a property it does not need to be recorded again related to subsequent permits on the same property. Agricultural land use notification forms shall inform the landowner that:

- A. The land that is the subject of the permit or development is located in an agricultural area where Clay County has determined that agricultural uses are primary uses.
- B. Agricultural uses may be accompanied by noise, dust, odor, light, smoke, and other off-site impacts at any time of day and year.
- C. Agricultural uses may include new or expanded feedlots that conform to all state or federal standards, operation of machinery, storage and disposal of manure, and application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides.
- D. Agricultural uses are given preference over other uses in agricultural areas.
- E. If you live near an agricultural area, you should be prepared to accept inconveniences or discomfort associated with agricultural practices as a normal and necessary aspect of living in agricultural areas.

1-5D-4: DENSITY AND DIMENSIONAL STANDARDS IN AG DISTRICTS

Landowners have four options for developing new residential dwellings in the AG Agricultural District: single-lot divisions of land; within a cluster subdivision; major subdivisions on wooded or marginal soils; or conditional use permit subdivisions. The density maximums and other requirements listed below shall be met for each of these development options.

A. Minor subdivisions/Single-lot divisions of land:

1. **Maximum density:** The maximum number of new dwellings allowed per quarter-quarter section in the AG Agricultural General District shall be one (1) provided that:
 - a. If there are no existing dwellings in the quarter-quarter section one (1) new dwelling is allowed; and
 - b. All of the dimensional standards and conditions in subsections 2 and 3, below, shall be met for new dwellings.
2. **Dimensional Standards for Residential Lots:**
 - a. **Minimum Lot Size:** The minimum lot size shall be one and one half (1 ½) acre of which twenty thousand (20,000) square feet, exclusive of road frontage right-of-way, shall be above the base flood elevation (100 year).
 - b. **Minimum Road Frontage or Access Width:** The lot on which the additional allowed dwelling unit is located shall have a minimum of sixty-six feet (66') in direct road access owned in fee. Road access necessary to meet the requirements of this section shall not be met through an access easement.
3. **Yard Requirements for All New Dwellings:**
 - a. **Highway Setbacks:** As provided in Section 1-3-3 of this Ordinance.
 - b. **Front Yard Width:** Two hundred feet (200') at building line.
 - c. **Rear Yard Setback:** Twenty-five feet (25'), except unattached accessory structures may be five feet (5') from the lot line.
 - d. **Side Yard Setback:** Fifteen feet (15') from the lot line, except unattached accessory structures may be ten feet (10') from the lot line.
4. **Site Location Limitation:** It is preferred that site locations be limited to parcels or lots which are wooded with healthy and mature trees and not currently used for agricultural purposes, or are unsuitable for economical agricultural uses because of poor soils, rough topography or other natural features, however any site may be allowed.

B. Cluster Subdivisions: If a landowner chooses to develop a cluster subdivision in an AG Agricultural District, all of the following provisions shall be met.

1. Maximum Density: A cluster subdivision shall not exceed a maximum density of eight (8) dwellings per quarter section provided that:

- a. Any dwelling within the quarter section existing upon the date of the cluster subdivision application is submitted shall be deducted from the maximum density reducing the maximum by one for each existing dwelling.

2. Dimensional Standards for Residential Lots Within a Cluster Subdivision:

a. Minimum Lot Size:

- 1. The minimum lot size for lots served by on-site sewage treatment systems shall be two (2) acres of which twenty thousand (20,000) square feet, exclusive of road frontage right-of-way, shall be above the base flood elevation (100 year).

b. Maximum Lot Size: The maximum lot size shall not greater than three (3) acres.

3. Yard Requirements for All New Dwellings:

- a. **Highway Setbacks:** As provided in Section 1-3-3 of this Chapter.
- b. **Front Yard Width:** One hundred feet (100') at building line.
- c. **Rear Yard Setback:** Twenty-five feet (25'), except unattached accessory structures may be five feet (5') from the lot line.
- d. **Side Yard Setback:** Fifteen feet (15') from the lot line, except unattached accessory structures may be ten feet (10') from the lot line.

4. Review Process: Cluster subdivisions shall be processed according to the cluster subdivision provisions of Chapter 7 of this Ordinance.

5. Design: Cluster subdivisions shall be designed to cluster lots rather than align them in a linear pattern. Cluster subdivisions shall minimize the number of access points on existing public roadways. Cluster subdivisions with three or more lots shall be designed with an internal drive.

C. Major Subdivisions on Wooded or Marginal Soils: If a landowner chooses to develop a major subdivision on wooded or marginal soils as defined in subsection 4, below, in an AG Agricultural District, all of the following provisions shall be met.

1. Maximum Number of Lots: The maximum number of residential lots allowed in a major subdivision in the AG Agricultural District shall not exceed sixteen (16).

2. Review Process: Major subdivisions shall be processed as and shall meet the major subdivision provisions of Chapter 7 of this Ordinance.

3. Site Location Limitation: Site locations for major subdivisions shall be limited to parcels or lots which are wooded with healthy and mature trees and not currently used for agricultural purposes, or on parcels with a weighted average Crop Equivalent Rating (CER) of sixty-five (65) or less as established by Revised 2002 Productivity Factors and Crop Equivalent Ratings for Soils of Minnesota as published by the Minnesota Extension Service of the University of Minnesota.

4. Tree Removal Plan: A tree removal plan shall be required as part of the subdivision application. The tree removal plan shall indicate all mature trees over six inches (6") in diameter at a height of four feet (4') that are proposed to be removed on a map showing the location, type and size of such trees. Maximum possible retention of mature trees shall be required. The plan

shall describe methods that will be used to protect mature trees from damage during construction of roads and structures, such as root perimeter fencing and prevention of soil compaction.

5. **Design:** Major subdivisions shall not be located on minimum maintenance roads and the number of access points on existing public roadways shall be minimized.

D. Conditional Use Permit Subdivisions: If a landowner proposes a major subdivision in an AG District that is not a cluster subdivision meeting the provisions of Section 1-5D-3B, and is not proposed to be located on wooded or marginal soils as defined in Section 1-5D-3C(4) all of the following provisions shall be met.

1. **Maximum Number of Lots:** The maximum number of residential lots allowed in a conditional use permit subdivision in the AG Agricultural District shall not exceed sixteen (16).
2. **Review Process:** Conditional use subdivisions shall be processed as both a conditional use and a major subdivision and shall meet the major subdivision provisions of Chapter 7 of this Ordinance. The conditional use permit shall not be granted until approval of the final subdivision plat is granted.
3. **Design:** Major subdivisions shall not be located on minimum maintenance roads and the number of number of access points on existing public roadways shall be minimized.

ARTICLE E. AGRICULTURAL SERVICE CENTER DISTRICT (ASC)

1-5E-1: PURPOSE

1-5E-2: PERMITTED, CONDITIONAL AND ACCESSORY USES

1-5E-3: DIMENSIONAL STANDARDS IN ASC DISTRICTS

1-5E-1: PURPOSE:

The purpose of the ASC Agricultural Service Center District is to implement the following goals and policies of the Clay County 2002 Comprehensive Plan:

- A. **Comprehensive Plan Land Use Goal #4:** Plan for the orderly, efficient growth of commercial and industrial development in the County through the application of appropriate zoning districts and regulation.
- B. **Comprehensive Plan Economic Development Goal #1:** Cooperatively utilize existing and new resources for economic growth in the County.
 - 1. **Policy 4.** Encourage value-added agricultural industries and businesses to locate in the County.
 - 2. **Policy 5.** Encourage commercial and industrial development that is ancillary to agricultural uses and/or supports the County's agricultural economy.

1-5E-2: PERMITTED, CONDITIONAL AND ACCESSORY USES

Permitted, conditional and accessory uses in the ASC Agricultural Service Center District are those specified in Table 5-1. All other uses shall be prohibited.

1-5E-3: DIMENSIONAL STANDARDS IN ASC DISTRICTS

The following dimensional standards shall apply to structures and uses in ASC Agricultural Service Center Districts:

- A. **Minimum Lot Size:** One acre of which twenty thousand (20,000) square feet, exclusive of road frontage right-of-way, shall be above the base flood elevation (100 year).
- B. **Minimum Lot Width Regulations:**
 - 1. Residential: Two hundred feet (200') at front yard setback line.
 - 2. Commercial: None.
 - 3. Industrial: None.
- C. **Residential Yard Requirements:**
 - 1. **Highway Setbacks:** As provided in Section 1-3-3 of this Ordinance.
 - 2. **Side Yard Setback:** Fifteen feet (15') with the exception of unattached accessory structures may be ten feet (10') from the lot line.
 - 3. **Rear Yard Depth:** Twenty-five feet (25') with the exception of unattached accessory uses shall be five feet (5').
- D. **Private Garages and Storage Buildings Size Limitation:** Private garages and storage buildings shall not exceed five percent (5%) of the total lot size excluding rights-of-way and setbacks.

- E. Separation and Spacing Requirement:** All uses and structures shall be located at least two hundred feet (200') from any driveway affecting access to a dwelling and at least three hundred feet (300') from any dwelling unit.

ARTICLE F. URBAN EXPANSION DISTRICT (UED)

1-5F-1: PURPOSE

1-5F-2: PERMITTED, CONDITIONAL AND ACCESSORY USES

1-5F-3: DENSITY AND DIMENSIONAL STANDARDS IN UED DISTRICTS

1-5F-4: ADDITIONAL REQUIREMENTS IN UED DISTRICTS

1-5F-1: PURPOSE:

The purpose of the UED Urban Expansion District is to implement the following goals and policies of the Clay County 2002 Comprehensive Plan:

A. Land Use Goal #1: Establish a comprehensive growth management strategy for Clay County that promotes orderly and efficient growth of residential, commercial and industrial development while preserving the County's rural character.

1. Policy 1. Work with cities and townships within Clay County to identify Planned Urban Growth Areas that have the potential to be served with an appropriate range of public services in a cost effective manner within which efficient and orderly growth can be facilitated over the next 20 years.

2. Policy 5. Discourage development from occurring at unsewered urban densities outside of cities until urban services can be provided in an orderly and efficient manner.

B. Land Use Goal #3: Plan for orderly and efficient growth of residential development in the County.

1. Policy 1. Encourage residential growth to occur in an orderly and compact manner in and around cities within the Planned Urban Growth Areas so that new developments can be effectively served by public utilities and the character and quality of the County's agricultural areas can be maintained and enhanced.

2. Policy 2. Require urban overlay plats to be filed along with large-lot subdivisions within the Planned Urban Growth Areas.

1-5F-2: PERMITTED, CONDITIONAL AND ACCESSORY USES

Permitted, conditional and accessory uses in the UED Urban Expansion District are those specified in Table 5-1. All other uses shall be prohibited.

1-5F-3: DIMENSIONAL STANDARDS IN UED DISTRICTS

The following dimensional standards shall apply to structures and uses in UED Urban Expansion Districts:

A. Maximum Density: The maximum density in an UED Urban Expansion District shall be one (1) dwelling per one acre.

B. Minimum Lot Size: The minimum lot size is one (1) acre of which twenty thousand (20,000) square feet, exclusive of road frontage right-of-way, shall be above the base flood elevation (100 year).

C. Urban Overlay Plat: All development in an UED Urban Expansion District on parcels meeting the density and minimum lot size requirements in A and B, above, shall be platted in conventional urban sized lots utilizing an urban overlay plat. Urban overlay plats shall conform to the following

standards:

- 1. Location of Allowed Structures and Septic:** The allowed principal and all accessory structures shall be located on one of the platted lots. If necessary due to physical site limitations or soil conditions, on-site sewage treatment systems may be located on a platted lot adjacent to the lot where structures are located.
- 2. Overlay Lots Not Buildable:** Overlay platted lots shall not be considered buildable lots and zoning certificates shall be withheld until such time as public sewer and water are made available.
- 3. Urban Overlay Lot Dimensional Standards:** The urban overlay lots shall conform to the following dimensional standards, including setbacks, depending on the location of the lot within the UED:
 - a. Within a Planned Growth Area:** If the area where an urban overlay plat is proposed lies within any township's adopted growth area plan, the urban overlay plat shall conform to the growth area plan and all applicable policies and ordinances of the township.
 - b. Outside of a Planned Growth Area:** If the area where an urban overlay plat is proposed does not lie within an area covered by a growth area plan, the urban overlay plat shall conform to the standards of the City of Moorhead's RLD-1, Residential Low Density –1 District or the City of Hawley's residential zoning district nearest in distance to the proposed development.

1-5F-4: ADDITIONAL REQUIREMENTS IN UED DISTRICTS

- A. Community Septic Systems Allowed:** Community septic systems shall be allowed to serve development in the UED.
- B. Development Agreements Required:** A development agreement shall be required as part of the approval of an urban overlay plat. The development agreement shall include the following minimum terms:
 1. Conditions of subdivision approval
 2. Description of growth area plans, if any
 3. Anticipated date of provision of urban services
 4. Responsibility of landowner for payment for future services

ARTICLE G. HIGHWAY COMMERCIAL DISTRICT (HC)

1-5G-1: PURPOSE

1-5G-2: PERMITTED, CONDITIONAL AND ACCESSORY USES

1-5G-3: DIMENSIONAL STANDARDS IN HC DISTRICTS

1-5G-1: PURPOSE:

The purpose of the HC Highway Commercial District is to implement the following goals and policies of the Clay County 2002 Comprehensive Plan:

A. **Comprehensive Plan Land Use Goal #1:** Establish a comprehensive growth management strategy for Clay County that promotes orderly and efficient growth of residential, commercial and industrial development while preserving the County's rural character.

B. **Comprehensive Plan Land Use Goal #4:** Plan for the orderly, efficient growth of commercial and industrial development in the County through the application of appropriate zoning districts and regulation.

1. **Policy 2.** Encourage new commercial and industrial developments that do not require public sewer and water to locate within the Planned Urban Growth Areas in locations with adequate road service.

C. **Land Use Goal #5.** Plan land uses and implement standards to minimize land use conflicts.

1. **Policy 6.** Encourage the location of commercial and industrial development in areas that avoid adverse impacts on residential areas.
2. **Policy 7.** Locate and design industrial and commercial development to avoid truck traffic through residential or other potentially adversely affected areas.

1-3G-2: PERMITTED, CONDITIONAL AND ACCESSORY USES

Permitted, conditional and accessory uses in the HC Highway Commercial District are those specified in Table 5-1. All other uses shall be prohibited.

1-3G-3: DIMENSIONAL STANDARDS IN HC DISTRICTS

A. **Minimum Lot Size:** The required minimum lot area for permitted and conditional uses of this District shall be the area necessary to meet the stipulated space requirements set forth for the particular use in this Ordinance.

B. **Yard Requirements:**

1. **Minimum Lot Width:** Every lot shall have a width of not less than one hundred feet (100') abutting a public right of way.
2. **Front Yard Regulations:** There shall be a front yard setback of not less than fifty feet (50'). Where a lot is located at the intersection of two (2) or more roads or highways, there shall be front yard setback on each road or highway side of the lot.
3. **Rear Yard Depth:** There shall be a rear yard having a depth of not less than forty feet (40').
4. **Side Yard Width:** There shall be a side yard having a width of not less than twenty-four feet

(24') from each side of the building to the side yard lot line. No building shall be located within thirty feet (30') of any side lot line abutting a lot located in any AG or UED District.

C. Lot Coverage Regulations: Not more than thirty percent (30%) of the lot area shall be occupied by buildings.

D. Access to Public Right of Way: No lot in the HC Highway Commercial District may have a building structure upon it unless it has access to a public right of way; provided, that direct access from the front yard of the lot to a principal arterial shall not be permitted.

ARTICLE H. LIMITED HIGHWAY COMMERCIAL (LHC)

1-5H-1: PURPOSE

1-5H-2: PERMITTED, CONDITIONAL AND ACCESSORY USES

1-5H-3: DIMENSIONAL STANDARDS IN LHC DISTRICTS

1-5H-1: PURPOSE:

The limited highway commercial in sensitive areas district is intended to provide a zoning district that will permit the conduct of certain highway oriented businesses which do not pose a threat to the environment by storing, transferring, or distributing hazardous materials including, but not limited to, chemicals, fertilizers, and petroleum products. The limited highway commercial in sensitive areas district would apply to those areas of the Township where it is necessary and desirable because of the nature of the soils and water resources to protect sensitive areas including, but not limited to, aquifers, wetlands, surface waters and prairies and to preserve and promote the use of land for limited commercial purposes in order to preserve and protect such land from encroachment by development that may cause contamination by petroleum products and/or other hazardous materials.

1-3H-2: PERMITTED, CONDITIONAL AND ACCESSORY USES

Permitted, conditional and accessory uses in the LHC Limited Highway Commercial District are those specified in Table 5-1. All other uses shall be prohibited.

1-5H-3: DIMENSIONAL STANDARDS IN LHC DISTRICTS

- A. **Minimum Lot Size:** The required minimum lot area for permitted and conditional uses of this District shall be the area necessary to meet the stipulated space requirements set forth for the particular use in this Ordinance.
- B. **Yard Requirements:**
 - 1. **Minimum Lot Width:** Every lot shall have a width of not less than one hundred feet (100') abutting a public right of way.
 - 2. **Front Yard Regulations:** There shall be a front yard setback of not less than fifty feet (50'). Where a lot is located at the intersection of two (2) or more roads or highways, there shall be front yard setback on each road or highway side of the lot.
 - 3. **Rear Yard Depth:** There shall be a rear yard having a depth of not less than forty feet (40').
 - 4. **Side Yard Width:** There shall be a side yard having a width of not less than twenty-four feet (24') from each side of the building to the side yard lot line. No building shall be located within thirty feet (30') of any side lot line abutting a lot located in any AG or UED District.
- C. **Lot Coverage Regulations:** Not more than thirty percent (30%) of the lot area shall be occupied by buildings.
- D. **Access to Public Right of Way:** No lot in the LHC Limited Highway Commercial District may have a building structure upon it unless it has access to a public right of way; provided, that direct access from the front yard of the lot to a principal arterial shall not be permitted.

ARTICLE I. LANDING FIELD OVERLAY DISTRICT (LF)

1-5I-1: INTENT

1-5I-2: STRUCTURE AND USE REGULATIONS

1-5I-3: AIRPORT HAZARD ZONING MAP AND HEIGHT LIMITATIONS

1-5I-1: INTENT:

The LF Landing Field Overlay District is intended to prevent the establishment of air space obstructions in landing field approaches through height restrictions and other development controls. The requirements of the LF Landing Field Overlay District in this Article provide regulations that shall apply to structures and the use of land in addition to the regulations of the underlying zoning districts. Where requirements in this Article impose greater restrictions than the underlying zoning district, the provisions of this Article shall apply.

1-5I-2: STRUCTURE AND USE REGULATIONS:

The following structure and use regulations apply within the LF Landing Field Overlay District:

- A. Additional Permitted Uses:** In addition to uses permitted in the underlying zoning districts, public landing fields, airports and all necessary accessory uses in accordance with section 14 MCAR 1.3007, pt. A and B (1-14) of the Minnesota Code of Agency Rules, Department of Transportation, Aeronautics are permitted.
- B. Use Restrictions:** Notwithstanding any other provisions of this Ordinance, no use may be made of land within any of the established airport hazard zones in such manner as to:
 - 1. Create electrical interference with radio communication between airport lights and others;
 - 2. Result in glare in the eyes of flyers using the airport;
 - 3. Impair visibility in the vicinity of the airfield; or
 - 4. Otherwise endanger the landing, take off, or maneuvering of aircraft.
- C. Location of Public Assembly Uses:** The construction and use of facilities for places of public assembly, such as theaters, schools, churches, and hospitals, are prohibited to a distance of eleven thousand feet (11,000') from the ends of the runway pavements as designated on airport hazard zoning maps.

1-5I-3: AIRPORT HAZARD ZONING MAP AND HEIGHT LIMITATIONS:

In the LF Landing Field Overlay District, the following building height limits shall apply:

- A. Airport Hazard Zoning Maps:** When it is found that airport hazards endanger the lives and property of users of airports and occupants of land in their vicinity; and also, if of the obstructive type, in effect reduce the size of the areas available for landing, take off, and maneuvering of aircraft, thus tending to destroy or impair the utility of the airports and the public investment therein, the Township Board, on the recommendation of the Planning Commission acting as the Township Airport Zoning Commission, may adopt zoning maps to regulate the use of land and the height of structures and trees within airport hazard areas. Such airport hazard zoning maps as shall be adopted by resolution shall become a part of this Ordinance.