

## **SECTION 7**

### **General Regulations and Performance Standards**

#### **701. Purpose**

The performance standards established in this Section are designed to encourage a high standard of development by providing assurance that neighboring land uses will be compatible. The performance standards are designed to prevent and eliminate those conditions that cause blight or are detrimental to the environment. All future development in all districts shall be required to meet these standards and the standards shall also apply to existing development where so stated. Before any zoning permit is approved, the Zoning Administrator shall determine whether the proposed use will conform to the performance standards. The developer or landowners shall supply data necessary to demonstrate such conformance. Such data may include a description of equipment to be used, hours of operation, method of refuse disposal, and type and location of exterior storage. If said data complies with all parts of this Ordinance, the Zoning Administrator shall issue the necessary zoning permit.

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

##### **702.01. Districts Where Permitted**

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

##### **702.02. Standards for Multiple Family Dwelling Unit Structures**

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

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

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

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

### **702.03. Performance Standards**

Same as those listed in the R-1 District.

### **702.04. Parking Requirements**

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

### **702.05. Landscape Provisions**

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

### **702.06. Screening**

- 1) Screening to a height of at least five (5) feet shall be required where:
  - a. Any off-street parking area contains more than six (6) parking spaces and is within thirty (30) feet of an adjoining residential zone; and
  - b. Where the driveway to a parking area of more than six (6) parking spaces is within fifteen (15) feet of an adjoining residential zone.
- 2) All exterior storage shall be screened. The exterior storage screening required shall consist of a solid fence or wall not less than five (5) feet high, but shall not extend to within fifteen (15) feet of any street driveway or lot line.

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

### **702.07. Appearance**

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

### **702.08. General Buildings or Structural Requirements**

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

## **703. Manufactured Home Parks**

### **703.01. Purpose**

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

### **703.02. Location**

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

### **703.03. Permit Required**

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

### **703.04. Application Requirements and Procedures**

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

- 1) Location and size of the manufactured home park.
- 2) Location, size, and character of all manufactured home lots, manufactured home stands, storage areas, recreation areas, laundry drying areas, central refuse disposal, roadways, parking spaces and sites, and all setback dimensions.
- 3) Detailed landscaping plans and specifications.
- 4) Location and width of sidewalks.
- 5) Plans for sanitary sewage disposal, surface drainage, water systems, electrical service, telephone service and gas service.
- 6) Plans for an overhead street lighting system shall be submitted for approval by the City Council.
- 7) The method of disposing of garbage and refuse.
- 8) Location and size of all streets abutting the manufactured home park and all driveways from such streets to the park.
- 9) Plans and specifications from all road construction within the park or directly related to park operation.
- 10) Floor plans of all service buildings to be constructed within the manufactured home park.
- 11) Such other information as may be required or requested by the Planning Commission and/or the City Council.

### **703.05. Construction and Installation Standards**

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

### **703.06. Performance Standards for Manufactured Home Parks**

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

- 2) Each manufactured home park shall maintain a hard surfaced off-street, overload parking lot for guests of occupants in the amount of one (1) space for each five (5) sites and located within three hundred (300) feet of the unit to be served.
- 3) All utilities, such as sewer, water, fuel, electric, telephone and television antenna lead-ins, shall be buried to a depth specified by the City Council, and there shall be no overhead wires or support poles except those essential for street or other lighting purposes. The MPCA shall approve plans for the disposal of surface storm water.
- 4) A properly landscaped area shall be adequately maintained around each manufactured home park. All manufactured home parks adjacent to industrial, commercial or residential land uses shall be provided with screening, such as fences or natural growth, along the property boundary lines separating the park from such adjacent uses.
- 5) Every structure in the manufactured home park shall be developed and maintained in a safe, approved and substantial manner. Portable fire extinguishers rated for electrical and liquid fires shall be kept in all service buildings and other locations conveniently and readily accessible for use by all occupants.
- 6) The area beneath all manufactured homes shall be enclosed with a material that shall be generally uniform through the entire manufactured home park, except that such an enclosure must be so constructed that it is subject to reasonable inspection. No obstruction shall be permitted that impedes the inspection of plumbing, electrical facilities and related manufactured home equipment.
- 7) Each manufactured home park shall have an area or areas set aside for dead storage. Boats, boat trailers, hauling trailers, and all other equipment not generally stored within the manufactured home or within the utility enclosure, that may be provided, shall be stored in a separate place provided by the park owner. This storage place shall be screened. Such equipment shall not be stored upon a manufactured home lot, which is occupied by a manufactured home, nor upon the streets within the manufactured home park.
- 8) Signs shall be limited to one (1) nameplate or identification sign not to exceed twenty-five (25) square feet, with lighting, height and location as approved by the Zoning Administrator and have a fifteen (15) foot setback from the front line.
- 9) Each manufactured home park shall have at least ten (10) percent of the land area developed for recreational use. The City Planning Commission shall approve development of such recreational land and the cost and maintenance shall be at the owner/operator's expense.
- 10) Each manufactured home park shall have one (1) or more central community buildings to serve primarily as an emergency weather shelter which shall be provided with central heating which must be maintained in a safe, clean and sanitary condition. Said buildings shall be adequately lighted during all hours of darkness.
- 11) All structures being placed in the park shall require a permit.

### **703.07. Manufactured Home Park Lots**

- 1) Each manufactured home site shall contain at least five thousand (5,000) square feet of land area for the exclusive use of the occupant and shall be at least fifty (50) feet wide.
- 2) Manufactured homes shall be placed upon lots so that there shall be at least ten (10) feet from the side lot line, the front lot line, and the rear lot lines.
- 3) The area occupied by a manufactured home shall not exceed fifty (50) percent of the total area of a manufactured home site; land may be occupied by a manufactured home, a

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

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

#### **703.08. Manufactured Home Stands**

- 1) The area of the manufactured home stand shall be improved to provide adequate support for the placement and tie-down of the manufactured home, thereby securing the super-structure against uplift, sliding, rotation, and over-turning.
- 2) The manufactured home stands shall not heave, shift or settle unevenly under the weight of the manufactured home, due to the frost action, inadequate drainage, vibration or other forces acting upon the structure.
- 3) The manufactured home stand shall be provided with anchors and tie-downs, such as cast-in-place concrete foundations or runways, screw augers, arrowhead anchors or other devices providing for stability of the manufactured home.
- 4) Anchors and tie-downs shall be placed at least at each corner of the manufactured home stand and each anchor shall be able to sustain a minimum tensile strength of two thousand eight hundred (2,800) pounds or as approved by the current Minnesota Uniform Manufactured Home Standards Code, whichever is more restrictive.

#### **703.09. Park Management**

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

office and be illuminated during all hours of darkness.

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

## **704. Accessory Buildings and Structures**

### **704.01. In Residential Districts**

- 1) An accessory building including carports, decks and breezeways attached to the principal building on a lot, shall be made structurally a part thereof and shall comply in all respects with the requirements of this ordinance applicable to the principal building. Decks shall not be included in the lot coverage requirements of this Ordinance.
- 2) No accessory building shall exceed one (1) story or fifteen (15) feet in height and shall not occupy more than ten (10) percent of the lot area.
- 3) All detached accessory buildings shall be located in the side or rear yards. When located within ten (10) feet of the side or rear wall of the principal building they shall comply with all yard requirements applicable to the principal building in the district. Where such accessory buildings are to be located in the rear yard, more than ten (10) feet from the rear wall of the principal building, they shall not be located closer than four (4) feet from the side or rear lot line; provided, however, that when such accessory building is a garage with the vehicle entrance door located parallel to an alley the minimum setback shall be not less than ten (10) feet from the rear lot line.
- 4) No private garage used or intended for the storage of passenger automobiles or motor vehicles, recreation vehicles, boats, etc. shall exceed one thousand (1,000) square feet of gross area nor shall any access door or other opening exceed the height of ten (10) feet.
- 5) Accessory buildings shall not be constructed prior to or in lieu of the principal building.
- 6) Pole structures allowable as an accessory use are subject to screening and appearance standards, which require exterior roofing and construction materials similar to those dominant in the area, and require approval of the appropriate City Council or County Zoning Administrator.

### **704.02. In Commercial and Industrial Districts**

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

other sections of the Ordinance.

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

## **705. Private Sewer Systems**

### **705.01. General Provisions**

Prior to installing or replacing any private sewer system, a sewer installation permit shall be obtained. The permit shall be made on application forms supplied by the Zoning Administrator and the fee established by the County Board shall be paid upon application.

Location and installation of a septic tank and soil absorption system shall be such that with reasonable maintenance it will function in a sanitary manner and will not create a nuisance, endanger the safety of any domestic water supply, nor pollute or contaminate any waters of the State. In determining a suitable location for the system, consideration shall be given to the size and shape of the lot, slope of grade, soil permeability, groundwater elevation, geology, proximity to existing or future water supplies, accessibility for maintenance, and possible expansion of the system.

### **705.02. Permit Application Requirements**

An SSTS permit application must contain the identity of the property and owners, a site elevation report, a design summary and drawings, construction information, and any other pertinent information requested by the county. In the event that changes occur in the application information that was used to issue the permit, the permittee must file an amended application for re-approval before construction may begin.

All applications must be complete when submitted to the Zoning Office. The Zoning Office must receive the application at least seventy-two (72) hours prior to the start of construction and the applicant must have a permit in his or her possession prior to the start of construction.

### **705.03. Non-compliant systems**

Septic tank and/or soil absorption systems which may already exist and do not conform to these regulations shall, upon evidence of their malfunction (imminent public health threat) or failure (non-imminent public health threat), be repaired or replaced in conformance with these regulations.

- Any Individual Sewage Treatment System found to be an imminent public health threat shall be brought back into compliance with 7080 Rules within ten (10) months.
- Any Individual Sewage Treatment System found to be a non-imminent public health threat shall be brought back into compliance with 7080 Rules within two (2) years.

### **705.04. Bedroom Home Addition**

The addition of a bedroom shall require that within twelve (12) months of the issuance of the permit the owner must upgrade, replace, repair or discontinue the use of the Individual Sewage Treatment System if it is not compliant.

#### **705.05. Additional Sites required**

All newly created lots must have a minimum of one (1) additional soil treatment area, which can support a standard soil treatment system.

#### **705.06. 7080 Rules**

Minnesota Rule Chapter 7080, relating to individual sewage treatment systems, is hereby adopted in its entirety by reference and made a part of this ordinance as if fully set forth herein. If there are any inconsistencies between the standards found in this Ordinance and the State standards, or if the State standards are amended, the State standards as amended shall govern.

#### **705.07. Inspections**

All new SSTS construction or replacement must have a compliance inspection. The Fillmore County Zoning Office must be notified twenty-four (24) hour prior to the anticipated completion of the SSTS. In the event that the county inspector is unable to inspect the SSTS in a timely manner, the installer shall fill out an inspection report as provided by the county and send it to the County Inspector within seven (7) working days. The establishment of a private sewer or the connection to a city's municipal sewer system shall comply with all ordinances relating to the use of public sewers.

#### **705.08. Certification**

All design, installation, alteration, repair, maintenance, pumping, and inspection activities for an Individual Sewer Treatment System including greywater systems must be completed under a license or by a qualified employee. Greywater Systems must be installed according to 7080 Rules and must be inspected by a licensed inspector or qualified employee.

#### **705.09. Prohibited Systems**

Any SSTS system classified as a "Warranted System" as found in MPCA Rules 7080 is prohibited in Fillmore County.

#### **705.10. Sale or transfer of real estate**

Before a person may close on a real estate sale or transfer, a subsurface sewage treatment system (hereinafter "SSTS") inspection must be completed. The inspector must be a person certified by the State of Minnesota as a "Designer 1" or an "Inspector".

The seller of the real estate shall be responsible for the SSTS inspection unless the buyer and seller agree in writing that the buyer will be responsible for the inspection. A Certificate of Inspection must be given to the buyer and the Zoning Office. The Certificate of Inspection shall indicate whether the SSTS is compliant with MPCA rules (code), non-compliant failing, or is an imminent public health threat (IPHT). The Certificate of Inspection must be received and recognized by the Zoning Office prior to the transfer or sale of property. If a Certificate of Compliance is not received by the Zoning Office prior to the transfer of property, the Zoning Office will request a Compliance Inspection. Upon request by the Zoning Office, the property owner will be required to provide proof of a Compliance Inspection to the Zoning Office within 60 days of notification. Additionally, if the certificate of inspection is not provided to the Zoning Office a monetary penalty will be charged to the transferer or seller, as set by the County Board and on file in the Zoning Office.

If the SSTS is compliant, nothing needs to be done. If it is non-compliant failing, it must be brought up to code within eighteen (18) months. If it is an imminent public health threat, it must be brought up to code within ten (10) months.

If the SSTS must be brought up to code, an escrow account must be established to pay for bringing the SSTS up to code. Information pertaining to the escrow account must be submitted to the Zoning Office and provide, at a minimum, who is responsible for the escrow (property owner), amount in escrow, date escrow set up, and the cost estimate for the project. The amount of money placed in the escrow account shall be one and one-half (1 ½) the estimated cost of bringing the SSTS up to code as determined by a person certified by the State of Minnesota to design SSTS. A Certificate of Compliance must be on file with the Zoning Office.

If the real estate is to be sold or transferred between November 1 and April 30, and if the ground is frozen, the real estate may still be sold or transferred once the Zoning Office receives proof that an escrow account has been established to pay for bringing the SSTS up to code. However, in the event that this does take place, the Certificate of Compliance showing the SSTS has been brought up to code must then be provided to the Zoning Office before June 30.

Upon the sale or transfer of real estate, no Certificate of Inspection is needed if:

- 1) The real estate does not have a SSTS or building with plumbing fixtures on it.
- 2) The sale or transfer completes a contract for deed entered into prior to the enactment of this ordinance. This applies only to the original vendor and vendee.
- 3) The SSTS is connected to a city sewer system.
- 4) The sale of real estate does not need a Certificate of Real Estate Value as determined by the County Auditor.
- 5) There is a Certificate of Compliance for an existing SSTS which is less than three (3) years old.
- 6) There is a Certificate of Compliance for a new SSTS which is less than five (5) years old.

A Certificate of Compliance is the document which confirms the SSTS has been brought up to code. A Certificate of Compliance for an existing SSTS remains valid for three (3) years unless the system is identified as an imminent public health threat. A Certificate of Compliance for a new SSTS remains valid for five (5) years unless the system is identified as an imminent public health threat.

## **706. Home Occupations**

### **706.01. General**

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

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

## **707. Dwelling Units Prohibited**

No basement, garage, tent, trailer, recreational camping vehicles or accessory building shall be used as a permanent dwelling. The basement portion of a finished home or apartment may be used for normal eating and sleeping purposes provided it is properly damp-proofed, has suitable fire protection and exits, and is otherwise approved by the Zoning Administrator. All dwellings in the RA and R-1 districts shall have a minimum width of twenty (20) feet and placed on a permanent foundation with the exception of manufactured homes.

## **708. Relocating Structures**

### **708.01. Permits Required**

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

### **708.02. Moving Permit Requirements**

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

### **708.03. Regulations and restrictions**

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

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

### **708.04. Further regulations and restrictions**

The County Engineer may also:

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

## **709. Solar Energy Systems and Solar and Earth-Sheltered Structures**

### **709.01. Permitted Use**

Solar energy systems and solar and earth-sheltered structures shall be a permitted use in all districts provided the system is in compliance with minimum lot requirements and setbacks and the system is maintained in good repair as an integral part of the structure.

### **709.02. Solar Access**

In a residential district no owner, occupier or person in control of property shall allow vegetation or structures to be placed or planted so as to cast a shadow on a solar energy system which is greater than the shadow cast by a hypothetical wall ten (10) feet high located along the boundary line of said property between the hours of 9:30 a.m. and 2:30 p.m. Central standard Time on December 21 provided, however, this standard shall not apply to vegetation or structures which cast a shadow upon the solar energy system at the time of installation of said solar energy system or to vegetation existing at the time of installation of said solar energy system. Violation of this standard shall constitute a private nuisance, and any owner or occupant whose solar energy system is shaded because of such violation, so that performance of the system is impaired, may have in tort for the damages sustained thereby and may have such nuisance abated.

### **709.03. Documentation of Conditions**

As a means of evidencing existing conditions, the owner of a solar energy system may file notarized photographs of the effected area with the County Zoning Administrator prior to installation of said system.

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

#### **710.01. Location**

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

#### **710.02. Public Property**

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

### **711. Recreational Camping Vehicles, Campground Regulations**

#### **711.01. Conditional Use Permit**

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

#### **711.02. General Provisions**

- 1) Every person, organization or community establishing or having control of a campground shall locate such camp on an adequate site. An adequate site is any site that will allow a developer to establish a campground that will meet all rules and regulations for campgrounds. Each camp shall be provided with satisfactory water supply, toilet and refuse disposal facilities as defined by State Statutes and Minnesota Department of Health Rules.
- 2) An applicant for a campground conditional use permit shall submit a general development plan and map for the proposed campground including the following:
  - a. The proposed site and existing development.
  - b. Proposed size, location and arrangement of buildings.
  - c. Parking areas and stall arrangements.
  - d. Entrance and exit drives.
  - e. Proposed sewer system, water system, and storm water runoff plan.
  - f. Recreation areas.

- g. A map showing the location and breakdown of the total number of recreational vehicle sites and tent sites, whether seasonal or daily, including the location of available utilities.
- h. Emergency plan.

### **711.03. Regulations**

- 1) All campgrounds located in Fillmore County must be closed at least during the months of December, January and February. During the time a campground is closed, no person shall occupy any recreational camping vehicle.
- 2) All recreational camping vehicles parked on a campsite on a daily, weekly, monthly or yearly basis must have all its wheels left on the vehicle. All recreational camping vehicles must have current licenses attached at all times and, if applicable, must have its hitch properly attached to the camper at all times. All recreational camping vehicles must be road-ready and legal to move without special permitting at all times.
- 3) No wastewater from recreational camping vehicles shall be deposited on the surface of the ground.
- 4) All buildings used in the establishment and operation of a campground shall be located outside the Floodplain Area of Fillmore County as designated by Section 610 of this Ordinance.
- 5) All campsites in a new or expanded campground where recreational camping vehicles are allowed to park shall be outside the floodplain. Tent campsites in a campground may be located in a floodplain.
- 6) The owners and operators of all campgrounds must follow all State and Local Regulations.
- 7) All new campgrounds must meet a setback of one thousand (1,000) feet from any existing dwellings unless part of an incorporated city.
- 8) Sites designated as tent sites must be used as tent sites and not used for RCV sites.

### **711.04. EAW**

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

### **711.05. Performance Standards**

- 1) No new dwelling unit may be located within one thousand (1,000) feet of a campground, unless it is part of the campground.
- 2) No new campground may be located within one thousand (1,000) feet of an existing dwelling.

### **712. Exterior Storage**

### **712.01. Storage**

In all districts, all materials and equipment shall be stored within a building or be fully screened so as not to be visible from adjoining properties, except for the following in good order: laundry drying and recreational equipment, construction and landscaping materials and equipment currently being used on the premises, agricultural equipment and materials, if these are used or intended for use on the premises, off-street parking of passenger automobiles and pick-up trucks and fire wood. Boats and unoccupied campers are permissible. In all districts, any storage of equipment or material shall be prohibited in road or street right-of-ways.

### **712.02. Junkyards**

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

### **712.03. Conditional Uses Required**

In all districts, the County may require a Conditional Use Permit for any exterior storage if it is demonstrated that such storage is a hazard to the public health and safety or has a depreciating effect upon nearby property values, or impairs scenic views, or constitutes a threat to living amenities.

### **712.04. General Fencing**

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

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

## **713. Nuisances**

### **713.01. Nuisance Characteristics**

No noise, odors, vibration, smoke, air pollution, liquid or solid wastes, heat, glare, dust, or other such adverse influences shall be permitted in any district that will in any way have an objectionable effect upon adjacent or nearby property. All wastes in all districts shall be disposed of in a manner that is not dangerous to public health and safety nor will damage public waste transmission or disposal facilities. The following standards apply to non-industrial districts.

### **713.02. Toxic or Noxious Matter**

Any use shall be so operated so as not to discharge across the boundaries of any lot or through percolation into the atmosphere or the subsoil beyond the boundaries of the lot wherein such use is located, toxic or noxious matter in such concentration as to be detrimental to or endanger the public health, safety, comfort or welfare or cause injury or damage to property or business. All MPCA regulations relating to toxic or noxious matter shall be followed.

### **713.03. Air Pollution**

Any use shall be so operated as to control the emission of smoke or particulate matter to the degree that it is not detrimental to or shall endanger the public health, safety, comfort or general welfare of the public. For the purpose of this Ordinance, the regulations and standards adopted by the Minnesota Pollution Control Agency shall be employed.

### **713.04. Miscellaneous Nuisances**

- 1) Passenger vehicles and trucks in an inoperative state shall not be parked in residential districts for a period exceeding fourteen (14) days, seven (7) days in mobile home parks per section 703.07(5); inoperative shall mean incapable of movement under their owner power and in need of repairs. No person may store or keep any vehicle of a type requiring a license to operate on the public highways that does not have a current license, attached whether such vehicle be dismantled or not, outside of an enclosing building in a residential district.
- 2) No person may create or maintain a junkyard or vehicle-dismantling yard except as provided in this Ordinance.
- 3) The following are declared to be nuisances affecting public health or safety:
  - a. The effluence from any cesspool, septic tank, drainfield or human sewage disposal system discharging upon the surface of the ground, or dumping the contents thereof at any place except as authorized.
  - b. The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances.
  - c. The ownership, possession or control of any unused refrigerator or other container, with doors which fasten automatically when closed, or sufficient size to retain any person, to be exposed and accessible to the public without removing the doors, lids, hinges or latches or providing locks to prevent access by the public.

### **714. Glare**

In all districts, any lighting used to illuminate an off-street parking area, sign, or other structure, shall be arranged so as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky-reflected glare, whether from flood lights or from high temperature processes such as combustion or welding, shall be hooded or controlled in some manner so as not to light adjacent property. Bare incandescent light bulbs shall not be permitted in view of

adjacent property or public right-of-way. Any light or combination of lights, which cast light on a public street, shall not exceed one (1) foot candle (meter reading) as measured from the centerline of said street (This is not intended to apply to normal street lighting). Any light or combination of lights, which cast light on a residential property, shall not exceed 0.4 candles (meter reading) as measured from said property.

## **715. Landscaping and Screening**

### **715.01. Landscaping**

- 1) In all districts where setbacks exist or are required, all developed uses shall provide a landscaped yard, including grass or decorative stones, or shrubs and trees, along all streets. This yard shall be kept clear of all structures, storage and off-street parking. Except for driveways, the yard shall extend along the entire frontage of the lot, and along both streets in the case of a corner lot; such yard shall have a depth of at least ten (10) feet.
- 2) In all districts, all structures and areas requiring landscaping and fences shall be maintained so as not to be unsightly or present harmful health or safety conditions.
- 3) All vacant lots, tracts or parcels shall be properly maintained in accordance with their natural or existing character.
- 4) The screening required in this section may consist of a fence, trees, shrubs and berms, but shall not extend within fifteen (15) feet of any street or driveway. The screening shall be placed along property lines or in case of screening along a street, twenty (20) feet from the street right-of-way with landscaping between the screening and pavement. Planting of a type approved by the Zoning Administrator may also be required in addition to or in lieu of fencing.
- 5) In all commercial and industrial districts adjacent to residential districts there shall be provided along the abutting property lines an eight (8) foot wide planting strip composed of grass, trees, and shrubs. Trees at least one and one-half (1 ½) inches in diameter shall be planted not more than forty (40) feet apart. Shrubs shall be planted not more than five (5) feet apart and shall be at least five (5) feet in height after five (5) full growing seasons, and shall attain a height of eight (8) feet at maturity.
- 6) Where a commercial or industrial district is adjacent to a residential district and divided by an alley, a privacy fence not less than five (5) feet in height may be substituted for the aforesaid mentioned greenbelt upon approval of the Planning Commission.
- 7) A decorative masonry wall not less than five (5) feet in height and not less than eight (8) inches in thickness may be substituted for the aforesaid greenbelt upon approval of the Planning Commission.
- 8) The greenbelt or wall area shall be maintained in an attractive condition at all times.

## **716. Traffic Control and Sight Distance**

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

setback requirements.

## **717. Preservation of Natural Drainageways**

### **717.01. Waterways**

- 1) Every effort shall be made to retain the natural drainage systems in the county including existing wetlands and ponds. Aboveground runoff disposal waterways may be constructed to augment the natural drainage system.
- 2) The width of a constructed waterway shall be sufficiently large to adequately channel runoff from a ten (10) year storm. Adequacy shall be determined by the expected runoff when full development of the drainage area is reached.
- 3) No fences or structures shall be constructed across the waterway that will reduce or restrict the flow of water.
- 4) The banks of the waterway shall be protected with permanent vegetation.
- 5) The banks of the waterway should not exceed four (4) feet horizontal to one (1) foot vertical in gradient.
- 6) The gradient of the waterway bed should not exceed a grade that will result in a velocity that will cause erosion of the banks of the waterway.
- 7) The bend of the waterway should be protected with turf, sod or concrete. If turf or sod will not function properly, riprap may be used. Riprap shall consist of quarried limestone, fieldstone (if random rip rap is used) or construction materials of concrete. The riprap shall be no smaller than two (2) inches square or larger than two (2) feet square. Construction materials shall be used only in those areas where the waterway is not used as part of a recreation trail system.
- 8) If the flow velocity in the waterway is such that erosion of the turf sidewall will occur and said velocity cannot be decreased via velocity control structures, then other materials may replace turf on the side walls. Either gravel or rip rap would be allowed to prevent erosion at these points.

### **717.02. Sediment Control of Waterways**

- 1) To prevent sedimentation of waterways, pervious and impervious sediment traps and other sediment control structures shall be incorporated throughout the contributing watershed.
- 2) Temporary pervious sediment traps could consist of a construction of bales of hay with a low spillway embankment section of sand and gravel that permits a slow movement of water while filtering sediment. Such structures would serve as a temporary sediment control feature during the construction state of development. Development of housing and other structures shall be restricted from the area on either side of the waterway required to channel a twenty-five (25) year storm.
- 3) Permanent impervious sediment control structures consist of sediment basins (debris basins, de-silting basins or silt traps) and shall be utilized to remove sediment from runoff prior to its disposal in any permanent body of water.

## **718. Parking**

### **718.01. Surfacing and Drainage**

All parking areas shall be so graded and drained as to dispose of all surface water accumulation within the area. Open sales lots for cars, trucks, and other equipment shall also be graded, drained, and dust free but the interior landscaping is not required. All accessory off-street parking facilities required herein shall be located as follows:

- 1) Spaces accessory to one and two-family dwellings on the same lot as principal use served and may include driveways.
- 2) Spaces accessory to the multiple family dwellings on the same lot as the principal use served or within three hundred (300) feet of the main entrance to the principal building served.
- 3) There shall be no off-street parking space within five (5) feet of any street right-of-way.
- 4) No off-street open space parking area containing more than four (4) parking spaces shall be located closer than five (5) feet from an adjacent lot zoned or used for residential purposes

### **718.02. General Provisions**

- 1) Access drives may be placed adjacent to property lines except that drives consisting of crushed rock or other non-finished surfacing shall be no closer than five (5) feet to any side or rear lot line.
- 2) Each parking space shall not be less than nine (9) feet wide and twenty (20) feet in length.
- 3) Control of off-street parking facilities. When required, accessory off-street parking facilities are provided elsewhere than on the lot in which the principal use served is located, they shall be in the same ownership or control, either by deed or long-term lease, as the property occupied by such principal use, and the owner of the principal use shall file a recordable document with the County Board requiring the owner and his/her heirs and assigns to maintain the required number of off-street spaces during the existence of said principal use.
- 4) Use of parking area. Required off-street parking space in any District shall not be utilized for open storage of goods or for the storage of vehicles, which are inoperable, or for sale or rent.
- 5) Parking of automobiles and other motor vehicles is permitted in the front and side yards of manufacturing districts if screened by a greenbelt eight (8) feet in width.
- 6) Parking shall not be allowed in areas not designated for off-street parking. Loading spaces shall not be construed as supplying off-street parking space.
- 7) In all zoning districts, with the exception of allowed uses in B-1 Districts, off-street parking facilities for the storage of self-propelled motor vehicles for the use of occupants, employees and patrons of the buildings or structures hereafter erected, altered or extended after the effective date of this Ordinance, shall be provided and maintained as herein prescribed.
- 8) When units or measurements used in determining the number of required parking spaces result in requirement of a fractional space any fraction up to and including one-half (1/2) shall be disregarded and fraction over one-half (1/2) shall require one (1) parking space.
- 9) Whenever a use requiring off-street parking is increased in floor area, and such use is located in a building existing on or before the effective date of this Ordinance, additional

parking space for the additional floor area shall be provided and maintained in amounts hereafter specified for that use.

- 10) For the purpose of this section, "Floor Area," in the case of offices, merchandising or service types of uses, shall mean the gross floor area used or intended to be used for services to the public as customers, patrons, clients or patients as tenants, including areas occupied for fixtures and equipment used for display or sale of merchandise.
- 11) The location of required off-street parking facilities for other than dwellings shall be within three hundred (300) feet of the building they are intended to serve, measured from the nearest point of the off-street parking facilities and the nearest point of the building or structure.
- 12) Where a use is not specifically mentioned, off-street parking requirements shall be the same as for a similar use.
- 13) Nothing in this section shall be construed to prevent collective provisions of off-street parking facilities for two (2) or more buildings or uses provided, collectively, such facilities shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with the table.
- 14) Nothing in this section shall prevent the extension of, or an addition to a building or structure into an existing parking area which is required for the original building or structure when the same amount of space taken by the extension or addition is provided by an enlargement of the existing parking area, or an additional area within three hundred (300) feet of such building.

### **718.03. Design and Maintenance of Off-Street Parking Areas**

- 1) Parking areas shall be designed so as to provide adequate means of access to a public alley or street. Such driveway access shall not exceed thirty (30) feet in width and shall be so located as to cause the least interference with traffic movement.
- 2) Curbing and Landscaping. All open off-street parking areas designed to have head-in parking along the property line shall provide a bumper curb not less than five (5) feet from the side property line or a guard of normal bumper heights not less than three (3) feet from the side property line.
- 3) Parking space of six (6) or more cars. When a required off-street parking space for six (6) cars or more is located adjacent to a Residential District, a fence approved by the Zoning Administrator shall be erected along the Residential District property line.

### **718.04. Off-Street Space Required**

(One space equals 300 sq. ft.)

- |                                   |                                                         |
|-----------------------------------|---------------------------------------------------------|
| 1) One and two-family Residence   | Two (2) spaces per dwelling unit                        |
| 2) Multiple Dwellings             | One and one-half (1½) spaces per dwelling unit          |
| 3) Business & Professional Office | One (1) space for each 200 sq. ft. of gross floor area  |
| 4) Medical and Dental Clinic      | One (1) space for each 200 sq. ft. of gross floor area. |
| 5) Hotel or Motel                 | One (1) space per rental unit plus one (1)              |

	space per full-time employee.
6) Schools	
(a) Elementary Schools	Two (2) spaces for each classroom.
(b) High School	At least one (1) parking space for each four (4) students based on design capacity, plus one (1) additional space for each classroom.
7) Colleges	At least one (1) space for every two (2) employees plus one (1) space for every car permitted to students by the college.
8) Hospital	At least one (1) parking space for each three (3) hospital beds, plus one (1) space for each four (4) employees, other than doctors, plus one (1) parking space for each resident and regular staff doctor.
9) Drive-In Food Establishment	One (1) space for each fifteen (15) sq. ft. of gross floor space in building allocated to drive-in operation.
10) Bowling Alley	Six (6) spaces for each alley, plus additional spaces as may be required herein for related uses such as a restaurant.
11) Automobile Service Station	At least two (2) off-street parking spaces plus four (4) off-street parking spaces for each service stall.
12) Retail Store	At least one (1) off-street parking space for each one hundred (100) sq. ft. of gross floor area.
13) Restaurants, Cafes, Bars	At least one (1) space for each three (3) seats based on capacity design.
14) Undertaking Establishments	Eight (8) spaces for each chapel or parlor plus one (1) space for each funeral vehicle maintained on the premises; Aisle space shall also be provided for the street of making up a funeral procession.
15) Theaters, auditoriums, arenas, dance halls, other places	Spaces equal in stadiums, number to one-third of the capacity in of assembly persons.
16) Churches	Spaces equal in number to one-third (1/3) of the capacity in persons of the main sanctuary or auditorium plus provision for supplementary parking space needs for other portions of the church facilities as determined by final site and building plans when reviewed by the Planning Commission.
17) Industrial, Warehouse, Bulk Goods	At least one (1) space for each employee on maximum shift or one (1) space for each two thousand (2,000) sq. ft. of gross floor area, whichever is larger.
18) Uses not Specifically Mentioned	As determined by the mentioned County

Board following review by the Planning Commission, to be set based upon listed similar uses.

#### **718.05. Off-Street Loading and Unloading Areas**

- 1) Location. All required loading berths shall be off-street and shall be located on the same lot as the building or use to be served. A loading berth shall be located at least twenty-five (25) feet from the intersection of two (2) street right-of-ways and at least fifty (50) feet from a residential district unless within a building. Loading berths shall not occupy the required front yard space.
- 2) Size. Unless otherwise specified in this Ordinance, a required loading berth shall not be less than twelve (12) feet in width and fifty (50) feet in depth exclusive of aisle and maneuvering space.
- 3) Required Loading Spaces. The number of required loading spaces shall be determined by the County Board following review by the Planning Commission.
- 4) Access. Each required loading berth shall be located with appropriate means of vehicular access to a street or public alley in a manner that will least interfere with traffic.
- 5) Surfacing. All loading berths and access ways shall be improved with a durable material to control the dust and drainage.
- 6) Accessory Use. Any space allocated as a loading berth or maneuvering area so as to comply with the terms of this Ordinance shall not be used for the storage of goods, inoperable vehicles or be included as a part of the space requirements necessary to meet the off-street parking area.
- 7) In connection with any structure which is to be erected or substantially altered, and which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles, there shall be provided off-street loading space.
- 8) Where noise from loading or unloading activity is audible in a residential district, the activity shall terminate between the hours of 7:00 p.m. and 7:00 a.m. except for the loading and unloading of grain.

#### **719. Access Drives and Access**

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

along the frontage of the roadway, or an existing private roadway approved by the County Board.

- 5) Upon the building of a new county road or the regrading of any County road, all accesses must adhere to the provisions of the Fillmore County Zoning Ordinance.

## **720. Signs**

### **720.01. Approval of Plans**

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

### **720.02. Prohibited Signs**

No sign shall be permitted:

- 1) In a location which would interfere with the view of any traveler on any roadway of approaching vehicles or of traffic control devices on signs for a distance of five hundred (500) feet.
- 2) On rocks, trees or other perennial plant or on any public utility pole.
- 3) Containing a rotating beam or beam of light resembling an emergency vehicle.
- 4) Which simulates any official, directional or warning sign erected or maintained by the state, county, municipality, or other governmental subdivision or which incorporates or makes use of light simulating or resembling traffic signals or control signs.
- 5) Which casts a distracting or confusing ray of light onto, or visible from, a public roadway.
- 6) Which interferes with public facilities or the maintenance thereof.
- 7) Which obstructs any window, door, fire escape, stairway, or opening essential to the provision of light, air, ingress, or egress from any building.
- 8) Which contains more than two surface areas or facings.
- 9) Within the right-of-ways of any public road, except as erected by an official unit of government for the direction of traffic or necessary public information.

### **720.03. Temporary Signs**

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

- 1) Real Estate Signs- not to exceed sixteen (16) square feet in area which advertise the sale, rental or lease of the premise upon which the sign is temporarily located.
- 2) Name, Occupation and Warning Signs - not to exceed sixteen (16) square feet in area located on the premises.
- 3) Official Signs- such as traffic control, directional signs, parking restrictions, information and notices.
- 4) Political Signs- are allowed in any district on private property with the consent of the owner of the property. Such signs must be removed within seven (7) days following the

date of the election or elections to which they applied.

- 5) Construction Signs- not exceeding thirty-two (32) square feet of area shall be allowed in all zoning districts during construction. Such signs shall be removed when the project is completed.
- 6) Ag Uses Products Sign- provided that they are located within three hundred (300) feet of the Ag lot residents' property and relate to Ag products, merchandise or services sold, produced, manufactured or furnished on such Ag lot, and provided further that no such devices shall exceed twenty-five (25) square feet in area.
- 7) For Sale or For Rent Signs- not to exceed sixteen (16) square feet in area that advertises property as being for sale or for rent.
- 8) Residential Signs- signs which either identify personal property or residents and provided that they are affixed flat thereto and do not contain more than two (2) square feet in area.
- 9) Miscellaneous Signs- signs or posters of a miscellaneous character that advertise temporary events, provided they are self supporting and not tacked, posted, painted or otherwise affixed to walls of buildings, trees, fences or poles. Said signs shall be removed forty-eight (48) hours after the culmination of the special event.

#### **720.04. Non-Conforming Signs**

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

#### **720.05. Sign Maintenance**

- 1) Painting: The owner of any sign shall be required to have such sign properly painted at least once every two (2) years, if needed, including all parts and supports of the sign, unless such supports are galvanized or otherwise treated to prevent rust.
- 2) Area Around Sign: The owner or lessee of any sign or the owner of the land on which the sign is located shall keep the weeds, or other growth cut and the area free from the refuse between the signs and the street and also for a distance of six (6) feet behind and at the ends of said sign.

#### **720.06. Obsolete Signs**

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

#### **720.07. Unsafe and Dangerous Signs**

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

(10) days after written notice from the Zoning Administrator.

**720.08. Size of Sign**

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

**Road Ownership**

	<b>Township Road</b>	<b>County Road</b>	<b>State Road</b>
Ag District	32	32	32
Rural Residential	32	32	32
Residential	32	32	32
Commercial	32	32	250
Industrial	32	32	250

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

**720.09. Sign Height**

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

**720.10. Location of Signs**

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

**721. Excavation of Materials and Minerals, Open Pit and Impounded Waters**

**721.01. Conditional Use Permit Required**

No person shall dig, excavate, enlarge, make, maintain or allow to be maintained, upon property owned or used by him, any open pit, rock quarry, sand pit, excavation or any impounded water, without first making an application for and obtaining from the County Board a Conditional Use Permit except as otherwise allowed in Section 721.03.

**721.02. Activities included in a Conditional Use Permit**

A Conditional Use Permit shall specify the permitted activity. A conditional use permit for a rock quarry shall permit the related activities of overburden removal, soil boring, blasting, rock crushing, stockpiling, and hauling. A Conditional Use Permit for a Sand Pit shall allow the

related activities of overburden removal, sand removal, stockpiling, and hauling. Blasting is not allowed in sand pits.

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

### **721.03. Rock Quarry and Sand Pit Classifications**

1. New Rock Quarry or Sand Pit - To be classified as a new rock quarry or sand pit, the sand pit or rock quarry site must not have had a previous valid Conditional Use Permit to operate.
2. Existing Rock Quarry or Sand Pit - To be classified as an existing rock quarry or sand pit, the sand pit or rock quarry site must have a current valid Conditional Use Permit to operate.

### **721.04. Exceptions**

No conditional use permit shall be required for:

- 1) The excavation of earth necessary for the construction of a structure permitted by the Zoning Office.
- 2) The impounding of water in an open pit or pond designed for agricultural uses.
- 3) The excavation of earth for essential services or public utility work.

### **721.05. Application Requirements for a Conditional Use Permit**

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

- 1) The applicant of any sand pit or rock quarry is required to provide Fillmore County a map and legal description of the rock quarry or sand pit. The legal description and map shall at a minimum include:
  - a. The legal surveyed boundaries as projected for the life of the rock quarry or sand pit.
  - b. In the case of the rock quarry, a map showing all homes that exists within one thousand (1,000) foot of the legal boundaries of the quarry.
- 2) Provide proof of all required Federal and State licenses and permits;
- 3) Provide proof of appropriate insurance coverage;
- 4) Provide proof of an ownership or leasehold interest to the Zoning Administrator;
- 5) Submit proposed plans for any known future expansion;
- 6) Provide a description of the proposed locations and volumes of onsite stockpiling;

- 7) Provide a description of the types of materials to be excavated, types of processing that will be utilized, the expected volume of the materials, and the projected lifetime of the use;
- 8) Provide a Reclamation Plan;
- 9) Submit a proposed fencing, screening, and sloping plan necessary to minimize noise, dust, erosion and other adverse effects of the activity;
- 10) All structures used to impound water except those used for agricultural purposes must be designed by a professional engineer registered in the State of Minnesota;
- 11) For all new rock quarries and sand pits, and expansions of existing rock quarries and sand pits:
  - a) Applicant must provide a geologic survey.
  - b) Applicant must submit a Karst Investigation.

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

#### **721.06. Operational Requirements for Rock Quarries and Sand Pits**

All rock quarries and sand pits which receive a conditional use permit shall comply with the following requirements:

- 1) All blasting must comply with Bureau of Mines Standards.
- 2) For rock quarries, there must be a one thousand (1,000) foot setback from the approved surveyed boundary and any dwelling unless the dwelling is owned by the applicant or landowner.
- 3) There must be a fifty (50) foot setback from the property lines.
- 4) A seismograph must be used during all blasting.
- 5) An approved reclamation plan must be on file in the Zoning Office and it must be implemented when the quarry or pit is exhausted or abandoned.
- 6) For rock quarries, require that adjacent dwelling occupants and land occupiers within one-half (½) mile as determined by the Fillmore County Assessors Office of the surveyed boundary of a rock quarry shall receive annual notification from the quarry operator of their right to receive notice of a specific blasting event. Notice of a specific blasting event must then be given by the quarry operator to those dwelling occupants and land occupiers within one-half (½) mile who have requested notice of the specific blasting event. The dwelling occupant or land occupier must provide the quarry operator the name and address to which the notice must be sent. Notice of the specific blasting event shall be provided at least ten (10) days prior to the specific blasting event. Any municipality within one-half (½) mile of the surveyed boundary of a rock quarry shall have the City Clerk receive the notice in lieu of individual notices sent to residents in the municipality.
- 7) An inspection and certification fee in an amount to be set by the County Board must be paid annually.
- 8) All roads used for the transportation of sand and rock must be maintained to the satisfaction of the local road authority.
- 9) All rock quarry and sand pit operators must provide proof of an active insurance policy.
- 10) All operators must work with the SWCD so the site including all stockpiles and overburden piles are maintained so as not to cause erosion.
- 11) Properly guard and maintain the property so that it does not become a danger or nuisance.

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

#### **721.07. Bonds May Be Required**

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

#### **722. Sinkhole Dumping Abatement**

##### **722.01. Purpose**

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

##### **722.02. Prohibitions**

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

##### **722.03. Permitted Fill**

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

##### **722.04. SWCD Approval**

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

#### **722.05. Removal Requirements**

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

#### **722.06. Cleanup Responsibility**

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

#### **722.07. County Board Authority**

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

#### **722.08. Financial Assistance**

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

#### **722.09. Drain Tile Prohibition**

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

#### **722.10. Investigations**

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

#### **722.11. Written Notification**

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

#### **722.12. Violations**

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

#### **723. Essential Service Regulations**

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

#### **724. Tile Drainage**

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

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

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

- 1) Tile crossings will require a design developed by the Fillmore County Soil and Water Conservation District and approved by the County Engineer.
- 2) Aggregate surface roads may be crossed with an open trench. Hard surfaced roads will require borings at the required elevations.
- 3) The minimum requirements for road crossings require plastic sewer or water lines with the following ratings: SD35, Schedule 40, or 100 PSI pipe or heavier grades of pipe.
- 4) The road-crossing pipe shall be the next size larger than the tile line and extend from right of way line to right of way line at ninety (90) degrees to the roadway.

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

#### **725. Watercraft**

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

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

## **726. Sawmills**

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

## **727. Sale of Dwellings**

Any dwelling located within the Ag district, and located within one thousand (1,000) feet of a registered feedlot may be split off a larger parcel if the owners or majority shareholder of a family farm corporation of said dwelling and feedlot are one in the same, related by first, second, third, or fourth degree kindred, provided all other regulations in the Zoning Ordinance are met.

## **728. Bed and Breakfast Establishments**

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

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

## **729. Country Inns**

### **729.01. Conditional Use Permit Required**

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

### **729.02. Requirements**

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

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

## **730. Farmers Markets**

A farmers market shall adhere to the following requirements:

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

## **731. Privately owned Airports**

All privately owned airports in Fillmore county having submitted to the *Federal Aviation Administration (FAA)* a Form 7480-1, "Notice of Landing Area Proposal" and having subsequently provided a copy of the FAA airspace determination listing no objections by the

Fillmore County Zoning Office, shall be protected from towers and other tall structures which are greater than one hundred fifty (150) feet in height above the established airport elevation within one (1) statute mile measured from the closest point of the closest runway at that airport. From one to three (1-3) statute miles of the airport, that height shall increase in a proportion of one hundred (100) feet for each additional mile up to a maximum of three hundred fifty (350) feet above the airport elevation at three (3) miles. (Hence: A tower or other tall structure shall not be greater than two hundred (200) feet above the airport elevation at one and one-half (1 ½) miles, two hundred fifty (250) feet above the airport elevation at two (2.0) miles, three hundred (300) feet above the airport elevation at two and one-half (2 ½) miles, and three hundred fifty (350) feet above the airport elevation at three (3) miles.)

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

### ***NOTIFICATION***

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

Tower Height (AGL)

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

### **732. Large Assemblies, Repealed April 6, 2010**

### **733. Telecommunication Facilities**

#### **733.01. Purpose**

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

- 1) Minimize adverse visual effects of telecommunications towers, antennas and facilities through design and siting standards.
- 2) Maintain and ensure that a non-discriminatory, competitive and broad range of telecommunications services and high quality telecommunications infrastructure

consistent with the Federal Telecommunications Act of 1996 are provided to serve the community, as well as serve as an important and effective part of the Fillmore County law enforcement, fire and emergency response network.

- 3) Provide a process for obtaining necessary permits for telecommunications facilities while at the same time protecting the interests of Fillmore County citizens.
- 4) Protect environmentally sensitive areas of Fillmore County, including the protection of migratory birds, by regulating the location, design and operation of telecommunications towers, antennas and facilities. The following aspects of this ordinance are promoted based on recommendations contained within U.S. Fish and Wildlife Service Guidelines on the Siting, Construction, Operation and Decommissioning of Communication Towers (September 14, 2000): the commitment to exhausting co-location opportunities before allowing new towers, the placement of a maximum height limitation on new towers, the effective prohibition of guyed tower structures, and the prohibition of towers in key habitat areas such as wetlands, shorelands and floodplains.
- 5) Encourage the use of alternative support structures, co-location of new antennas on existing telecommunications towers, and construction of towers with the ability to locate four or more providers.

### **733.02. Exemptions**

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

### **733.03. Areas Where Telecommunications Facilities May Be Allowed Or Prohibited**

- 1) Telecommunications facilities may be permitted as a Conditional Use in the following zoning districts, subject to public hearing and approval by the Planning Commission:
  - a. Agriculture
  - b. Commercial
  - c. Industrial
- 2) Telecommunication facilities, except exempt facilities, shall not be allowed in the following areas due to potential harm to the environment:
  - a. Shoreland
  - b. Floodplains

- c. Blufflands
- 3) Telecommunication facilities, except exempt facilities, shall not be allowed in the following areas due to potential conflict with other uses of the land:
  - a. Historic sites and districts listed on the National Register of Historic Places
  - b. Habitat areas of threatened or endangered species
  - c. Residential Districts

#### **733.04. Conditional Use Permit Required**

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

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

- 1) A legal description of the facility site.
- 2) A plat of survey showing the parcel boundaries, lease boundaries, tower, accessory structures, ancillary facilities, location, access, landscaping and fencing.
- 3) An original signature of the applicant, landowner, lessees and holders of easements.
- 4) The name addresses and telephone number of the officer, agent or employee responsible for the application.
- 5) A description of the telecommunications services that the applicant offers or provides to persons, firms, businesses or institutions. In the case of a leased site, a lease agreement or binding lease memorandum, which shows on its face that it does not preclude the facility owner from entering into leases on the tower with other provider(s) and the legal description and amount of property leased.
- 6) Copies of co-location search letters and responses as defined by Section 733.05.
- 7) A tabular and map inventory of all the applicant's existing telecommunications facilities located within Fillmore County and including all of the applicants' existing telecommunications facilities within one (1) mile of the county boundary.
- 8) Federal Communication Commission (FCC) license numbers and registration numbers, if applicable.
- 9) Copies of Finding of No Significant Impacts (FONSI) statement from the Federal Communication Commission (FCC) or Environmental Impact Study (EIS), if applicable.
- 10) Copies of the determination of no hazard from the Federal Aviation Administration (FAA) including any aeronautical study determination or other findings from the Minnesota Department of Transportation Bureau of Aeronautics if applicable.
- 11) Photo simulations of the proposed facilities from points of interest as identified by the Zoning Administrator or Planning Commission. A photo simulation shall be no smaller than eight (8) inches by ten (10) inches.
- 12) An alternatives analysis, prepared and signed by a radio frequency engineer, shall be submitted by the applicant or on behalf of the applicant by its designated technical representative, except for exempt facilities, for review by the Zoning Office and the Planning Commission. The analysis shall identify all reasonable, technically feasible, alternative locations or facilities which could provide the proposed telecommunications

service within three (3) miles of the proposed site. The analysis shall include:

- a. Propagation maps showing the existing and proposed signal of the carrier or service provider within all of Fillmore County and within at least five (5) miles of the county boundary. Propagation maps shall include areas served through roaming agreements with other service providers if applicable.
- b. An explanation of the feasibility of co-locating the proposed telecommunication service on all existing facilities within the three (3) mile radius.
- c. An explanation of the feasibility of locating the proposed telecommunication service on an alternative support structure within the three (3) mile radius.
- d. An explanation of the rationale for the site that was selected in view of the relative merits of any of the feasible alternatives.
- e. A report prepared by a structural engineer licensed by the state of Minnesota certifying the structural design of the tower and its ability to accommodate at least three additional antennas.
- f. Proof of liability coverage. Fillmore County shall be a certificate holder in this policy.
- g. Proof of financial security for tower removal as defined in Section 733.09.
- h. Such other information as the Zoning Administrator or Planning Commission may reasonably require.

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

### **733.05. Co-location**

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

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

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

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

- 1) No existing towers or alternative support structures are located within the geographic area required to meet the applicant's engineering requirements.
- 2) Existing towers or alternative support structures are not of sufficient height to meet the

- applicant's engineering requirements.
- 3) Existing towers or alternative support structures do not have sufficient strength to support the applicant's proposed antenna and related equipment.
  - 4) The applicant's proposed system would cause electromagnetic interference with the system on the existing tower or alternative support structure, or the system on the existing tower or alternative support structure would cause electromagnetic interference with the applicant's proposed system.
  - 5) The fees, cost or contractual provisions required by the owner to share an existing tower or alternative support structure or to adapt an existing tower or alternative support structure for co-location are unreasonable. Costs are considered reasonable if they conform to contractual terms standard in the industry within southeast Minnesota area or do not exceed the cost of new tower development.
  - 6) The applicant demonstrates that there are other limiting factors that render existing towers or alternative support structures unsuitable.

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

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

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

### **733.06. Design Requirements**

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

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

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

*Height* of all telecommunications towers shall be limited to no more than three hundred (300) feet above original grade, unless the applicant can demonstrate to the satisfaction of the Planning Commission and County Board that a greater height is necessary to provide coverage meeting

the minimum requirements of the Federal Communication Commission (FCC) license(s) and that no feasible alternative exists to provide coverage, such as co-locating on existing telecommunications towers or alternative support structures, constructing a new tower in a different location or constructing multiple towers of a shorter height.

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

### **733.07. Performance Standards**

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

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

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

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

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

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

**Setbacks.** The following minimum setback distances shall apply:

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

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

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

### **733.08. Pre-existing Telecommunications Towers and Facilities**

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

### **733.09. Removal of Abandoned Telecommunications Facilities**

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

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

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

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

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

### **733.10. Fees**

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

### **734. Rural Home Based Business**

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

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

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

### **735. Extraction of Water for Water Bottling Purposes**

- 1) No person shall establish a water bottling business in Fillmore County without receiving a Conditional Use Permit.
- 2) Any business established and conducted in the Ag District for the extraction of water for water bottling purposes shall extract and bottle no more than two thousand five hundred (2,500) gallons per day. Said business shall provide proof of actual water usage to the satisfaction of the County Board.
- 3) Any business extracting water for water bottling purposes shall adhere to all regulations established by the Minnesota Departments of Health, Agriculture, and Natural Resources. A letter from each of these departments stating that no adverse effects will be realized from such water bottling activities must be submitted to the Planning Commission and County Board as part of the Conditional Use Permit application.