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ARTICLE X -- GENERAL REGULATIONS

Section 10.00 PURPOSE

The general regulations established in Article X are designed to encourage a high standard of development by providing assurance that neighboring land uses will be compatible. The general regulations are designed to prevent and eliminate those conditions that cause blight or detriment to the environment. Before any zoning certificate is issued, the Salem Township Zoning Administrator shall determine whether the proposed use will conform to the general regulations. The developer or landowner shall supply the data necessary to demonstrate that the development or use will be in conformance.

Section 10.01 SINGLE FAMILY DWELLING STANDARDS:

The following regulations shall govern all single-family dwellings located within the RA or RSD Zoning districts:

- A. The dwelling must have a supporting perimeter wall foundation, or the foundation system is screened by a perimeter wall system of either a finished masonry type, or the same exterior material as the exterior finish of the dwelling and must extend from the base of the structure to the adjacent grade.
- B. If not constructed on site, the dwelling must meet the provisions of Minnesota Statutes, Chapter 327.31 Subd. 3 (Manufactured Home Building Code).
- C. All single family detached dwellings must have a minimum dimension of at least twenty two (22) feet at the first floor level over at least 50 percent of its length.

Section 10.02 HOME BUSINESSES: *

The intent of the provisions providing for home businesses is to encourage new business uses by reducing the barriers to entry for new business enterprises, while maintaining a consistency with the residential or rural character of the districts that such uses locate in. *

- A. In any zoning district where home businesses are authorized, a home business shall comply with the following regulations:
 - 1. Said use shall occupy an area no more than twenty five (25%) percent of the total floor area of the dwelling.
 - 2. No home business shall require interior or exterior alterations of the dwelling exceeding 25% of the estimated building value as determined by the most current Olmsted County property records. No home business shall create emissions, surface or groundwater discharges, odor, dust, noise, electrical

disturbances, glare, or vibrations exceeding the standards of the Minnesota Pollution Control Agency as specified in Minnesota Rules.

3. Any parking generated by the conduct of the home occupation shall be provided for off the street, outside the required front yard and side street side yard.
 4. Notwithstanding any other provision to the contrary, no adult establishment shall be allowed as a home occupation in any district.
- B. A home business allowed in the R-A, R-1, R-2, ARC or RSD Districts shall comply with the following regulations, in addition to the requirements of Section 10.02 A.
1. No person shall be employed other than a member of the household residing on the premises.
 2. The home business shall be conducted entirely within buildings, including the dwelling and no more than one accessory structure, except for swimming pools, tennis courts, and similar outdoor recreational uses and except for outdoor facilities associated with daycare, and may involve the use of no more than one accessory structure exclusively for storage.
 3. Free-standing signage shall be limited to one (1) non-illuminated identifying sign measuring not more than two square feet in area.
 4. Off-street parking shall be provided on a paved or gravel surface.
 5. No more than two vehicles used in connection with the home business shall be visible on the premises, limited to licensed and operable Two Axle; Six-Tire Single Unit Vehicles as defined by the Federal Highway Administration (see <http://www.fhwa.dot.gov/policy/ohpi/vehclass.htm>). No vehicle may display a sign exceeding forty (40) square feet per side of vehicle when visible on the premises.
 6. The following businesses may be permitted as a home business in the R-A, R-1, R-2, ARC, or RSD Districts:
 - a) Permitted Uses:
 - 1) Attorney, doctor, dentist, financial, insurance, real estate, engineering, advertising agencies, artist, or photographic studios, and similar professional office uses.
 - 2) Personal services limited to the following uses: beauty shops, barber shops, clothing rental, fitness coaching, photographic studios, cleaning and garment services except for dry cleaning and coin laundries.
 - 3) Production of apparel, fabric, quilts, furniture, and similar goods on the premises.

- 4) Retail trade of goods produced on the premises, as an incidental use associated with another non-retail home business use, or as an office and storage use where sales activity is conducted off-premises (such as home-based distributorships).
 - 5) Repair services typically conducted within dwellings, such as jewelry and watch repair.
- b) **Conditional Uses:** All other home businesses not listed above as permitted uses shall be considered through the conditional use permit process, except that no business shall be permitted as a home business that is allowed as a conditional use in the RC, CS, HC, A/RC (8.09), A/RC (8.09.2), MI, or I districts.
- C. A home business allowed in the A-1, A-2, A-3, or A-4 Districts shall comply with the following regulations, in addition to the requirements of Section 10.02 A.
- 1. The following businesses may be permitted as a home business:
 - a) **Permitted Uses:**
 - 1) Attorney, doctor, dentist, financial, insurance, real estate, engineering, advertising agencies, artist or photographic studios, and similar professional office uses.
 - 2) Veterinary services offices.
 - 3) Personal services limited to the following or similar uses: beauty shops, barber shops, clothing rental, fitness coaching, photographic studios, cleaning and garment services except dry cleaning and coin laundries.
 - 4) Production of apparel, fabric, quilts, furniture, and similar goods on the premises.
 - 5) Retail trade of goods produced on the premises, or as an incidental use associated with another non-retail home business use, or as an office and storage use where sales activity is conducted off-premises (such as a home-based distributorships).
 - 6) Repair services typically conducted within dwellings, such as jewelry and water repair.
 - 7) Motor vehicle repair, body shops, welding and other repair services.
 - 8) Offices and storage for plumbing, electrical, and similar trades.
 - b) **Conditional Uses:**

- 1) A business allowed as a conditional use in the RC, CS, HC, or I districts or in the district of residence shall be considered for approval as a home business only through the conditional use permit process.
- 2) All other home businesses not listed above as permitted uses shall be considered only through the conditional use permit process.
- 3) Any business listed above proposing to have more than two vehicles used in connection with the home occupation stored or stopped on the premises, or any business proposing to use a vehicle other than a Two-Axle, Six-Tire Single Unit Vehicle, as defined by the Federal Highway Administration.

D. A home business allowed as a permitted use on a parcel smaller than 35 acres in area in the A-1, A-2, A-3, or A-4 Agricultural Districts shall comply with the following regulations, in addition to the requirements of Section 10.02 A and 10.02 C.

1. No person shall be employed other than a member of the household residing on the premises.
2. Said use shall not occupy an area of more than twenty five (25%) percent of the total floor area of the dwelling and not more than one accessory structure with a floor area of 2,400 square feet or less.
3. Outside storage of material or equipment or display of merchandise is permitted only on paved or gravel surfaces and shall not exceed 5,000 square feet, and shall be screened from view from adjacent residences.
4. The total surface area devoted to the home business shall not exceed 5,000 square feet including outside storage and parking areas and the accessory structure.
5. Free-standing signage shall be limited to one (1) non-illuminated identifying sign measuring not more than 32 square feet in area.

E. A home business allowed as a permitted use on a parcel of 35 acres or more in the A-1, A-2, A-3, or A-4 Agricultural Districts shall comply with the following regulations, in addition to the requirements of Section 10.02A and 10.02C:

1. No person shall be employed other than a member of the household residing on the premises.
2. Said use shall not occupy an area of more than twenty five (25%) percent of the total floor area of the dwelling and not more than one (1) accessory structure with a floor area of 5,000 square feet or less.

3. Outside storage of material or equipment or display of merchandise is permitted only on paved or gravel surfaces, shall not exceed 5,000 square feet, and shall be screened from view from adjacent residences.
 4. The total surface area devoted to the home business shall not exceed 10,000 square feet including outside storage and parking areas and the accessory structure.
 5. Free-standing signage shall be limited to one (1) non-illuminated identifying sign measuring not more than 32 square feet in area.
- F. A home business may be permitted as a conditional use in the A-1, A-2, A-3, or A-4 Agricultural Districts on a parcel smaller than 35 acres in area, provided it complies with the following regulations, in addition to the requirements of Section 10.02A and 10.02 C.
1. No more than five (5) full time equivalents (FTE) shall be employed who are not members of the household residing on the premises.
 2. Said use shall not occupy an area of more than twenty five (25%) percent of the total floor area of the dwelling and not more than one (1) accessory structure with a floor area of 5,000 square feet or less.
 3. Outside storage of material or equipment or display of merchandise is permitted only on paved or gravel surfaces, and shall be screened from view from adjacent residences.
 4. The total surface area devoted to the home business including outside storage, parking areas, and accessory structure shall be limited to the minimum necessary to conduct the use, but not more than 20,000 square feet or 10% of the lot area, whichever is less.
 5. Free-standing signage shall be limited to one (1) non-illuminated identifying sign measuring not more than 32 square feet in area.
- G. A home business may be permitted as a conditional use in the A-1, A-2, A-3, or A-4 Agricultural Districts on a parcel of 35 acres or more, provided it complies with the following regulations, in addition to the requirements of Section 10.02 A and 10.02 C.
1. No more than five (5) full time equivalents (FTE) shall be employed who are not members of the household residing on the premises.
 2. Said use shall not occupy an area of more than twenty five (25%) percent of the total floor area of the dwelling and not more than one (1) accessory structure with a floor area of 5,000 square feet or less.
 3. Outside storage of material or equipment or display of merchandise is permitted only on paved or gravel surfaces, and shall be screened from view from adjacent residences.

4. The total surface area devoted to the home business including outside storage, parking areas, and accessory structure shall be limited to the minimum necessary to conduct the use, but not more than 20,000 square feet or 10% of the lot area, whichever is less.
5. Free-standing signage shall be limited to one (1) non-illuminated identifying sign measuring not more than 32 square feet in area.

Section 10.04 PARKING REQUIREMENTS:

A. Parking Definitions: The following parking definitions shall be used to determine the number of parking spaces required for each use:

1. **Building Capacity:** The maximum number of persons who may be accommodated by the use as determined by its design or by fire code regulations, whichever is greater.
2. **Employee(s):** The maximum number of employees employed at the facility, on the largest work shift, regardless of the time period during which this occurs.
3. **Floor Area:** In case of offices, merchandising, or service uses, "Floor Area" shall mean the gross floor area used or intended to be used by residents or for service to the public as customers, patrons, clients, or patients including areas occupied by offices, fixtures, and equipment used for display or sale of merchandise, it shall not include areas used principally for non-public purpose, such as storage, incidental repair, processing or packaging of merchandise, for show windows, for toilet or restrooms, for utilities or for dressing rooms, fitting or alteration rooms.
4. **Parking Space:** An area of not less than one hundred sixty-two (162) square feet exclusive of access drives or aisles and usable for storage or parking of motor vehicles.
5. **Place of Public Assembly-Benches:** In places of public assembly in which patrons or spectators occupy benches, pews, or other seating facilities, each twenty (20") inches of seating facilities shall be counted as one (1) seat for the purpose of determining requirements for off street parking facilities under this ordinance.

B. Location of Parking Facilities:

1. One family, single-family attached of three (3) dwellings or less and two-family: Off-street parking stalls shall be provided on the same lot as the dwelling.
2. Multiple family and other single-family attached: Off street parking shall be on lands owned by the same person who owns the building and located within two hundred (200) feet of the building.
3. Commercial and Industrial and other use: Off street parking shall be on land owned or leased by the same person who owns the building and located within six hundred (600) feet of the building they are intended to serve.

C. Parking Setbacks:

1. Off-street parking in the Agricultural or Residential Districts may occupy all or part of any required side or rear yard but shall not be located in the front yard, except in an established driveway.
2. Off street parking in the Commercial or Industrial Districts may occupy any required yards, except such parking shall be set back ten (10) feet from any road right of way.

D. Mixed Occupancies: In the case of mixed uses, the total requirements for off-street parking facilities shall be the sum of the requirements for the various uses computed separately. Off-Street parking facilities for one use shall not be considered as providing required parking facilities for any other use.

E. Required Number of Parking Spaces: The amount of required off-street parking spaces for new uses, buildings and additions shall be as specified in the following table:

TABLE 1 -- REQUIRED PARKING SPACES	
USE	REQUIRED PARKING SPACES
One family, single family attached, Two family dwelling and mobile home	Two (2) parking spaces for each dwelling unit.
Multiple family dwellings	One and one-half (1-1/2) parking spaces for each dwelling
Motels and Hotels	One (1) parking space for each guest room, plus two (2) additional parking spaces
Hospitals, Convalescent or Nursing Homes	One (1) parking space per four (4) beds.
Fraternity, Boarding and Rooming Houses	One (1) parking space for each two (2) lodging units.
Libraries, Art Galleries, Museums	One (1) parking space per 500 sq. ft. of floor area.
Churches, Auditoriums and Places of Assembly	One parking space for every five (5) seats.

USE	REQUIRED PARKING SPACES
Elementary and Nursery Schools	One (1) parking space for every two (2) employees.
Junior and Senior High Schools	One (1) parking space for every two (2) employees plus one (1) parking space for every five (5) seats in the auditorium or stadium (whichever is larger).
College, University or Trade School	One (1) parking space for every two (2) employees plus one (1) parking space for every ten (10) students.
Dance Halls, Places of Assembly and Exhibit Halls without fixed seating	One (1) parking place for every five (5) persons allowed as maximum building capacity.
Automobile or Machinery Sales	One (1) parking space for every 800 sq. ft of floor area.
Bowling Alleys	Four (4) parking spaces for every alley.
Clinics	One (1) parking space for every 200 sq. ft of floor area.
Funeral Home	One (1) parking space for every five (5) seats.
Furniture and Appliance Stores	One (1) parking space for every 600 sq. ft of floor area.
Offices, Banks and Public Administration	One (1) parking space for every 400 sq. ft. of floor area.
Restaurants	One (1) parking space for every four (4) seats, plus one (1) parking space for every two employees.
Retail Stores	One (1) parking space for every 150 sq. ft of floor area.
Service Garages and Car Washes	Five (5) parking spaces per stall.
All other Commercial	One (1) parking space for every 300 sq. ft. of floor area.
Industrial and Warehousing	One (1) parking space per employee

F. Development and Maintenance of Loading and Parking Areas:

1. **Surfacing and Drainage:** Off street parking areas shall be improved with a durable surface. Such areas shall be graded and drained as to dispose of all surface water without damage to adjoining property.
2. **Lighting:** Any lighting used to illuminate any off-street parking area shall be arranged as to reflect the light away from residential uses on adjoining lots.

3. **Access:** There shall be adequate provisions for ingress and egress to all parking and loading spaces. Said access drive shall not be less than eight (8) feet in width in the case of a dwelling, and lot less than eighteen (18) feet in width in all other cases; provided however, that one-way aisles for either ingress or egress for uses other than dwellings may be reduced to not less than ten (10) feet in width.
 4. **Necessary curbs or other protections** against damage to adjoining properties, roads, and sidewalks shall be provided and maintained.
 5. It shall be the responsibility of the owner of the principal user or of the property to insure that the parking area is neat and maintained in a safe condition.
- G. Parking of Trucks in R-Districts:** No trucks or commercial vehicles with a commercial (Y-type) license and of a rated gross vehicle weight of 12,000 pounds or more shall be parked on any residential premises in any R-district for any consecutive period of four (4) hours or more. This provision shall not prohibit the parking of any necessary construction vehicles during the construction period on the premises where construction is in progress.

Section 10.06 LOADING REQUIREMENTS:

- A. Required Loading Spaces:** On the premises with every building, structure, or part thereof, erected and occupied for manufacturing, storage, warehouse goods display, department store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning or other uses similarly involving receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading, and unloading services in order to avoid undue interference with public use of the roads or alleys.
- B. Development and Maintenance of Loading Spaces:** See Section 10.04 (F).

Section 10.08 Bufferyards:

- A. Purpose:** The purpose of the bufferyards is to separate different land uses from each other in order to eliminate or minimize potential nuisances such as dust, litter, noise, glare of lights, signs and buildings and parking areas, or to provide spacing to reduce adverse impacts of noise, odors or danger from fire or explosions or surface water runoff.

B. Required Bufferyards:

1. All new or major expansions of existing multiple family, commercial or industrial uses shall provide a bufferyard along the outer perimeter of the lot when such uses are adjacent to properties that are zones R-A, or R-1 (Residential) or A-4 (Agricultural) and designated for future residential use in the Comprehensive Plan.

A bufferyard shall also be provided when a new or major expansion of commercial or industrial use is adjacent to an R-2 (Low Density Residential) and R-3 (Medium Density Residential) District.

2. A major expansion for bufferyard purposes shall be considered to be an expansion or combination of expansions to buildings within the last five (5) years that exceeds fifty (50%) percent of its current market value according to Olmsted County Assessor’s records. The bufferyards shall be located on the outer perimeter of the lot, extending to the property line except when there exists a utility easement, in which case the bufferyard shall commence from the inner boundary of such utility easement. No bufferyard shall be located on any portion of an existing or dedicated public or private street right-of-way.
3. The following table specifies the intensity of the bufferyard that is required. For example, if a property is zoned I (Industrial) is located adjacent to a property zoned R-1 (Residential) the industrial property is required to provide Bufferyard E along the outer perimeter of his lot, which adjoins the R-1 (Residential) district. If an intervening arterial street separates the same properties, then Bufferyard B is required.

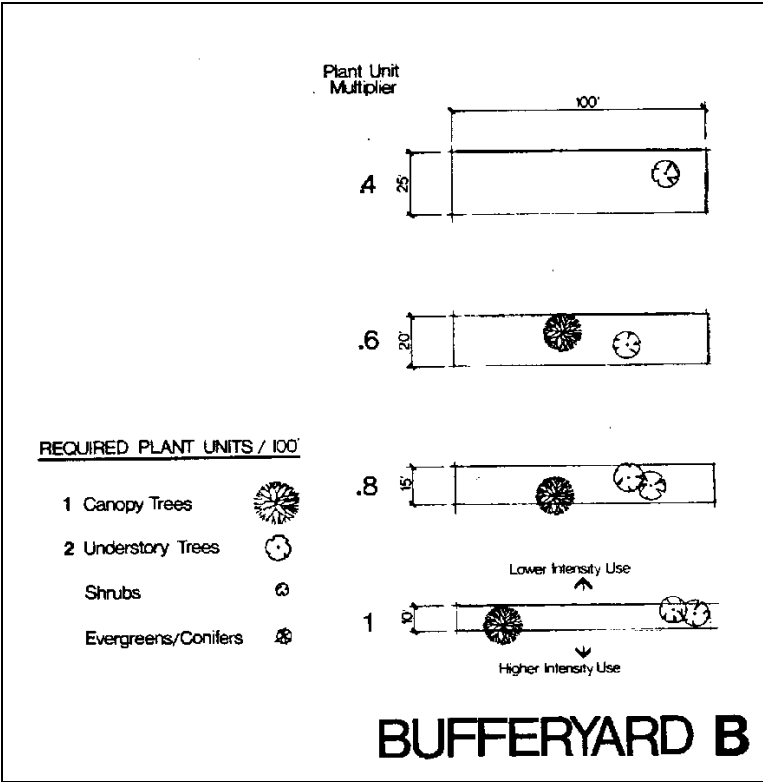
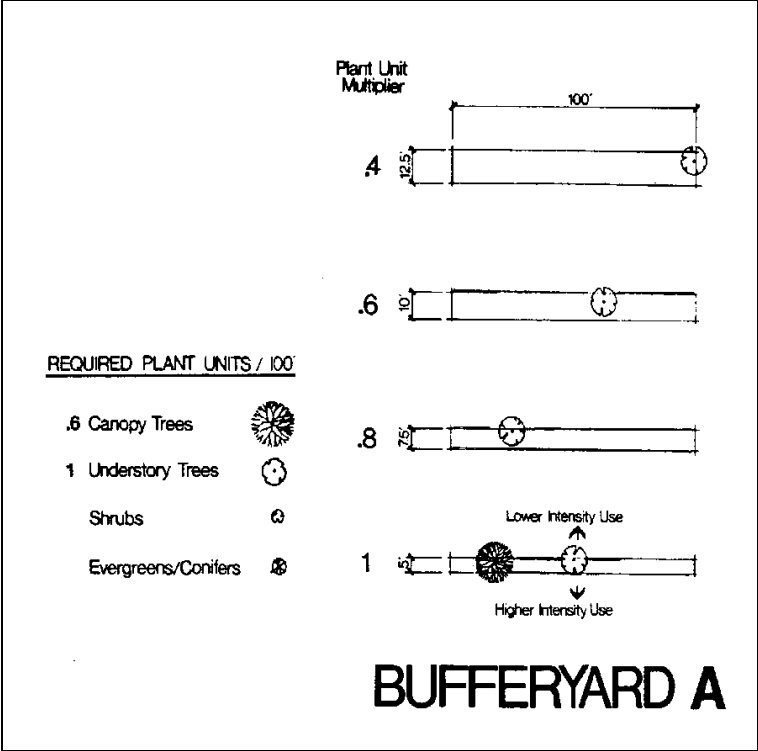
TABLE II—BUFFERYARD REQUIREMENTS				
ZONING DISTRICT	ADJACENT PROPERTY R-A, R-1,R-2 & A-4 DISTRICTS	ADJACENT PROPERTY R-A, R-1, R-2, & A-4 DISTRICT SEPARATED BY STREET*		
		EXPRESSWAY, FREEWAY & ARTERIAL	COLLECTOR	LOCAL
R-2 Residential	C	A	B	B
RC, CS & HC Commercial	C	A	B	C
Industrial	E	E	C	C
*The Currently Held Valid Official Thoroughfare Plan for Olmsted County shall be used to determine the classification of the street.				

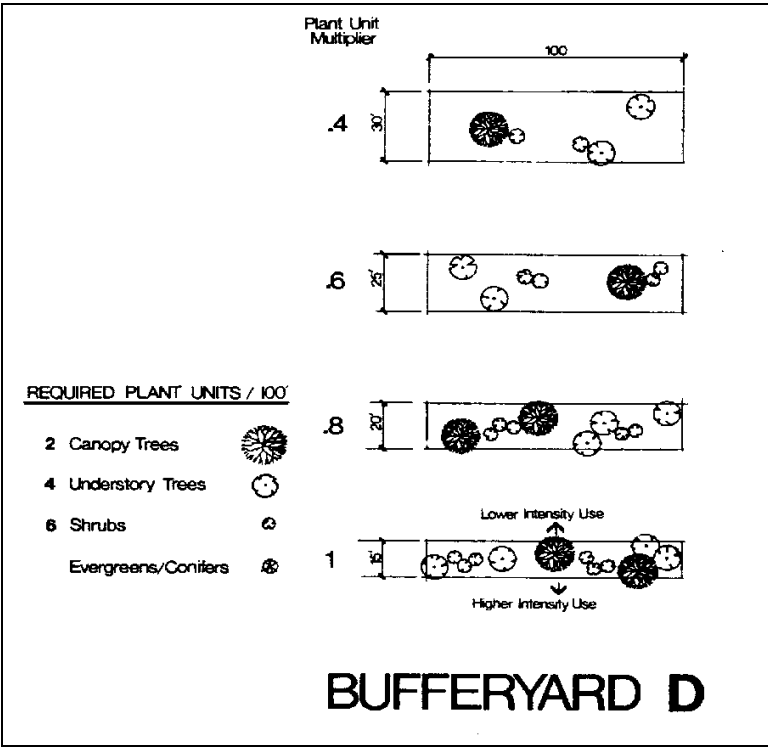
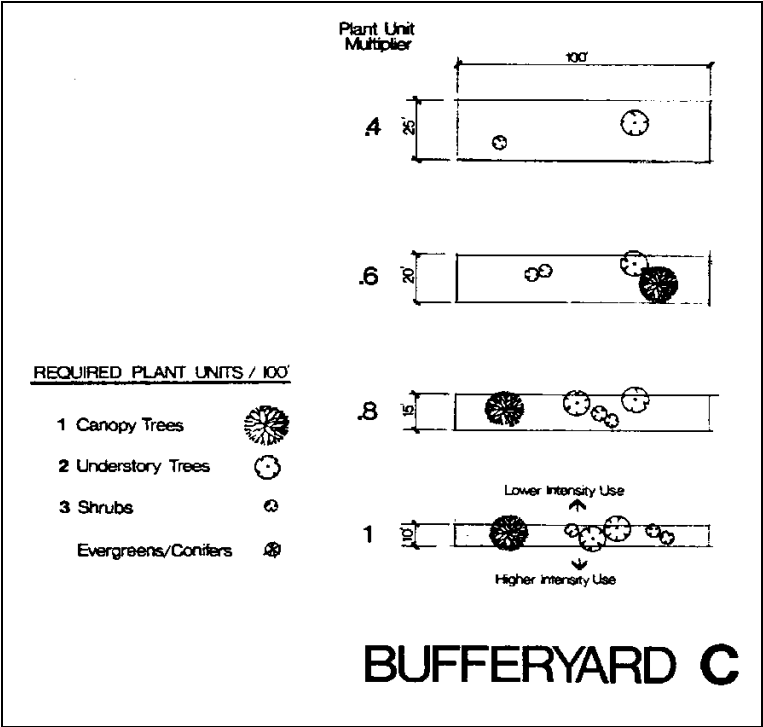
4. All bufferyards (A-E) permit four or five bufferyard widths ranging from ten (10) to thirty (30) feet, and specify the number of plantings required for each bufferyard width. In bufferyards D and E, fences are required in addition to plantings when a narrow bufferyard is to be used. The required fences are represented by the symbols F1, F2, and F3, and correspond to the illustration on fences. The property owner may select the width of bufferyard he will install and maintain.

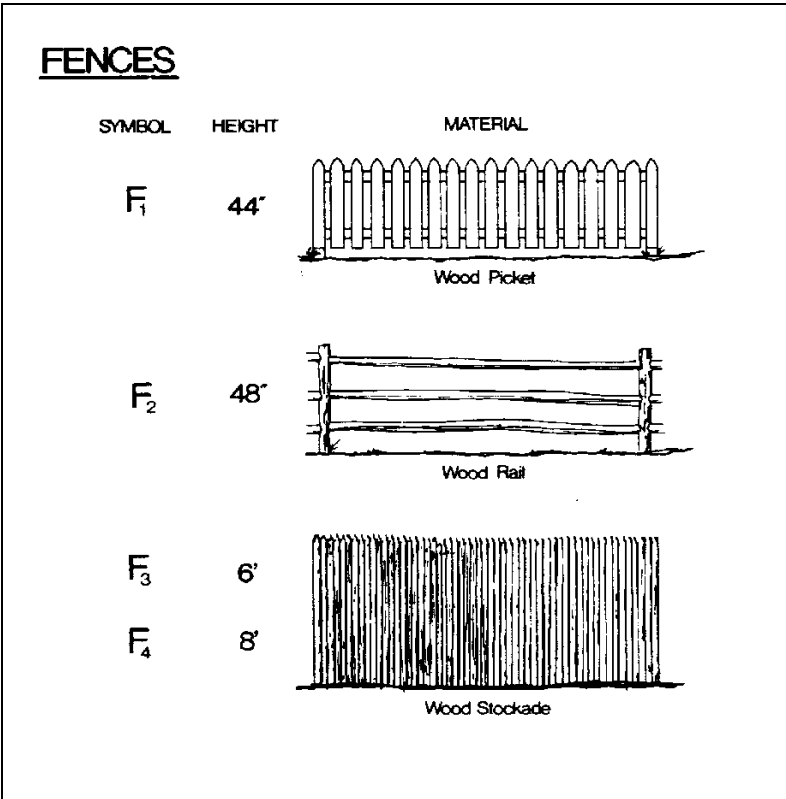
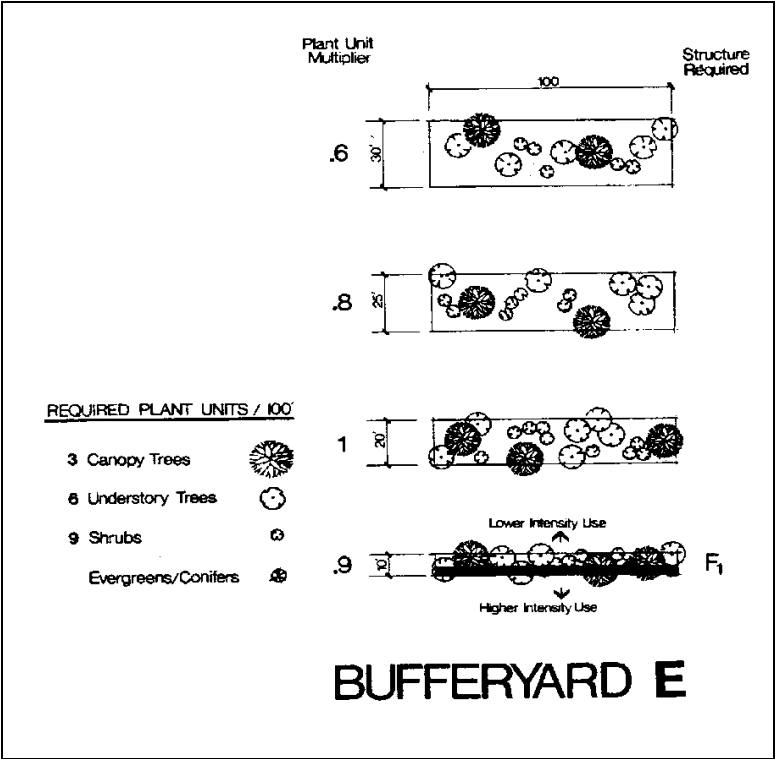
To determine the minimum number of plantings, refer to the appropriate bufferyard illustration, then choose the width of the bufferyard to be established, then multiply the "plant unit multiplier" by the lot dimension (feet) and by the "required plant units/100". For example if a property owner were required to provide Bufferyard B along 200 feet of lot dimension and choose to establish a 20 foot wide bufferyard, he would be required to provide one (1) canopy tree, two (2) understory trees and four (4) shrubs. The following calculations described how these figures were obtained:

.6	x	200 Feet	x	1/100 "Canopy"	=	1.2 Canopy
("Plant Unit Multiplier")		("Lot Dimension")	x	2/100 "Understory"	=	2.4 Understory
			x	3/100 "Shrubs"	=	3.6 Shrubs

5. All bufferyards shall be landscaped with rock, bark, grass or other suitable materials.







C. Existing Trees within Bufferyard:

1. Existing trees and shrubs may be counted as contributing to the required bufferyard, providing they meet the minimum plant size specified in Section 10.08 (F). Furthermore, any existing trees with a two and one-half (2.5) inch or greater caliper located within the bufferyard shall be preserved and maintained.
2. The Planning Advisory Commission may permit the removal of existing trees as described previously when such trees are determined to be undesirable or such trees have a minimal value as a bufferyard.
3. Notwithstanding Section 10.08 (C, 1) the removal of trees seriously damaged by storms or other acts of God or diseased trees shall not be prohibited.
4. In all cases when existing trees are removed, the intensity of the vegetation in the bufferyard shall be retained as to the requirements specified in Section 10.08 (B, 4).

D. Plant Substitutions:

1. In all bufferyards evergreen shrubs understory or canopy trees may be substituted for the required deciduous shrubs and trees.
2. A berm of at least four (4) feet in height may be substituted for the required shrubs.

E. Fence Substitution: Other types of fences may be substituted, providing such fence is of equivalent or greater screening and height.

F. Minimum Plant Size: Unless otherwise specifically indicated elsewhere in this zoning ordinance, all new plant materials shall meet the following minimum size standards:

Plant Material Type	Minimum Size
Canopy Tree	
Single Stem	1-1/2 inch caliper*
Multi-Stem Clump	6 feet (height)
Understory Tree	4 feet (height)
Evergreen Tree	3 feet (height)
Shrub	
Deciduous	15 inches (height)
Evergreen	12 inches (height)
*Caliper: Designed as a measurement of the size of a tree equal to the diameter of its truck measured six (6) inches above natural grade.	

G. Bufferyard Maintenance:

1. All trees and shrubs shall be maintained in a healthy growing condition. If any plants should die, they shall be replaced within sixty (60) days in order to maintain the required number of plantings as specified in Section 10.08 (B, 4).

H. Financial Guarantee:

1. Prior to the issuance of a zoning certificate, the owner or contractor shall provide either a letter of credit, a paid in full receipt of a reputable landscape firm, a performance bond or escrow deposit to ensure that bufferyards are installed according to Section 10.08 (B, 4). All financial guarantees shall be equal to the sum of one hundred (100%) percent of the total cost, including materials and labor, of installation of the bufferyard. The Township shall be entitled to reimburse itself out of said funds for any cost and expense incurred by the Township for completion of the work in case of default.

I. Bufferyard Uses:

1. A bufferyard may be used for passive recreation, it may contain picnic area, paths, fences, etc. and may include a sign if located adjacent to a street; provided that no plant material is eliminated and that no building, parking, loading or storage areas are permitted within the bufferyards.

J. Plant Materials: Plant materials chosen for use within required bufferyards shall be suited to the existing climatic conditions of southeastern Minnesota, and shall be compatible with the existing soil types found on the site. Since the purpose of the bufferyard is to provide screening of objectionable elements for adjacent land uses, the following plant characteristics shall be encouraged in the selection of plant materials:

1. **Density of Foliage:** Species that exhibit more structural stability as a result of more rigid petioles have less leaf movement and thus appear more solid and dense, and these types are encouraged.
2. **Growth Rate:** Species that have characteristically exhibited faster growth rates during the first 3-5 years of planting are desirable to establish the visual screening sooner.
3. **Structure:** In the cases of deciduous species, trees with a more emphatic branch structure and a more intricate twig structure will be preferred due to the fact that for up to six months of the year these species are without leaves and thus lose much of their screening ability.

4. **Salt Tolerance:** In the case of bufferyards along existing streets and roads, the ability of species to withstand salt will result in their enhanced chance for survival, especially in the early years of growth.
5. **Height:** In the case of understory trees and shrubs, those species with a projected height of at least 7 to 8 feet will be preferred to provide maximum screening for adjacent properties.
6. **Representative List of Trees and Shrubs:** The following is a representative list of trees and shrub species that are suitable for the purpose of bufferyard. Other species of similar characteristics and which are suitable for this climate may be used.

CANOPY TREES	
DECIDUOUS	EVERGREEN
Green Ash	Austrian Pine
Hackberry	Black Hills Spruce
Honey Locust	Colorado Spruce
Horse Chestnut	Ponderosa Pine
Linden	Scotch Pine
Norway Maple	White Pine
Oak	White Spruce
Sugar Maple	
White Ash	

UNDERSTORY TREES	
DECIDUOUS	EVERGREEN
Armur Maple	Arboviae
Black Alder	Junipers
Crab Apple	
Ohio Buckeye	
River Birch	
Russian Olive	
Russian Mulberry	
Service Berry	

SHRUBS AND HEDGES	
DECIDUOUS	EVERGREEN
American Elder	Artoivitae
American Hazel	Japanese Yew
Barberry	Junipers
Chokecherry	
Common Lilac	
Cotoneaster	
Dogwood	
Euonymous	
Honeysuckle	
Snow Berry	
Vibumums	

Section 10.10 EXTERIOR STORAGE AND AUTOMOBILES:

A. Exterior Storage-Residential Districts:

1. In residential districts, all lots shall be maintained and kept in a reasonably clean and neat condition. This requirement shall include the removal of dead trees and brush; the removal of inoperable machines, appliances, fixtures, and equipment so damaged, deteriorated or obsolete as to have no substantial value and which constitute junk; the removal of lumber piles and building materials not being used in actual construction on the premises.

B. Automobiles:

1. In Agricultural or Residential Districts, no person shall place, park, permit to remain, store or leave upon any premises except in a completely enclosed building, any motor vehicle which does not have affixed thereto a valid current motor vehicle license, or any portions thereof of parts therefrom, when such motor vehicle, portions thereof, or parts therefrom are in a rusted wrecked, partially dismantled or junked conditions or in an inoperative or abandoned condition; and the owner of such motor vehicle, portions thereof, or parts therefrom, and the owner and occupant of the premises upon which located shall be obligated to remove same to a duly licensed junk yard or other authorized place of deposit or storage.

Section 10.12 SALVAGE AND JUNK YARDS:

- A. All salvage and junkyards shall obtain a conditional use permit and satisfy the criteria for granting a conditional use permit contained in Section 4.02. Salvage and junkyards, furthermore, shall meet the following:
1. Salvage and junkyards shall be screened from any residential district and from any public road. Plans for such screening shall be submitted to the Planning Advisory Commission for approval.
 2. Any storage or dismantling of vehicles and machinery shall be done in a manner so as not to pollute the surface or ground water in the Township.
 3. Any existing salvage or junkyard shall comply with this Section (10.12) within five (5) years of the adoption of this ordinance.

Section 10.14 NOISE, HEAT, GLARE, VIBRATION, SMOKE, TOXIC WASTE, AND NOXIOUS FUMES:

Emission or creation of noise, heat, glare, vibration, smoke, toxic wastes, and noxious fumes shall conform to standards established by the Minnesota Pollution Control Agency.

Section 10.15 TELECOMMUNICATION TOWERS:

- A. **PURPOSE:** Salem Township acknowledges the legal right to wireless telecommunications providers to do business within the township. However, the township wishes to implement its legal authority to impose zoning requirements that are nondiscriminatory, not intended to prohibit telecommunications services, and not based on the health effects of radio frequency emissions. In order to establish predictable and balanced regulations that protect the public health, safety and general welfare of the community, these regulations are intended to:
1. Facilitate the provision of telecommunications services and facilities including commercial wireless telecommunication services in Salem Township;
 2. Minimize adverse visual effects of towers through careful design and siting standards;
 3. Avoid potential damage to adjacent properties from tower or antenna failure and weather related occurrences through structural standards, careful siting, and setback requirements;
 4. Encourage the placement of telecommunication towers on agricultural, commercial, or industrial property; and,

5. Encourage the use of existing towers and buildings to accommodate commercial wireless telecommunication service antennas in order to minimize the number of towers needed to serve the Township.

B. TOWER HEIGHT:

All proposed towers and accessory structures or buildings shall meet the maximum height provisions of the underlying zoning district and Section 4.02, Conditional Use, except as may be permitted under Section 10.15 C. Tower setback. In no case shall a tower or combined building/tower height exceed 199 feet where located within 1,000 feet of an existing residential subdivision or residential dwelling

The height of towers shall be determined by measuring the vertical distance from the tower's point of contact with the ground or rooftop to the highest point of the tower, including all antennas or other attachments. When towers are mounted on top of other structures or buildings, the combined height of the structure or building and tower must meet the height requirements of the applicable zoning district.

C. TOWER SETBACK:

1. Towers proposed to be located in **all** districts shall be set back from all property lines an amount equal to the height of the structure. Proposed setbacks that are less than the tower height may be permitted under the criteria for granting conditional uses found in Section 4.02 (A). All towers shall have a setback equal to the tower height from any dwelling in a nonresidential zoning district. This setback requirement does not apply to the property on which the tower is placed.
2. Towers located in all districts shall be required to provide a minimum setback from the property lines a distance equal to the height of the tower.
3. Guy wires for towers shall be located no closer than 25 feet to the property line.
4. Suitable protective anti-climbing fencing shall be provided around any tower and the bases of guy lines. Where fences are used to control unauthorized climbing of towers the fences shall conform to the setback requirements for principal structures or buildings. Fences or walls shall be located between the plantings and the tower based on the standards of Section 10.08 Bufferyards.

D. TOWER LOCATION:

1. The Joint Airport Zoning Ordinance covering the Rochester Airport shall determine height and location requirements within the airport-zoning district. All towers shall

have FAA approval prior to issuance of a building permit if within three miles of another public airport or heliport. All applicants shall demonstrate that the proposed tower will comply with FAA standards prior to the issuance of a building permit if located within 3 miles of a private airport. The FAA must issue a "no hazard" determination to comply with this provision

2. Towers shall not be permitted to be located with floodplains, or shorelands

E. TOWER DESIGN REQUIREMENTS:

1. Towers and antennas shall blend into the surrounding environment through the use of color and camouflaging architectural treatment, except where color is dictated by federal or state authorities. In the A-4 zoning district or within one quarter mile of a residential zoning district tower color shall be a solid color, not multi-colored, and shall be light blue, light beige, or unpainted and non-reflective.
2. Within one quarter mile of a residential zoning district, new towers shall be a monopole design. Existing towers may be used for the placement of antennas and will not be required to be of monopole design.
3. No tower shall have constructed thereon, or attached thereto, in any way any platform, catwalk, crow's nest, or like structure, except during periods of construction or repair when the tower is located within one quarter mile of a residential zoning district.
4. All guyed towers shall have the supporting cables bird diverter devices and a design recommended by the Minnesota Department of Natural Resources.

F. ANTENNA CO-LOCATION:

All commercial wireless telecommunication towers erected, constructed, or located within the Township shall comply with the following requirements:

1. A proposal for a new tower shall not be approved unless the Township finds that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within a one mile search radius of the proposed tower or within one mile of the telecommunications company's search area for the proposed tower, whichever is greater due to one or more of the following reasons:
 - a. The planned equipment would exceed the structural capacity of existing or approved tower or building, as documented by a qualified

and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned equipment at a reasonable cost;

- b. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer or qualified radio frequency engineer and the interference cannot be prevented at a reasonable cost;
- c. Existing or approved towers and buildings within the search radius that are 60 feet or over in height that cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer;
- d. Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building. The applicant shall submit with the conditional use application written statements from the existing tower owners found within the search radius, or provide evidence of efforts to contact and obtain statements from existing tower owners. The information submitted shall explain the limitations on the use of the existing towers and the specific reasons the applicant cannot make use of the existing tower. If there are restrictions on placement of additional antennas on an existing tower within the search radius, the submittal shall be prepared by a licensed engineer.

- 2. Any proposed tower shall be designed, structurally, electrically and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the tower is over 100 feet in height, or for a least one additional user if the tower is over 60 feet in height. Towers must be designed to allow for future rearrangements of antennas upon the tower and to accept antennas mounted at varying heights.
- 3. Service providers shall provide proof of licensure by the Federal Communications Commission. Applicants that propose constructing telecommunication towers must provide proof that a contract exists with a licensed commercial telecommunications service for the use of the applicant's tower.

G. ANTENNAS MOUNTED ON EXISTING BUILDINGS OR TOWERS:

The placement of telecommunications antennas including wireless telecommunication antennas on existing buildings, towers, or structures shall meet the requirements of

the underlying zoning district and this section. A site plan and building plan shall be submitted to the Township as part of the zoning certificate.

The placement of telecommunications antennas including wireless telecommunication antennas on existing building, towers, or structures, shall meet the requirements of the underlying zoning district and this section. A site plan and building plan shall be submitted to the zoning administrator as part of the zoning certificate. A zoning certificate shall be required for the placement of antennas on existing buildings or towers.

Where a tower is nonconforming due to the requirements of this section, additional telecommunications antennas may be permitted to be placed on the tower after being reviewed under Section 4.02 Conditional Uses.

H. ACCESSORY UTILITY BUILDINGS:

All buildings and structures to a tower shall:

1. Be constructed of material on the exterior of the building similar to the surrounding residential area when located adjacent to a residential zoning district or within an abutting city or township.
2. Be buffered and screened from adjoining uses as established in the requirements of the underlying zoning district and Section 10.18 Bufferyards. For the purpose of this ordinance, zoning districts in the city most similar to the township district shall be used to determine the bufferyard.
3. Meet the height and setback limitations as established for each zoning district.

A tower or group of towers located on a parcel shall be permitted to have only one accessory building per service company that is connected to the tower, and shall house only electronic equipment that is necessary for the functioning of the telecommunications system.

I. SIGNS AND ADVERTISING:

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

J. TOWER LIGHTING:

Towers shall not be illuminated by artificial means and shall not have affixed or attached to it in any way except during time of repair or installation any lights,

reflectors, flashers, or other illuminating device, except as required by the Federal Aviation Administration or the Federal Communications Commission or state agency. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower. In all cases where white strobe lights are used, the lights shall be shielded such that the lights are visible only from above the tower.

K. ABANDONED OR UNUSED TOWERS:

Abandoned or unused towers and associated facilities shall be removed within 12 months of the cessation of operations at the site unless Salem Township Zoning Administrator approves a time extension. In the event that a tower is not removed within 12 months of the cessation of operations at the site, the Township may remove the tower and associated facilities and the costs of removal assessed against the property.

L. PUBLIC SAFETY TELLECOMMUNICATIONS INTERFERENCE:

Commercial wireless telecommunications services shall coordinate with public safety telecommunications system operators 60 days before the introduction of new commercial wireless telecommunications services. The commercial wireless telecommunications provider shall be required to provide a copy of the FCC license application and the information on the frequencies and power levels of the proposed services to the Olmsted County Sheriff's Office, City of Rochester Police Department, and the City of Rochester Fire Department.

M. SECURITY:

All free standing towers shall be required to control the unauthorized entry and climbing of towers. A fence or wall with a minimum height of six (6) feet shall be constructed around the entire perimeter of the tower base. Gates shall be locked. The base of guy wires shall be fenced and the fence shall be 4 feet or more in height.

N. NONCONFORMING TOWERS:

In order to avoid requiring new towers and to minimize the number of towers needed to serve the township, the following provisions shall apply to nonconforming towers. In all districts, telecommunication towers in existence at the time of this amendment may be permitted to increase tower height after being issued a conditional use permit. The Planning Advisory Commission shall consider the criteria listed in Section 4.02 and the following criteria as part of the conditional use process:

1. Tower safety concerns including tower collapse, falling ice, and airplane traffic;
2. Land use character and history of the tower(s);
3. Comparative visual impact to the surrounding lands of the proposed tower height increase;
4. Disturbance or conflict with agricultural uses on the property;
5. Other factors which tend to reduce conflicts or incompatible with the character and needs of the area.

O. REGISTRATION OF COMMERCIAL WIRELESS TELECOMMUNICATION SERVICES AND TOWERS:

1. **Purpose of Registration.** The purpose of registration under this ordinance is to provide the county with accurate and current information concerning commercial wireless telecommunications services and towers who offer or provide services within the county or that own or operate such facilities within the county and to assist the county in the administration of this section of the ordinance.
2. **Registration and Application Requirements.** Commercial wireless telecommunications services and tower companies that offer or provide any telecommunications services for a fee directly to the public or have facilities within the county shall register and provide to the county, pursuant to this ordinance the following information:
 - a) The identity and legal status of the registrant, including affiliates;
 - b) The name, address and telephone number of the officer, agent or employee responsible for the accuracy of the registration statement;
 - c) A narrative and map description of registrants existing telecommunications facilities with the county and adjacent townships;
 - d) Such other information as the county may reasonably require.

P. ADDITIONAL SUBMITTAL REQUIREMENTS:

In addition to the information required elsewhere, applications shall include the following information:

1. A report from a licensed professional engineer that describes the commercial wireless telecommunication service tower's capacity, including the number and type of antennas that it can accommodate.
2. A letter of intent from the commercial wireless telecommunication service tower owner committing the tower owner and successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use;
3. The location of all public and private airports or heliports within a 3 mile radius of the tower site.

Section 10.16 EXTERIOR LIGHTING:

Any light used for exterior illumination shall be diffused or directed away from adjoining properties or public roads.

Section 10.18 TRAFFIC VISIBILITY ZONE:

On any corner lot in the residential, commercial and industrial districts, there is established a traffic visibility zone at the intersection of two or more roads. The traffic visibility zone includes that part of a corner lot that is within an area bounded by the intersecting road right-of-way line and a diagonal line intersecting said road right-of-way lines at a distance of twenty-five (25) feet from the point of intersection of the right-of-way lines. In any traffic visibility zone, no fences, structure, earth bank, hedge, planting, or other obstruction shall be erected, planted, or maintained that exceeds a height of forty-two (42) inches, as measured from the center line elevation of the street.

Section 10.20 SOIL EROSION, SEDIMENTATION, RUNOFF, AND SLOPE STABILITY CONTROLS:

- A. **Definitions:** For the purpose of this section, certain terms used herein shall be defined as follows:

Development: Any activity not directly related to general farming resulting in a disturbance of the natural condition or vegetative covering of the earth's surface of over 10,000 square feet in area.

Drainageway: Any surface area over which water flows in concentrated form whether permanently, continually, occasionally, or intermittently, and including public waters, intermittent streams, and grassed waterways.

Erosion: The general process by which soils are removed by wind, or flowing surface or sub-surface waters.

Erosion, Channel or Gully: Erosion caused by the action of water flowing in a concentrated stream action against the soil confining its flow.

Erosion, Ephemeral: Erosion caused by the action of flowing surface water against the soil confining its flow, occurring in channels which are intermittently established in fields or on other open land, and for periods of short duration.

Erosion, Sheet and Rill: Erosion caused by the general, as opposed to channeled, flow of water over a surface.

Erosion, Sheet Erosion Rate: The annualized amount of soil material lost from a lot due to sheet and rill erosion, expressed in tons of soil eroded per acre per year, and calculated according to the Universal Soil Loss Equation (U.S.L.E.) (See Appendix D, the Universal Soil Loss Equation).

Hydrologic Curve Numbers: A measure of the proportion of the rainfall hitting an area likely to produce runoff, reflecting the percentage of impervious surface area, the quality of vegetative cover, and underlying soil conditions (See Appendix E, Hydrologic Curve Numbers).

Impervious Surface: Any surface having a percolation rate of slower than 120 minutes per inch.

Land Disturbing Activity: Any activity not directly related to general farming resulting in a disturbance of the natural condition or vegetative covering of the earth's surface.

Mulch: Any material deposited on the surface, including but not limited to crop residues, leaves, wood chips, straw, or other similar organic or inorganic materials which protect the soil from erosion without causing an increase in the rate of runoff.

Runoff: The portion of rainfall or other precipitation that leaves a lot in the form of surface water.

Sediment: Soil particles carried or deposited by flowing water.

Slope: The deviation of a surface from the horizontal, expressing the change in elevation as a percentage of the horizontal distance of the surface.

Slope Instability: The tendency of a slope to cave in, slump, collapse, or otherwise fail.

Soil: Unconsolidated mineral or organic material that overlies bedrock and can be readily excavated.

B. STANDARDS: Any land disturbing activity initiated after the effective date of this ordinance must meet the following standards:

1. At no time shall a land disturbing activity cause the estimated sheet erosion rate to exceed five (5) tons per acre per year.
2. At no time shall a land disturbing activity within a shoreland area or within three hundred (300) feet of a wetland cause the estimated sheet erosion rate to exceed two (2) tons per acre per year.
3. At no time following the completion of a land disturbing activity shall the estimated sheet erosion rate exceed five-tenths (0.5) tons per acre per year from the disturbed area.
4. No land disturbing activity shall cause ephemeral erosion to occur on adjoining parcels at any time during or following development, nor on the parcel disturbed at any time following development.
5. No land disturbing activity shall cause an increase in channel erosion in any stream, whether permanent or intermittent, at any time during or following development.
6. No land disturbing activity shall cause the creation of unstable slopes persisting after the completion of the activity.
7. No land disturbing activity shall cause the deposition of sediment on adjoining property.
8. Structural works necessary to meet these standards must meet applicable SCS standards and specifications.
9. All drainageways must be constructed and maintained in such a manner as to prevent soil erosion to the sides and bottoms of the drainageways, and to handle adequately the runoff generated from the watershed from a fifty (50) year rainfall event.
10. Plan Review Coordination: The purpose of this subsection shall be to require a coordinated review of and application of common standards for erosion and surface water runoff control measures. This review shall cover all site grading work located within the "Urban Service Area" as shown on the

Olmsted County General Land Use Plan future land use map and outside the municipal limits of all cities in the county.

- a) Where a “land disturbing activity” is proposed the county or applicable township shall not issue a waiver of the requirement to submit an erosion control and runoff control plan. This requirement shall apply to any land located within an Urban Service Area as identified on the Olmsted County General Land Use Plan Future Land Use Map.
- b) Where a “land disturbing activity” is proposed on land within the Urban Service Area through a submittal of an erosion control and runoff control plan the plan shall be consistent with the applicable approved zoning district, general development plan, subdivision plat, approved site plan, or conditional use permit. Where the erosion control plan is not consistent with an approved development plan as specified above, or where no plan has previously been approved through the appropriate approval process, the plan shall be denied.
- c) Where a “land disturbing activity” is proposed on land within the Urban Service Area the plan shall conform to all of the standards and related regulations of Olmsted County and the applicable township, including but not limited to floodplain and shore land provisions of these ordinances.
- d) Where a “land disturbing activity” is proposed on land within the Urban Service Area and where a GDP exists or has been submitted for public review, the erosion control and runoff control plan shall be reviewed by the township engineer and the city engineer for the adjacent city. Erosion control, runoff control, grading standards, and construction practices of the county, township, and adjacent city must be complied with by the applicant. Where the standards are not uniform the more restrictive standards shall apply. A determination of the more restrictive ordinance provisions shall be based on the standards that require the most control of erosion and surface water runoff.
- e) Where a “land disturbing activity” is proposed on land within the Urban Service Area in any zoning district, no plan shall be approved by the county or applicable township until all necessary applicable zoning and subdivision approvals have been obtained, including conditional use permits, variances, plats, and zoning certificates. If these approvals are not obtained the plan shall be denied.
- f) Where a “land disturbing activity” is proposed on land within the Urban Service Area the applicant must have submitted to the Minnesota Pollution Control Agency a plan and application for a National Pollutant Discharge Elimination System permit. A copy of the plan and application

must accompany the erosion/runoff control application to the county or applicable township.

- g) These provisions shall not apply to "land disturbing activities" that are 1) improvements to a parcel that is part of and related to an active agricultural operation, 2) covered by an approved township zoning certificate, 3) covered by a township conditional use permit or variance, or 4) that are property improvements located on a lot in an existing residential subdivision or a non-farm parcel with an established principal use and building.

- 11. The erosion and runoff control plan shall be consistent with the applicable approved zoning district, general development plan, subdivision plat, approved site plan, or conditional use permit. Where the erosion control plan is not consistent with an approved development plan, or where no plan has previously been approved through the appropriate approval process, the plan shall be denied. In no case shall an erosion and runoff control plan permit the construction of roads or other improvements within an agricultural, floodplain, or shoreland zoning district without first receiving approval for a permitted and approved use to develop the property.

C. EROSION CONTROL:

- 1. **Erosion Control Plan Required:** No zoning certificate shall be issued nor shall any land disturbing activity commence for any development unless an erosion control plan has been approved by the Salem Township Zoning Administrator, or a waiver of the erosion control plan requirement has been granted by the Salem Township Zoning Administrator.
- 2. **Waiver of Erosion Control Plan:** The Salem Township Zoning Administrator may waive the requirement for an erosion control plan in any of the following circumstances:
 - a. Where the development is of an emergency nature necessary for the preservation of lives or property;
 - b. Development consisting of an alteration, repair or maintenance of any lawful use of land existing as of April 15, 1983, or the expansion of such a use by less than fifty percent (50%) of the current market value of buildings on the lot, as determined by the County Assessor's records;

- c. **Development involving a temporary use when the use makes no surface discharge of waters;**
- d. **Development on lots in a subdivision for which an approved soil erosion control plan is in effect;**
- e. **Development on soil types in Appendix C (1);**
- f. **Development on soil types in Appendix C (2), when the applicant certifies that he will apply mulch at a uniform rate, covering at least fifty percent (50%) of the surface of the disturbed areas during construction and that permanent vegetative cover will be established following construction; or**
- g. **Development on soil types in Appendix C (3), when the applicant certifies that he will apply mulch at a uniform rate, covering at least seventy percent (70%) of the disturbed area during construction and that permanent vegetative cover will be established following construction.**

3. Erosion Control Plan Contents: The erosion control plan shall be filed with the Salem Township Zoning Administrator and shall include the documentation setting forth the means by which the applicant intends to meet the standards of this section. In addition, the Salem Township Zoning Administrator may require the following documentation:

- a. **A description of the soils on the site, including a map indicating soil types of areas to be disturbed and the susceptibility of those soil types to erosion; and**
- b. **A description of the existing and proposed drainage of the site, showing the soils in drainageways and the type and location of any erosion control measures related to meeting the standards of this section addressing the channel and ephemeral erosion.**

4. Erosion Plan Certification: The applicant shall submit with any erosion control plan certification by a registered professional engineer, soils conservationist, or soils scientist that the soil erosion control measures specified in the erosion control plan will enable the development to meet the soil erosion standards of this section.

D. Runoff Control Plan:

1. Runoff Control Plan Required: No zoning certificate shall be issued nor shall any land disturbing activity commence for any development unless a

runoff control plan has been approved by the Salem Township Zoning Administrator, or a waiver of the runoff control plan has been granted by the Salem Township Zoning Administrator.

2. Waiver of Runoff Control Plan:

- a. Circumstances described in Section 10.20 C, 2, a, b, and c;
- b. Development on lots in a subdivision for which an approved runoff control plan is in effect;
- c. Developments which result in a proportion of impervious surface to total lot area of ten percent (10%) or less; or
- d. Development that result in an increase in the average hydrologic curve number for the site of five percent (5%) or less.

3. Runoff Control Plan Contents: The runoff control plan shall be filed with the Salem Township Zoning Administrator and shall include documentation setting forth the means by which the applicant intends to meet the standards of this section, and certification from a registered professional engineer or hydrologist stating that the development will meet the standards of this section. In addition, the Salem Township Zoning Administrator may require the following documentation:

- a. A map of the existing topography of the site with a contour interval appropriate to the topography of the land;
- b. Proposed finished grading shown at the same contour interval;
- c. A drainage description of the unaltered site, delineating in which direction and at what rate storm water is conveyed from the site and setting forth those areas of the unaltered site where storm water collects and is gradually percolated into the ground;
- d. A proposed drainage plan of the developed site delineating in which direction and at what rate storm water will be conveyed from the site and setting forth the areas of the site where storm water will be allowed to collect and gradually percolate into the ground; and
- e. A description of and technical documentation related to any runoff measures for the site.

E. Plan Review: Upon receipt of an erosion control or runoff control plan application and accompanying documentation, the Salem Township Zoning Administrator shall assess the effectiveness of proposed erosion and runoff control measures in meeting

the standards of this section, and on that basis shall approve or deny the application for plan approval. The Salem Township Zoning Administrator may refer a plan to the Olmsted County Soil and Water Conservation District office for its review and comment prior to taking action to approve or deny a plan. Any plan may be revised in the same manner as originally approved. Plan approval shall authorize commencement of a land disturbing activity.

- F. Performance Bond:** Whenever the erosion control plan or runoff control plan calls for the implementation of measures to control erosion or runoff, the total cost of which exceeds one thousand dollars (\$1,000), the Salem Township Zoning Administrator shall require the applicant to post a performance bond with the Salem Township Clerk sufficient to cover the entire cost of said works. This provision shall not apply to those measures associated with street construction associated with plats for which an approved erosion and runoff control plan is in effect. The cost of such measures shall then be included in the performance bond required under the Subdivision Ordinance for road improvements.
- G. Responsibility:** Neither the issuance of a permit nor compliance with the conditions thereof, nor with the provisions of this section, shall relieve any person from the responsibility otherwise imposed by law for damage to persons or property; nor shall the issuance of any permit hereunder serve to impose any liability on the Township of Salem, County of Olmsted, or its officers or employees for injury or damage to persons or property. A permit issued pursuant to this section shall not relieve the permittee of the responsibility for complying with any other requirements established by law, ordinance, or regulation.

Section 10.21 FARMLAND EROSION:

- A. POLICY:** In some cases in Salem Township, the use of land for agricultural purposes has caused excessive surface water runoff and accelerated the process of soil erosion and sediment deposition. This has resulted in the pollution of the waters of the state; increased storm water runoff and flooding; damage to agricultural, forestry, recreational, fish and wildlife and other resources; threats to the long term and short term productivity of the Township's soils; sediment damages to public and private property and water bodies; increased frequency and severity of flooding; reduced storage capacity of impoundments; damage to wetlands and other wildlife habitat; and other threats to the public health, safety and general welfare.

This section addresses these concerns by adopting standards for soil erosion and by encouraging the development of conservation plans that identify conservation practices that reduce erosion to those standards, according to an approved schedule. It is intended that the plans developed under this section will apply to the properties for which they are developed regardless of changes in ownership. Changes in practices on parcels with approved plans will require approval of amended plans. It is

also the intent of this section to address both on site and off site erosion problems resulting from land management practices.

B. EFFECTIVE DATE AND AREA OF APPLICATION:

Effective September 1, 1990, this section and referenced or related data or standards will apply to all unincorporated land within the Township not covered under section 10.20, including but not limited to agricultural land, woodland, and pastureland.

This section and referenced or related data or standards applies to all unincorporated land within the County not covered under Section 10.20, including but not limited to agricultural land, woodland and pastureland.

C. DEFINITIONS:

For the purpose of this section, certain terms used herein shall be defined as follows:

Agricultural Uses: Use of land for forestry, pasture, or crop production, or for the production of livestock, poultry or poultry products, fur-bearing animals, horticultural or nursery stock including sod, fruit, vegetables, forage grains, or bees and apiary products. Wetlands, pasture, and woodlands accompanying land in agricultural use are also defined as in agricultural use.

Agricultural Land Disturbing Activity: Any agricultural use resulting in a disturbance of the natural condition, vegetative surface or soil surface exceeding 10,000 square feet in area, including, but not limited to tilling, clearing, grading, excavating, grazing, and feedlots but not including such minor land disturbing activities as home gardens and individual landscaping and maintenance and any land disturbing activity over 10,000 square feet in area not covered by the definition of development under Section 10.20 (A).

Bluff Impact Zone: A bluff and land located within 20 feet from the top of the bluff.

Conservation Plan: A resource management system plan prepared in accordance with the SCS technical guide that will decrease soil erosion to or below the soil loss tolerance factor on a particular parcel of land according to a specified time schedule.

Conservation Practices: Practices and standards containing a definition, purpose, and conditions that the practice applies to, including design requirements and specifications containing a statement of details required for installing a conservation practice, including kinds, quality, and quantity of work and materials needed to meet the requirements of the technical guide. A conservation practice maybe a permanent or temporary, vegetative or structural measure that will aid the control of erosion. Permanent practices are those that

have an effective life equal to or greater than ten (10) years and include grassed waterways, terraces, field windbreaks, water control structures, grade stabilization structures, sediment retention structures, strip cropping, tree planting, wildlife cover planting, and other permanent practices approved by the Minnesota State Soil and Water Conservation Board. Temporary practices include conservation tillage, contour farming, grasses and legumes in rotation, emergency tillage and any other cultural practices approved by the District. Conservation practices are considered “adequate” if they result in an average annual soil erosion rate lower than or equal to the soil loss tolerance factor listed in Appendix G, Table 1.

District: The elected Board of the Olmsted County Soil and Water Conservation District organized under Minnesota Statutes, Chapter 40.

Drainageway: Any surface area over which water flows in a concentrated form whether permanently, continually, occasionally, or intermittently and including public waters, intermittent streams, and grassed waterways.

Erosion: Any process that removes soil away from the surface of the land by the action of water, wind, ice, or gravity.

Erosion, Gully: Erosion caused by the action of water flowing in a concentrated stream acting against the soil, confining its flow, resulting in a channel that cannot readily be cultivated by customary farm machinery, and that is at least three (3) feet wide or has a cross-sectional area of at least four (4) square feet. Gully erosion is distinguished from ephemeral erosion by its size and relative permanence, and from stream bank erosion by the intermittent nature of the water flow.

Erosion, Ephemeral: Erosion caused by the action of flowing surface water against the soil confining its flow, occurring in channels with periods of short duration. Such channels are smaller in size than gullies, and can be readily eliminated by field cultivation using customary farm machinery.

Erosion, Sheet and Rill: Erosion caused by the general, as opposed to channeled flow of water over a surface.

Erosion, Streambank: Erosion within a perennial stream or river which is caused by the action of water flowing in concentrated stream acting against the soil confining its flow

Erosion, Wind: Erosion caused by the action of wind on the soil surface and soil particles.

Estimated Sheet Erosion Rate: The annualized amount of soil material lost from a field or parcel of land due to sheet and rill erosion, expressed in tons of soil eroded per acre per year, and calculated according to the Universal Soil Loss Equation (U.S.L.E) (See Appendix D, the Universal Soil Loss Equation).

Estimated Wind Erosion Rate: The annualized amount of soil material lost from a field or parcel of land due to wind erosion, expressed in tons of soil eroded per acre per year, and calculated according to the Wind Erosion Equation (W.E.E) (See Appendix F, Wind Erosion Equation).

Excessive Soil Loss: Soil loss that is greater than the standards set forth in this section of the ordinance. Excessive soil loss may be evidenced by sedimentation on the same parcel of land, on adjoining land, in wetlands or a body of water, or by ephemeral, gully, or streambank erosion; or by calculations using the U.S.L.E, and W.E.E., showing soil loss exceeding the soil loss tolerance factor.

FIELD, WINDBREAK: A living barrier of trees, or a combination of trees and shrubs, located adjacent to a field that is designed to reduce wind erosion by virtue of its location with regard to the wind, and by the type of vegetation, and meeting the standards for field windbreaks in the Technical Guide.

Hydrologic Runoff Curve Number: An index developed by the Soil Conservation Service that represents the combined hydrologic effect of soil, land use, agricultural land treatment class, hydrologic condition and antecedent moisture (See Appendix E).

Impoundment: A body of water artificially created by blocking the flow of surface runoff and intended for runoff control, water supply, flood control, or recreation. The term is not intended to include farm ponds used for water supply for livestock, but does include any such pond if used for runoff control.

Karst: A geologic condition occurring over a large area where groundwater dissolves well jointed, crystalline, carbonate bedrock, typically limestone or dolomite.

KARST FEATURE: A topographic feature resulting from the occurrence of subsurface karst conditions that are so extensively developed and close to the surface, that surface drainage is affected. Typical karst features occurring in Salem Township dolines (sinkholes), disappearing streams, losing streams, blind valleys, springs, and caves.

LAND OCCUPIER: A person, firm, corporation, government entity, or other legal entity that holds title to or is in possession of any lands as owner, lessee, or otherwise. Land occupier includes both the owner and the occupier of the land if they are not the same.

PERMANENT VEGETATIVE COVER: An area of wooded or perennial herbaceous plant materials, including pasture, hay land, and woodland, but excluding any area that is tilled, any overgrazed pasture, and any area in which trampling by livestock results in a cover of less than ninety percent (90%) of the surface area.

PROTECTED WATERS: Any waters as defined in Minnesota Statutes 1980, Section 105.37, Subdivision 14 and 15.

RUNOFF: The portion of rainfall or other precipitation that leaves a parcel of land or field in the form of surface water.

SEDIMENT: Soil particles in suspension being transported or moved from their original location by wind, water, gravity, or ice, or which has been deposited at another location, including any sediment-related pollutants.

SLOPE: The deviation of a surface from the horizontal, expressing the change in elevation as a percent of the horizontal distance of the surface.

SOIL: Unconsolidated mineral or organic material that overlies bedrock, on the immediate surface of the earth, that serves as a medium for the growth of plants.

SOIL LESS TOLERANCE FACTOR: The maximum average annual amount of soil loss from erosion, as estimated by the Universal Soil Loss Equation and the Wind Erosion Equation, and expressed in tons per acre per year, that is allowable on a particular soil (refer to Appendix G, Table 1).

STEEP SLOPE: An area having a soil listed in the SOIL SURVEY OF OLMSTED COUNTY as being poorly suited for cultivation due to slope steepness.

STREAMBANK: The boundary of protected waters and wetlands, or the land abutting a channel at an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape; commonly that point where the natural vegetation changes from predominantly aquatic to predominately terrestrial. For watercourses, the streambank shall be at the elevation of the top of the bank of the channel.

STRUCTURE: Works of improvement for agricultural land stabilization to prevent erosion, sediment, or flood damage that include, but are not limited to gully control structures, grass waterways, rip-rap, sediment basins, flood retention dams, diversions, and the lining of channels with rock, concrete, or other materials.

TECHNICAL GUIDE: The guide developed by the USDA Soil Conservation Service and adopted by the Olmsted County Soil and Water Conservation District, containing technical information including methods and procedures by which the various types of erosion can be measured, and conservation practice standards, and specifications required in the application of soil and water conservation plans.

WATERS OF THE STATE: Any waters, surface or underground, except those surface waters that are not confined to drainageways or streams but are spread and diffused over the land.

WETLAND: An area classified as type 3, 4, 5, 6, 7, or 8 wetlands as identified in the U.S. Fish and Wildlife Service Circular No. 39 (1971 edition).

WOODLAND: An area with a stand of trees that has a canopy cover as shown on the most recent aerial photographs of at least fifty (50%) percent, being at least one (1) acre in size and having a minimum width measured along the ground surface of at least one hundred and thirty-two (132) feet.

D. STANDARDS FOR SOIL LOSS AND SEDIMENTATION:

Commentary: Effective September 1, 1990, the following standards are intended to apply to all agricultural land in Salem Township. In accordance with administrative procedures set forth in Section 10.21 E, below, areas will be identified as priority conservation areas on the basis of the degree of non-compliance with the standards. Land occupiers in those areas may be contacted to develop conservation plans and schedules, which, over an appropriate period of time, will bring the property into compliance with the standards. Typically, but not in cases with severe or immediate erosion problems, the Salem Township Zoning Administrator will proceed with a zoning violation only if a land occupier refuses to develop a conservation plan, or fails to abide by an approved plan after a plan is approved. Provisions addressing the development of conservation plans are included in Section 10.21 F, below.

1. **General Standard:** A land occupier shall ensure that proper management and conservation practices are being applied to all land in agricultural use. Land occupiers operating according to an approved and completed conservation plan designed so that annual average soil erosion does not exceed the soil loss tolerance factors listed in Appendix G, Table 1, or operating in accordance with adequate conservation practices, shall be considered to have met the standards of this section.
2. **Sheet and Rill, and Wind Erosion:** Agricultural land disturbing activities shall be conducted in such a way that the sum of the estimated sheet and rill erosion rate and the estimated wind erosion rate does not exceed the soil loss tolerance factor identified in Appendix G, Table 1, except as provided in Section 10.21 (F,4).
3. **Ephemeral Erosion:** No agricultural land disturbing activity shall cause ephemeral erosion.
4. **Gully Erosion:** No agricultural land disturbing activity shall cause gully erosion. This standard is met where gully side slopes, bottoms and heads are stabilized; however, agricultural land disturbing activities conducted to correct and improve upon the existing situation within the standards and specifications of the technical guide are considered to be in compliance. In any case, a land occupier shall be responsible for only that portion of the soil erosion in a gully that is caused by agricultural land disturbing activities conducted on land occupied by the land occupier.
5. **Streambank Erosion:**

- a. No drainageway or water channel shall be filled, dredged, graded or relocated except with the approval of the Minnesota Department of Natural Resources for protected waters, or in accordance with the applicable standards and specifications of the technical guide for all the drainageways or other waters.
 - b. No agricultural land disturbing activity shall cause an increase in the erosion of any streambank located on the lands controlled by the land occupier or any abutting lands.
 - c. Bluffs, bluff impact zones, and other steep slopes within the shoreland district, or areas within fifty (50) feet of the normal high water level of protected waters shall be maintained in permanent vegetative cover unless included in an approved conservation plan.
 - d. Properly managed pasture shall be considered to meet the standards of paragraphs b and c above.
6. **Conservation Plan and Practices:** Where a District approved conservation plan is in effect, a land occupier shall abide by said conservation plan and schedule and shall maintain all practices that are part of the conservation plan. The conservation plan and schedule and conservation practices shall not be altered except in accordance with the procedures outlined in paragraph 10.21 (F, 8).
7. **Special Areas:**
- a. **Wetlands:** In no case shall an agricultural land disturbing activity cause partial or complete removal of wetland vegetation or partial or complete draining of wetland.
 - b. **Sinkholes and Other Karst Features:** Surface water runoff and artificial subsurface drainage shall not be directed by structural or nonstructural practices directly into a visible or known karst feature.
 - c. **Woodland Conversion:** A conservation plan approved by the district and Salem Township Zoning Administrator shall be required for conversion of woodland to non-woodland agricultural uses, including but not limited to crop production, pasture, or other uses that require removal of the majority of woody material from a parcel of land such that the land no longer meets the definition of woodland. Partial removal of woody material in woodland, if the cumulative effect would be contrary to this provision, shall also require the development of a conservation plan.
8. **Emergency Land Management Practices:** Emergency land management practices necessitated by and initiated during or immediately after fire, flood, windstorm, structural failure or other catastrophic events shall be exempt from these

standards; however, reasonable care shall be taken to minimize soil erosion and sedimentation during the emergency land management practices.

E. ADMINISTRATION OF SOIL EROSION REQUIREMENTS:

- 1. Conservation Committee:** The Conservation Committee is hereby established to assist in the administration of this section. The committee shall consist of three members: A member of the Olmsted S.W.C.D. Board, a Town board member, and a member of the Olmsted County Planning Advisory Commission (PAC) who has experience in agriculture. The PAC shall appoint a member to serve in this position.

The makeup of the Committee will change based on the location of the property where the erosion complaint is investigated. The Olmsted S.W.C.D. Board member on the Committee will be that Board member who represents the Township where the complaint is located. If that S.W.C.D. Board position is vacant, the S.W.C.D. Board shall appoint an alternate. The Town board member on the Committee must be from the Township where the erosion complaint is located. If the Town board does not appoint a member to the Committee within 30 days of the date that the Town board is notified of the complaint, the Olmsted PAC shall select another of its members to serve in this function. The duties of the Committee shall be as described in Section 10.21 (E,4).

- 2. Identification of Priority Conservation Areas:** Provisions of this paragraph are intended to provide a means for focusing enforcement efforts among those parcels not meeting the standards of Section 10.21 (E), on the most critical erosion areas in the Township. For this purpose, the Salem Township Zoning Administrator shall use the following criteria to set annual enforcement priorities identifying significant soil erosion problems and locations throughout the Township. Priorities shall be set in accordance with the ranking system described in Appendix G.

- a. Areas shall be ranked according to the average ratio of wind and sheet and rill erosion to the soil loss tolerance factor.
- b. Areas shall be ranked according to total wind and sheet and rill erosion. This factor shall be considered to be the most important type of erosion problem.
- c. The ranking shall reflect location in a watershed upstream of a structure in the P.L., 566 portion of the South Zumbro watershed Project. A map of flood control project watersheds is included in Appendix G.
- d. Areas shall be ranked according to hydrologic runoff curve number.

- 3. Complaints:**

- a. Complaints of non-compliance with the standards of Section 10.21 (D) may be made by any adversely affected land occupier; by an elected or appointed

official of Salem Township, or any municipality or township within Salem Township, or the District; or by appointed staff of the U.S. Soil Conservation Service; or by the Salem Township Zoning Administrator.

- b. **Complaints of non-compliance with the standards of Section 10.21 (D) pertaining to wind erosion, sheet and rill erosion, sedimentation, and runoff shall be evaluated by the Salem Township Zoning Administrator in accordance with the criteria listed above (10.21 [E, 1]). The Salem Township Zoning Administrator may request information from the complainant detailing the basis for the suspected non-compliance, along with written information listing impacts of any of the non-compliance on adjoining land occupiers, streams, and so on. If the complaint indicates the presence of a problem of sufficient severity to include the area as a critical erosion area, or if the complaint indicates non-compliance with the other standards of Section 10.21 (D), the Salem Township Zoning Administrator shall request the District to investigate the use in accordance with the procedures of Section 10.21 (E,3), below.**

4. Detailed Investigation: Upon receipt of the enforcement priority listing or forwarded complaints from the Salem Township Zoning Administrator, the District staff shall examine each area in order of its priority ranking starting with parcels receiving the highest point totals, on the basis of available data and on-site inspection to determine the level of compliance with the standards of Section 10.21 (D).

- a. **Entry for Inspection. The District and Conservation Committee, acting on behalf of the Salem Township Zoning Administrator, shall make an inspection to determine soil erosion and to complete the report. The Salem Township Zoning Administrator shall make a bona-fide attempt to arrange with the land occupier on a mutually agreeable time and date for the inspection.**
- b. **Report. The District staff shall complete and submit a report to the Salem Township Zoning Administrator that contains the following information on any contiguous lands under common ownership or management: (1) a list of existing land uses; (2) an analysis of compliance or non-compliance with the standards of section 10.21 (D); and (3) an assessment of the impact of any non-compliance on adjoining land, water bodies, or karst features.**

The Conservation Committee shall review the report and file a recommendation on the complaint with the Zoning Administrator who shall render a decision based on the record.

- c. **Notification of Land Occupier: If it is determined that the soil erosion and overall management of the parcel will comply with all standards of this section, or that the parcel is not a critical erosion area, the Salem Township Zoning Administrator shall remove the parcel from further consideration**

during the subject year and notify the land occupier accordingly. If it is determined that the parcel is a high priority conservation area, the Salem Township Zoning Administrator shall notify the land occupier by certified or registered mail of the non-compliance with the standards of Section 10.21 (D), setting forth the nature of the erosion problems, and the remedies that will be pursued.

5. **Immediate Enforcement:** Where it is determined that the level or type of non-compliance with the standards of Section 10.21 (D), constitutes an immediate threat to the public health or safety, or that adjacent public or private property will be destroyed or its use and enjoyment significantly impaired if immediate corrective action is not taken, the Salem Township Zoning Administrator shall treat the matter as a zoning violation and proceed according to the provisions of Article III or Section 10.21 (G) of this ordinance.
6. **Conservation Planning:** Except as provided in Section 10.21 (E, 4) the Salem Township Zoning Administrator shall direct land occupiers with parcels identified after on site investigation as high priority conservation areas to complete a conservation plan as provided for in Section 10.21 (F), covering the area of the farm constituting a high priority conservation area. Land occupiers shall complete such plans within sixty (60) days of receipt of the notice of non-compliance, except that the Salem Township Zoning Administrator may grant an extension of up to sixty (60) days where the land occupier demonstrates that a bona-fide effort has been made to complete a conservation plan and schedule in a timely fashion.
7. If the District is unable to provide technical assistance to complete the Conservation Plan within the required time period, the Salem Township Zoning Administrator shall extend the planning period until such assistance is available.

F. AGRICULTURAL CONSERVATION PLANS AND SCHEDULES:

The following paragraphs explain the procedures and requirements for preparation and approval of Conservation Plans. It is intended that an approved plan would remain in effect, regardless of change in ownership or occupancy, until such time as it is amended in accordance with these provisions.

1. **Contents:** The Conservation Plan shall be drawn up on a form acceptable to the Salem Township Zoning Administrator, and shall meet applicable content specifications of the Technical Guide. At a minimum, it shall include the following information:
 - a. A soil map of the site showing the locations of field boundaries;
 - b. An aerial photograph of the site at the same scale as the soil map, showing field and land use boundaries;

- c. A detailed list of fields and land uses, with the area in acres for each field or land use, and a key referring to the aerial photo;
 - d. A detailed list of proposed practices for each field or land use, showing the Technical Guide number for each practice and the date of application, and the estimated soil loss after application of the practices for each field; and
 - e. Any agreements entered into by the land occupier involving any agency providing technical or financial assistance in the completion of the conservation practices including in the Conservation Plan.
2. **Annual Element:** When the Conservation Plan calls for use of practices that are eligible for cost sharing, or that require engineering data, the Salem Township Zoning Administrator shall require the land occupier to submit an annual plan for that year, prior to commencing activities. The annual plan shall contain the following information:
- a. Supplemental data, including engineering data, as may be requested by the Salem Township Zoning Administrator to evaluate a practice; and
 - b. A copy of any application for cost sharing from applicable cost-sharing agencies; or, if no cost-sharing is applied for, a letter from the land occupier stating that the land occupier will complete the practices according to the schedule in the Conservation Plan without cost-sharing.
3. **Preparation:** The land occupier may arrange with the District to prepare a Conservation Plan, or may prepare the Conservation Plan without assistance, or may contract with another person or agency to prepare the Plan. If the Plan is not prepared by the District, the Salem Township Zoning Administrator may require certification by a professional soil scientist or soils conservationist, or a registered professional engineer that it meets the standards of the Technical Guide for Conservation Plans, and that completion of the conservation practices included in the Plan will enable the land occupier to meet the standards of Section 10.21 (D) for the subject area. The Salem Township Zoning Administrator may require proof from the preparer of the Plan that he or she is qualified to prepare such plans, and may require additional documentation as is necessary to identify in detail the conservation practices planned for.
4. **Continuation of Tillage:** Conservation plans applying to any land which has been tilled within the five years previous to adoption of this section may not require conversion of the land to permanent vegetative cover, but must provide for continued tillage with the best practices feasible, compatible with the land occupiers operation, until the land changes ownership. This shall apply regardless of whether it is possible to reduce erosion levels to the soil loss tolerance factor with these practices. In such cases, the conservation plan shall indicate an alternate practice meeting the soil loss tolerance factor and the conservation schedule shall indicate that the required date of

implementing said alternate practice will be one year from the date of change of ownership.

5. Conservation Schedule: For each of the practices included in the Conservation Plan, the land occupier shall provide a schedule of application dates, meeting the following guidelines:

- a. Provided that the necessary technical assistance is available from the District, the schedule shall provide that practices not listed in Section 10.21 (F, 5, d), below are to be applied within the first three (3) years following approval of the conservation plans.
- b. The schedule shall provide that practices listed in Section 10.21 (F, 5, d), below shall be completed within five (5) years of approval of the Conservation Plan.
- c. The schedule shall provide that substantial progress is made in each year of the plan toward meeting the standards of Section 10.21 (D), and shall specify initiation and completion dates for each practice.
- d. If the land occupier applies for cost-sharing for eligible practices, described below, then the Salem Township Zoning Administrator shall extend the schedule for applying those practices until such time as the cost-sharing agency provides funds at the levels specified. Practices to which this provision applies, and the minimum levels of cost-sharing for those practices, are specified below:

- 1. Terracing: 75%
- 2. Waterways: 75%
- 3. Gully Control: The funding agency, in cooperation with affected property owners, shall be responsible for the percentage of the costs reflecting the percentage of runoff entering the gully from lands not under control of the land occupier.
- 4. Streambank Control: 75%
- 5. Diversions: 75%

6. Annual Inspection: The Salem Township Zoning Administrator, or the District acting on behalf of the Salem Township Zoning Administrator, shall conduct an annual inspection of completed work. Work not completed in accordance with the Conservation Plan shall be considered to constitute a zoning violation as provided in Section 10.21 (G).

7. **Approval:** The Salem Township Zoning Administrator shall forward all completed plans completed under this section to the District for its review. The District shall review each plan, and shall recommend approval of all plans, which meet the standards of Section 10.21 (D). If the District recommends approval of the Conservation Plan, the Salem Township Zoning Administrator shall approve the Plan for the subject property, which shall be recorded with the County Recorder. If the District recommends denial of the Plan as submitted, it shall prepare a written report indicating the reasons the plan is deficient and suggesting ways by which to correct the deficiencies. The Salem Township Zoning Administrator shall refer the report to the Conservation Committee for its comment.

The Conservation Committee shall comment upon the report within thirty-five (35) days from the date of receiving the report. Failure to comment within that time shall cause the Conservation Committee to forfeit its opportunity to comment.

At the Conservation Committee's request, the Salem Township Zoning Administrator shall provide up to an additional thirty (30) days to the land occupier to develop alternatives to the proposed Conservation Plan which will meet the standards of the ordinance. If the deficiencies are not corrected, or the land occupier fails to make a bona-fide effort to correct the Conservation Plan, the Salem Township Zoning Administrator may treat the matter as a zoning violation in accordance with the provisions of Section 10.21 (G). Such action may be appealed by the land occupier to the Zoning Board of Adjustment, as provided in Section 4.06.

8. **Amendments to an Approved Conservation Plan:** Amendments to an approved Conservation Plan shall be processed in the same manner as new Conservation Plans, provided that the original scheduled date of compliance with the standards of Section 10.21 (D), is not extended except as provided below:
- a. In the event of a change of ownership of the land, except as provided in Section 10.21 (F, 4), the Salem Township Zoning Administrator shall grant an extension to the schedule of up to one (1) year from the date of change in ownership, provided that the cumulative effect of changes in ownership does not result in circumventing the intent of the ordinance.
 - b. In the event of a change in management of the land not involving a change in ownership, the Salem Township Zoning Administrator shall grant an extension to the schedule of up to one (1) year from the date of change in management, provided that no more than one (1) such extension shall be granted within the period to which the conservation plan applies.

G. VIOLATIONS:

- 1. Types of Violation:** Failure to comply with the provisions of this section shall constitute a violation of the ordinance under the following circumstances:
 - a. Non-compliance with the standards of Section 10.21 (D, 6), (D, 7, a) (D, 7, b) and (D, 7, c), or non-compliance with any standards in a manner as described in Section 10.21 (E, 5).
 - b. Refusal to complete a Conservation Plan and schedule within the time frame specified in Section 10.21 (E and F).
 - c. Failure to abide by the Conservation Plan and schedule approved by the Salem Township Zoning Administrator, except where an extension has been granted in accordance with the provisions of Sections 10.21 (E, F, or G).

- 2. Appeals and Variances:** Land Occupiers found in violation of Section 10.21 of this ordinance may appeal the action of the Salem Township Zoning Administrator in accordance with Section 4.06, or may request a variance from one or more provisions of Section 10.21 in accordance with Section 4.08. In the event that a land occupier files either an appeal or a variance request pertaining to Section 10.21, the Salem Township Zoning Administrator shall notify the Clerk and Supervisors of any affected Township, the Conservation Committee, and the District, in addition to any other notification requirements. The Board of Adjustment shall consider and make findings responding to any written comments received from the District Board, the Conservation Committee, and the Town Board, in addition to other required findings.

- 3. Civil Proceedings:** Prior to initiating criminal proceedings provided under Article III, the Salem Township Zoning Administrator shall request that the Salem Township Board of Commissioners initiate a civil suit seeking a court injunction requiring compliance. Such action shall be pursued according to the following requirements:
 - a. **Report:** The Salem Township Zoning Administrator shall prepare a written report to the Board of Commissioners stating the causes of action. The report shall include but shall not be limited to any reports of on-site investigation prepared as required in Section 10.21 (E), and shall review the record of correspondence or other attempts to bring compliance. A copy of the report shall be sent to the land occupier, land occupiers adjoining the parcel in question, the Township Clerks and Supervisors of any affected Townships; the City Clerks of any affected Cities, the Conservation Committee, and the District.
 - b. **Notice:** The Salem Township Zoning Administrator shall send recipients of the report a notice of the time, date, and place that the Board will consider the request for civil proceeding.
 - c. **Board Action:** After considering any written or oral evidence, the Board may act in any of the following ways:

1. To file a civil suit seeking an injunction compelling compliance;
2. To instruct the Salem Township Zoning Administrator to extend the period for completion of a conservation plan and schedule for an additional period of not more than one hundred twenty (120) days;
3. To direct the Salem Township Zoning Administrator to allow a delay of up to two (2) years in the implementation of part or all of a conservation plan; or
4. To direct the Salem Township Zoning Administrator to proceed with actions authorized in Article III.

Section 10.22 ACCESSORY BUILDINGS:

A. Accessory Building Regulations Applicable to all Zoning Districts:

1. No accessory building shall be constructed or developed on a lot prior to the construction of the principal building.
2. Except as provided in Section 10.22 (B), accessory buildings shall be located only within the buildable area of a lot.

B. Accessory Building Regulations Applicable to the RSD and R-2 Districts:

1. In the RSD District, accessory buildings may be located in the buildable area or within the rear yard. In the case of an accessory building located in the rear yard, such building may be located not less than five (5) feet from an interior side lot line and not less than eight (8) feet from a rear lot line. The maximum cumulative gross floor area (measured on the largest floor and including interior parking spaces) for accessory structures shall be according to the following schedule:

For lots with a lot area of less than one (1) acres—One thousand (1,000) square feet

For lots with a lot area of at least one (1) acre but less than two (2) acres—twelve hundred (1,200) square feet.

For lots with a lot area of two (2) acres or greater—fifteen hundred (1,500) square feet.

2. In the R-2 district, accessory buildings may be located in the buildable area or within the rear yard. In the case of an accessory building located in the rear

yard, such building may be located not less than two (2) feet from an interior lot line or rear lot line.

3. Accessory buildings, when located in a rear yard, shall not occupy more than twenty-five (25%) percent of the buildable area and/or rear yard.
4. No accessory building shall be located closer to a right-of-way than allowed in the front yard or side street yard regulations of the district wherein located.
5. In the R-2 District and any residential property in an RSD District, no accessory structure shall exceed a building height of 15 feet.

Section 10.23 SWIMMING POOLS, PRIVATE:

Swimming pools shall be allowed in any Residential Zoning District as an accessory use and subject to the following conditions and requirements:

- A. **Exclusive Private Use:** The pool is intended and is to be used solely for the enjoyment of the occupants of the principal building of the property upon which it is located and their guests.
- B. **Distance Requirements:** Swimming pools may be located in the buildable area or required rear yard but shall not be closer than ten (10) feet to any property line on which they are located; provided that pump installations shall be located no closer than twenty (20) feet from any property line.
- C. **Fencing and Access Control:**
 1. For a below grade swimming pool, the pool or the property upon which said pool is located, shall be enclosed by a fence of a type which effectively controls the entrance by children to the pool area, said fence to be at least four (4) feet in height. Wooden fences with boards placed vertically shall not have any opening wider than four (4) inches per opening and wooden fences with board placed horizontally shall not have any opening wider than one (1) inch per opening.

Gates installed for access to the property or pool area shall be equipped with an automatic closing and latching device to protect against uncontrolled access to the property.
 2. For an above grade swimming pool, the pool shall be equipped with an automatically retractable type ladder, a retractable ladder, or a removable ladder or shall be fenced in accordance with Section 10.23 (C, 1), said ladder to be removed or retracted when said pool is not being attended.

If access to the pool is via a deck or porch, then no access from the ground is permitted to the deck area unless the property or the ground access to the deck is fenced in accordance with Section 10.23 (C, 1).

3. It shall be the responsibility of the property owner upon where said pool is located to maintain all fences, gates and closure devices in good operating condition.

Failure to maintain fences, failure to have gates closed, or failure to either remove or retract the ladder access to the pool shall constitute a violation of the Zoning Ordinance and therefore, be subject to the penalties contained therein.

Section 10.24 EXTRACTION OF MATERIALS AND MINERALS, OPEN PITS AND IMPOUNDING OF WATERS:

- A. **Definition: Excavation**, as used in this subdivision, shall mean any artificial excavation of the earth within the Township which is dug, excavated, or made by the removal from the natural surface of the earth of soil, sand, gravel, stone, or other matter or made by tunneling or breaking or undermining the surface of the earth. Excavations ancillary to other construction of any installation erected or to be erected, built or placed thereon contemporaneously with or immediately following such excavation and covering or to cover such excavation when completed and excepted if a permit has been issued for such construction or installation or if the excavation is ancillary to the construction or installation of essential services or a farming operation. Excavations not exceeding five hundred (500) square feet of surface area or two (2) feet in depth and excavations including impounding of water for agricultural or public utility purposes are exempted.
- B. **Conditional Use Permit Required:** No person shall hereafter dig, excavate, enlarge, make, maintain or allow to be maintained, upon property owned or used by him, any open pit excavation or any impounded water, without first making an application for and obtaining from the Planning Advisory Commission a conditional use permit (See Section 4.02 Conditional Use).
- C. **Conditions of Permit:** The Planning Advisory Commission, as a prerequisite to the granting of a permit or after a permit has been granted, may require the applicant to whom such permit issues or the owner or user of the property on which the open pit or excavation or impounded waters are located to:
 1. Properly fence any pits or excavation;

2. Slope the banks and otherwise properly guard and keep any pit or excavation in such condition as not to be dangerous from caving or sliding banks;
3. Properly drain, fill or level any pit or excavation, after created, so as to make the same safe and healthful as the Commission shall determine;
4. Keep any pit, excavation or impounded waters within the limits for which the particular permit is granted;
5. Remove excavated material from any pit or excavation, away from the premises, upon and along such highways, streets, or other public ways as the Commission shall order and direct;
6. Provide screening and bufferyards for the purposes of eliminating or minimizing potential nuisances, noise, dust, and reduce adverse visual appearance of the property;
7. Maintain roads and loading areas in dust free condition;
8. Stabilize overburden material and minimize the area that is exposed to erosion;
9. Limit the hours of operation;
10. Limit blasting, crushing, or the mixing of materials allowed on the property;
11. Provide, for the purpose of retaining impounded waters, a container of sufficient strength and durability and maintain such container in safe and proper condition;
12. Grade site after extraction is completed, seeding where required to avoid erosion, so as to render the site usable and restore same to a condition similar to that of adjoining properties;
13. Any additional conditions intended to protect the general health, safety and welfare and reduce the adverse impact of such upon neighboring properties.

D. Bond May Be Required: The Planning Advisory Commission 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 Commission shall determine, with sufficient surety running to the Township, conditioned to pay the Township the extraordinary cost and expense of repairing from time to time, any highways, streets, or other public ways where such repair work is made necessary by the special burden resulting from hauling and travel in removing materials from any pit, excavation, or impounded waters, the amount of such cost and expense to be determined by the Township Engineer; and conditioned

further to comply with all the requirements of this subdivision and the particular permit, and to pay any expense the Township may incur by reason of doing anything required to be done by any applicant to whom a permit is issued.

Section 10.26 ANIMAL FEEDLOTS:

- A. No new animal feedlots or manure storage facilities shall be located in a floodplain or shoreland district.
- B. No new animal feedlots or manure storage facilities shall be located within one-half (1/2) mile of an incorporated city limit boundary.
- C. Any animal feedlot requiring a conditional use permit shall, in addition to the criteria specified in Section 4.02, Conditional Uses, shall consider the following:
 - 1. All construction and design plans for manure handling, manure storage facilities and procedures of applying the manure to the land have been approved in accordance with required Federal, State, County and Local Statutes.
 - 2. The public road serving the feedlots is adequate and would not need to be upgraded or improved in order to service the feedlots.
 - 3. The proposed feedlot will not adversely affect the neighboring properties.
 - 4. A proposed new feedlot would be located one-quarter (1/4) mile or more from the nearest non-farm resident.

Section 10.28 ESSENTIAL SERVICES:

Essential services shall be permitted as authorized and regulated by law and other ordinances, it being the intention hereof, to exempt them from the strict application of this ordinance.

Section 10.30 YARDS-HOW MEASURED:

- A. Yard, Front:
 - 1. On Federal, State, County and Township roads which have a right-of-way of less than one hundred (100) feet, such yard shall be measured from a point being fifty (50) feet from and parallel to the centerline of said highway.
 - 2. On Federal, State, County and Township roads having a right-of-way of one hundred (100) feet or more and for all other roads and streets, such yard shall be measured from the right-of-way line of the street on which the lot fronts (the front lot line); provided however, that if the proposed location of the

right-of-way line of such street as established on the “Currently Held Valid Thoroughfare Plan for the City of Rochester and the Townships of Cascade, Marion, Haverhill, Rochester and a portion of High Forest” or on the “Official Map of the County of Olmsted” differs from that of the existing street; then the required front yard least depth shall be measured from the right-of-way line of such street as designated on said Thoroughfare Plan or Official Map.

B. YARD, SIDE STREET:

1. On Federal, State and Township roads which have a right-of-way of less than one hundred (100) feet such yard shall be measured from a point being fifty (50) feet from and parallel to the centerline of said highway.
2. On Federal, State, County and Township roads having a right-of-way of one hundred (100) feet or more for all other roads and streets, such yard shall be measured from the right-of-way line of the street on which the lot fronts (the front lot line); provided, however, that if the proposed location of the right-of-way line of such street as established on the “Currently Held Valid Thoroughfare Plan for the City of Rochester and the Townships of Cascade, Marion, Haverhill, Rochester and a portion of High Forest” or on the “Official Map of the County of Olmsted” differs from that of the existing street, then the required front yard least depth shall be measured from the right-of-way line of such street as designated on said Thoroughfare Plan or Official Map.

C. THROUGH LOTS:

1. Lots having frontage on two non-intersecting streets need not provide a rear yard, but applicable front yards must be provided on both streets.

D. CORNER LOTS:

1. On corner lots, the applicant shall designate a front and side street yard.
2. For corner lots where potential front and side lot lines create a continuous curve, a perpendicular line intersecting the midpoint of the curve shall be deemed the breakpoint between yards.

Section 10.32 FENCES, WALLS AND HEDGES:

Fences, walls and hedges may be located in any required yard or buildable lot area, subject to the provisions of Section 10.18; but shall not exceed six (6) feet in height above the elevation of the surface of the ground at any point, except that in instances where public safety or

security necessitate, the Salem Township Zoning Administrator may authorize fences and walls to have a maximum height of not to exceed ten (10) feet above the elevation of the surface of the ground at any point.

Section 10.34 YARD ENCROACHMENT:

Outside stairways, fire escapes, fire towers, porches, platforms, balconies, boiler flues, and other similar projections shall be considered as part of the building and not allowed as part of the required space for yards, courts, or unoccupied space; provided, however, that this provision shall not apply to one (1) fireplace or one (1) chimney, not more than eight (8) feet in length and projecting not more than thirty (30) inches into the allowable side yard space, nor cornices not exceeding sixteen (16) inches in width, nor to platforms, terraces, steps below the dirt floor level, nor to unenclosed projections not over one (1) story in height which may extend into a front or rear yard not more than ten (10) feet, or into a side yard not more than two (2) feet.

Section 10.36 STRUCTURES, NOT INCLUDED IN HEIGHT OF BUILDING:

Chimneys, cooling towers, elevator bulkheads, fire towers, drive in movie theater screens, grain elevators, silos, windmills, radio or television antennas, monuments, cupolas, steeples, and mechanical appurtenances pertaining to and necessary to the permitted use of the district in which they are located shall not be included in calculating the height of the principal structure.

Section 10.38 PRESERVATION OF OPEN SPACE:

Open –space areas shall be maintained so that their use and enjoyment as open space are not diminished or destroyed. Open-space areas may be owned, preserved, and maintained as required by this section of any of the following mechanisms or combinations thereof:

- A. Dedication of open space to Salem Township or an appropriate public agency, if there is a public agency willing to accept the dedication.
- B. Common ownership of the open space by a homeowners association, which assumes full responsibility for its maintenance.
- C. Dedication of development rights of open space may be made to an appropriate public agency with ownership remaining with the developer or homeowner’s association. Maintenance responsibility shall remain with the property owner or the homeowner’s association.

In the event that any private owner of open space fails to maintain same according to the standards of this ordinance, Salem Township may, in accordance with the Open-Space Plan and following reasonable notice and demand that deficiency of maintenance be corrected, enter the open space to maintain same. The cost of such

maintenance shall be charged to those persons having the primary responsibility for maintenance of the open space. An open-space plan shall be submitted as a part of the application for a conditional use. This plan shall designate and indicate the boundaries of all open-space areas required by this ordinance. The plan shall:

1. Designate areas to be reserved as open space. The specific design of open-space areas shall be sensitive to the physical and design characteristics of the site.
2. Designate the type of open space, which will be provided.
3. Specify the manner in which the open space shall be perpetuated, maintained, and administered.

Section 10.40 PIPELINES:

A. Purpose: Construction and operation of pipelines through rural areas of the Township have the potential for causing adverse impacts on the productive use of land by disrupting and compacting the soil, interfering with drainage tiles and drainage patterns, and by placement of associated facilities such as pump stations in such a manner as to interfere with agricultural operations. Construction and operation of pipelines also possess the potential for causing adverse impacts upon the maintenance and operation of publically owned roads, streets, and utilities. The Township further finds that it is both necessary and proper to enact these regulations pursuant to Minnesota Statutes Section 116. 1.01 et seq, which provides for the protection and restoration of cultivated agricultural land within the Township and which provides minimum depth requirements for construction and operation of pipelines. These regulations shall apply to all pipelines, not exempted pursuant to Minnesota Statutes Chapter 116, 1, for which physical manipulation of the land within this Township commences after this zoning ordinance is adopted.

B. Definitions:

1. **Construction:** Any clearing of land, excavation, or other action that would adversely affect the natural environment of a pipeline route but does not include changes needed for temporary use of a route for purposes other than installation of a pipeline, for securing survey or geological data, or for the repair or replacement of an existing right-of-way.
2. **Cultivated Agricultural Land:** Land which is used to raise agricultural crops is capable of use for that purpose, or is plowed, fallow, or contains harvested crop residue or is pastureland.

3. **Pipeline:** Pipes located in this Township which are used to transport natural or synthetic gas at a pressure of more than ninety (90) pounds per square inch, or to transport crude petroleum or petroleum fuels or oil or their derivatives, coal, anhydrous ammonia, or any mineral slurry within this Township or any other product that can be transported by pipeline.
4. **Landowners Grant of Easement:** The legal document entered into between the property owner and pipeline company, which may contain specific requirements for the installation of the pipe. These requirements cannot be less stringent than the State, County or Township regulations except in the area of minimum depth.

C. Filing Requirements: The owner of the pipeline or its agent shall file with the Township Board prior to start of construction the following:

1. Maps indicating the location, alignment of pipelines and all street, road and stream crossings.
2. Type of service proposed including items to be carried in the pipeline.
3. Copies of State and/or Federal Environmental Impact Statements.
4. Copies of approval letters of agreement from all applicable State and Federal agencies.
5. Copies of all negotiated Landowner Grants of Easement.

D. Pipeline Depth Requirements: Any pipeline constructed or operated in this Township shall be buried to meet the following minimum level cover requirements, unless waived according to the procedure of Section 10.40 (G) of this zoning ordinance.

1. Four and one-half (4-1/2) feet minimum beneath the authorized depth of the right-of-way or any drainage facilities under the jurisdiction of the Township.
2. Four and one-half (4-1/2) feet minimum beneath the right-of-way of any street, road, or highway under the jurisdiction of any political subdivision.
3. Four and one-half (4-1/2) feet minimum beneath cultivated agricultural land in this Township.
4. Vertical distance between field drainage tile and the pipeline shall be at least one (1) foot.

- E. Pipeline Construction Practices:** The following construction practices shall be observed by any person constructing a pipeline in this Township:
- 1. Storage of Equipment and Material During Construction:** All materials and equipment must be stored and parked within the bounds of pipeline right-of-way so as to minimize interference with on-going agricultural operations or as set forth in the "Landowner's Grants of Easement".
 - 2. Preservation of Top Soil:** As set forth in "Landowners Grant of Easement".
 - 3. Prevention of Erosion:** As set forth in "Landowners Grant of Easement".
 - 4. Protection of Tile Lines:** As set forth in "Landowner Grant of Easement".
- F. Location of Associated Facilities:** Location of all above ground facilities associated with the operation of a pipeline, including but not limited to pump stations, shall be consistent with the following criteria:
- 1. Associated facilities such as pump stations, check valves, and access points shall be required to be located so as to minimize interference with productive use of cultivated agricultural land, irrigation, etc. by placing in corners of fields, on fence lines, etc.;**
 - 2. To minimize interference with existing roads, highways.**
- G. Waiver of Depth Requirements:** Waiver of depth requirements shall be permitted consistent with Minnesota Statutes Section 116, 1.06 Subdivision 2 and 3.
- H. Inspection Fee:** Any person proposing to construct a pipeline in this Township shall pay to the Township Treasurer a fee in accordance with Minnesota Statutes Section 116, 1.06 Subdivision 6.
- I. Enforcement:** Any person violating the provisions of this zoning ordinance is guilty of a misdemeanor for each offense and may be subject to civil liability consistent with Minnesota Statutes 116, 1.06, Subdivision 10, consistent with Minnesota Statutes Section 116, 1.06, Subdivision 8, this zoning ordinance may be enforced by injunction, action to compel performance or other appropriate equitable relief in the district court of this County.

Section 10.42 MOBILE HOME REGULATIONS:

The purpose of these regulations is to provide for mobile home communities located in areas serviced by public or centralized sewage collection and treatment system and located in the R-2 Zoning District.

It is intended that such mobile home communities shall be so located, designed, and improved as to provide a desirable residential environment, protection from potentially adverse neighboring influences, protection for adjacent residential properties, access for vehicular traffic without traversing minor streets in adjoining residential neighborhoods, and accessibility equivalent to that for other forms of permitted residential development.

A. Permissible Uses and Structures:

1. Mobile Homes.
2. Structures and uses necessary for the construction, operation or maintenance of the mobile home community.
3. In mobile home communities so located that such facilities are not conveniently available in the neighboring area and containing at least one hundred (100) dwelling units, commercial and service establishments intended to serve only persons within the community, designed, improved, and located to protect the character of the community and the surrounding neighborhood, and occupying in total, including related parking area, not more than five (5%) percent of the area of the community, or the building shall not exceed three thousand (3,000) square feet of floor area.
4. In mobile home communities, outdoor storage areas, including those for recreational vehicles, may be permitted when such areas are designed, improved, and located as to protect adjoining uses from adverse visual or other effects and shall occupy, in total, not more than five (5%) percent of the area of the mobile home community.
5. Uses and structures that are customarily accessory and clearly incidental to permitted principal uses and structures shall be permitted. In mobile home communities, recreational vehicles shall not be occupied as living quarters and sales lots shall not be permitted, but dwellings may be sold on lots they occupy in residential use.

B. Minimum Lot Requirements in Mobile Home Subdivisions: Minimum lot area and width for mobile homes in mobile home subdivisions shall be as follows for the dwelling types indicated, including mobile homes:

	LOT AREA	LOT WIDTH
Single-Family Mobile Home	4,500 sf.	45 feet
Attached Mobile Home	4,000 sf	40 feet

C. Maximum Density Limitations in Mobile Home Communities:
Maximum density in any mobile home community shall not exceed eight (8) units per

gross acre. For purposes of these regulations, gross acreage is to be computed as all area within the exterior boundaries of the property, including roads, common open space, lands occupied by management offices and community buildings, lands occupied by mobile home stands or lots, and lands occupied by utility installations.

- D. Maximum Lot Coverage:** The following limitations on maximum lot coverage shall apply to residential uses in mobile home communities. Where a roofed area, such as a carport or outdoor recreation shelter, is open for forty (40) percent or more of its perimeter, its lot coverage shall be computed as one-half (1/2) the area covered by the roof. Where the lot is adjacent to, and has direct access to, approved common open space not less than ten (10) feet in minimum width, other than vehicular areas, an additional five (5) percent of the lot area may be occupied.
1. **Detached Mobile Home:** Detached mobile homes and their accessory buildings shall occupy not more than thirty five (35) percent of lot area.
 2. **Units attached for up to and including 50 Percent of the Mobile Home Perimeter:** Mobile homes attached for up to and including fifty (50) percent of perimeter, together with their accessory buildings, shall occupy not more than forty (40) percent of lot area.
 3. **Units Attached for More than 50 Percent of the Mobile Home Perimeter:** Mobile Homes attached for fifty (50) percent or more of perimeter, together with their accessory buildings, shall occupy not more than fifty (50) percent of the lot area.
- E. Required Outdoor Living Area on Lot:** In mobile home communities, an outdoor living area shall be provided on each lot equal to at least ten (10) percent of its area, provided that in no case shall such area be less than three hundred (300) square feet or required to be more than five hundred (500) square feet. The minimum horizontal dimension of such area shall be not less than fifteen (15) feet. Such outdoor living area shall be properly drained, located for convenience and optimum use and walled, fenced or planted to provide reasonable privacy. This section maybe covered in whole or in part by a roof, subject to limitations on maximum lot coverage set forth at Section 10.42 (D).
- F. Yards; Open Space Adjacent to Dwelling Units; Spacing of Dwelling Units:**
1. **Intent:** Yard and other open spaces required herein in relation to dwellings in mobile home communities are intended to perform a variety of functions. Among these are assuring (as appropriate to and required by the dwellings as designed and located and constructed, adequate privacy, usable outdoor living space, desirable outlook, natural light and ventilation, access to and around dwellings, off street parking space, and spacing between dwellings

and portions of dwellings and other buildings for reducing potential adverse effects of noise, odor, glare, or hazards from fire. It is intended in these regulations to relate provisions to performance of these functions, allowing maximum flexibility in detailed site planning and use as long as performance requirements and related standards are met.

2. **Dwelling Unit Exposures and Outlook:** For purposes of relating requirements to function, yards, and other open spaces around dwellings, the distance between dwellings and other buildings shall be determined by exposures and outlooks from the portions of the dwellings involved. Such exposures are defined and classified as follows:
 - a. **Class A:** Portions of walls containing principal living room exposure to outdoor living area through major windows and/or glassed doors. Prime consideration here is direct view of, and convenient access to outdoor livability space. In cases where two walls provide this type of exposure from a living room, either may be selected as the Class A exposure, and the other shall be considered Class C.
 - b. **Class B:** Portions of walls containing the only windows for bedrooms principal windows and/or glassed doors for bedrooms, where privacy, moderate outlook, and light and air are principal considerations.
 - c. **Class C:** Portions of walls containing secondary windows for bedroom windows for kitchens, bathrooms, utility rooms, and the like, secondary windows for living rooms, or exterior doors other than entries with Class A orientation, where such windows do not involve privacy or are so located, shielded, or are such a nature that necessary privacy is assured, and where light, air, and fire protection are principal considerations.
 - d. **Class D:** Portion of walls containing no windows, doors or other openings, but not so constructed or safeguarded as to be suitable for attachment to other dwelling units or principal buildings. Principal concern in such cases is with fire protection.
 - e. **Class E:** Portions of walls containing no windows, doors, or other openings, and so constructed or safeguarded as to provide at least one-hour fire protection when attached to other dwelling units or other principal buildings, and to meet the acoustic controls and living unit to living unit sound transmission limitations of "Minimum Property Standards for Multi-family Housing", U.S. Department of Housing and Urban Development.

3. Open Space Depth Defined: Requirements by Dwelling Units

Exposure: Open space depth is the minimum open space distance on the lot (except as otherwise specifically provided) perpendicular to the wall of the dwelling at any point, or to any addition of the dwelling which is enclosed for more than sixty (60) percent of its perimeter or for more than ten (10) percent of the portion of its perimeter opposite any A,B, or C exposure of a dwelling Open space depth and character shall be as follows:

- a. **Distance to Common Areas:** Except as provided below, distance from any Class B to Class E exposure of a dwelling to a street pavement or to the edge of a common driveway, a common parking area, a common walk, or other common area, shall be at least eight (8) feet. In the case of Class A exposures, this distance shall be fifteen (15) feet. Carports open in a manner that assures visibility may extend to within four (4) feet of a common sidewalk adjacent to a street or to a common parking area or within four (4) feet of the street pavement or common parking area if no such sidewalk is involved.
- b. **Other Minimum Open Space Depth Requirements:** Other open space depth requirements shall be, by exposure, Class A, fifteen (15) feet; Class B, ten (10) feet; Class C, Eight (8) feet; Class D, five (5) feet, Class E, none. Dwellings on lots adjoining non residential buildings shall be separated from such buildings by at least ten (10) feet more than the above requirements.
- c. **Occupancy of Open Spaces by Carports, Recreational Shelters, Storage Structures:** A carport, enclosed for fifty (50) percent or less of the total perimeter by attachment to the dwelling and by a wall at the inner end perpendicular to the dwelling, may extend into any open space on the lot, required or other, that does not adjoin the outdoor living area on an adjacent lot or any common non-vehicular open space.

A recreational shelter, enclosed for fifty (50) percent or less of its total perimeter, may extend into any open space on the lot, required or other, constituting outdoor living area. Such shelter shall not exceed one hundred fifty (150) square feet in floor area.

Enclosed storage facilities combined with and included within such carports or recreational shelters shall not exceed ten (10) percent of the floor area of such carport or shelter. Separate storage structures not exceeding thirty (30) square feet in floor area or seven (7) feet in height may occupy any open space on the lot, required or other, that is farther from a street or common non-vehicular open space than

the nearest portion of the dwelling. Only one such separate storage structure shall be permitted per dwelling unit.

Carpports, recreational shelter, and storage facilities for adjacent lots may be so located as to attach across lot lines, provided that as located and constructed they do not constitute undesirable impediments to view (including visibility at intersections of streets or intersections of driveways with streets) or increase fire hazards.

d. Spacing of Dwellings on Adjacent Lots; Equivalent

Spacing Alternative: Minimum required distances between dwelling units, or additions thereto enclosed for more than fifty (50) percent of their perimeters or for more than ten (10) percent of the perimeters opposite any A, B, or C exposure, shall be in the sum of the required distances for the exposure involved.

As an alternative to providing required open space for each dwelling exposure on its own lot, where equivalent spacing can be assured in a form appropriate to the exposure involved by decreasing clearance from the lot line on one lot and increasing clearance on the adjacent lot, this arrangement may be permitted; provided that access for servicing and maintenance of dwelling units involved can be assured, and further provided that minimum open space depth for Class A exposures shall be located on the same lot as the dwelling.

G. Maximum Height of Buildings: Maximum height of buildings shall be thirty-five (35) feet.

H. Limitations on Signs: In connection with mobile home communities, no signs intended to be read from any public way adjoining the district shall be permitted except:

1. No more than one (1) identification sign, not exceeding twelve (12) square feet in area, for each principal entrance.
2. No more than one (1) sign, not exceeding four (4) square feet in area advertising property for sale, lease, or rent or indicating "Vacancy" or "No Vacancy", may be erected at each principal entrance.
3. In the case of new mobile home communities consisting in whole or in part of mobile home subdivisions or condominiums, one (1) sign, not exceeding eighteen (18) square feet in area may be erected for a period of not more than two (2) years at each principal entrance to advertise the sale of lots or dwellings. No source of illumination for any such signs shall be directly visible

from adjoining streets or residential property, and no such signs shall be erected within five (5) feet of any exterior property line.

- I. **Off-Street Parking Requirements:** Two (2) off street parking spaces shall be provided for each mobile home. In mobile home communities, residential parking spaces need not be located on lots occupied by the dwelling units served, but at least one (1) such space shall be reserved for, and located within one hundred (100) feet walking distance of, the dwelling unit it is intended to serve.
- J. **Common, Recreational Facilities:** There shall be provided within each mobile home park or mobile home subdivision an adequate site or sites for recreation for the exclusive use of the occupants. Such recreation site or sites shall have a minimum area of four thousand (4,000) square feet plus one hundred (100) square feet for each mobile home space in said park or subdivision. The recreation site shall be of appropriate design and provided with adequate equipment.
- K. **Community Storm Shelter Facilities:** There shall be provided within each mobile home park or subdivision that has ten (10) units or more, suitable storm shelter facilities constructed to accommodate the following numbers of people: Shelter Space (No. of People)=0.75 x the number of units x 2.5 person/unit. A community storm shelter shall be maintained in safe, clean, and sanitary condition. This building shall be constructed in such a manner as to provide safe conditions during a storm.
- L. **Guides and Standards for General Site Planning:** The following guides, standards, and requirements shall apply in site planning for mobile home communities:
 - 1. **External Relationships:** Site planning within the mobile home community shall provide protection of the development from potentially adverse surrounding influences and protection of surrounding areas from potentially adverse influences within the community.
 - a. **Principal Vehicular Access Points:** Principal vehicular access points shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular or pedestrian traffic. Merging and turnout lanes and/or traffic dividers shall be required where existing or anticipated heavy flows indicate need. In general, minor streets shall not be connected with streets outside the mobile home community in such a way as to encourage the use of such minor streets by substantial amounts of through traffic.
 - b. **Access for Pedestrians and Cyclists:** Access for pedestrians and cyclists entering or leaving the community shall be by safe and

convenient routes. Such ways need not be adjacent to or limited to the vicinity of vehicular access points. Where there are crossings of such ways and vehicular routes at edges of planned developments, such crossing shall be safely located, marked, and controlled and where such ways are exposed to substantial vehicular traffic at edges of communities, safeguards may be required to prevent crossings except at designated points. Bicycle paths, if provided, shall be so related to the pedestrian way system that street crossings are combined.

2. **Exterior Yards for Mobile Home Communities; Minimum Requirements; Occupancy:** The following requirements and limitations shall apply to yards at the outer edges of mobile home communities:
 - a. **Along Public Roads:** Where mobile home communities adjoin public roads along exterior boundaries, a yard at least twenty-five (25) feet in minimum dimensions shall be provided adjacent to such roads. Such yard may be used to satisfy open space depth requirements for individual dwellings, but shall not contain carports, recreational shelters, storage structures, or any other structures generally prohibited in yards adjacent to streets in residential districts. No direct vehicular access to individual lots shall be permitted through such yards, and no group facilities or active recreation areas shall be allowed.
 - b. **Yards, Fences, Walls, or Vegetative Screening at Edges of Mobile Home Communities:** Along the edges of mobile home communities, walls or vegetative screening shall be provided where needed to protect residents from undesirable views, lighting, noise, or other off-site influences, or to protect occupants of adjoining residential districts from potentially adverse influences within the mobile home community. In particular, extensive off-street parking areas and service areas for loading and unloading other than passenger vehicles, and for storage and collection of trash and garbage, shall be screened.
3. **Internal Relationships:** The site plan shall provide for safe, efficient, convenient, and harmonious groupings of structures, uses, and facilities, and for appropriate relation of space inside and outside buildings to intended uses and structural features. In particular:
 - a. **Streets, Drives, and Parking and Service Areas:** Streets, drives and parking, and service areas shall provide safe and convenient access to dwellings and community facilities and for service and emergency vehicles, but streets shall not be so laid out as

to encourage outside traffic to traverse the community, nor occupy more land than is required to provide access as indicated, nor create unnecessary fragmentation of the community into small blocks. In general, block size shall be the maximum consistent with use, the shape of the site, and the convenience and safety of the occupants.

- b. **Vehicular Access to Streets:** Vehicular access to street from off-street parking areas may be direct from dwellings if the street or portion of the street serves fifty (50) units or less. Determination of units served shall be based on normal routes anticipated for traffic. Along streets or portions of streets serving more than fifty (50) dwelling units, or constituting major routes to or around central facilities, access from parking and service areas shall be so combined, limited, located, designed and controlled as to channel traffic conveniently, safely, and in a manner that minimizes marginal traffic friction and direct vehicular access from individual dwellings shall generally be prohibited.
- c. **Ways for Pedestrians and Cyclists; Use by Emergency, Maintenance, or Service Vehicles:** Walkways shall form a logical, safe, and convenient system for pedestrian access to all dwellings, project facilities, and principal off-street pedestrian destinations. Maximum walking distance in the open between dwelling units and related parking spaces, delivery areas, and trash and garbage storage areas intended for use of occupants shall not exceed one hundred (100) feet.

Walkways to be used by substantial numbers of children as play areas and routes to schools, bus stops, or other destinations shall be so located and safeguarded as to minimize contacts with normal automotive traffic. If substantial bicycle traffic is anticipated and an internal walkway system is provided away from streets, bicycle paths shall be incorporated in the walkway system. Street crossings shall be held to a minimum on such walkways and shall be appropriately marked and otherwise safeguarded. Ways for pedestrians and cyclists, appropriately located, designed, and constructed, may be combined with other easements and used by emergency, maintenance, or service vehicles, but shall not be used for other automotive traffic.

M. Site Planning and Improvements—Additional Details:

- 1. **Roads:** All roads that are to be dedicated to the township shall be dimensioned and in accord with the subdivision regulations and to the

township standards. Any private road within the mobile home community shall have a pavement width of at least twenty-four (24) feet.

2. Lots and Locations for Dwellings on Lots; Improvements

Required Before Occupancy: Lots intended for placement of dwellings in mobile home communities shall be so located with respect to streets as to make practical the placement of such dwellings for occupancy. In determinations concerning satisfaction of the requirement, the proposed manner of placement shall be considered.

Location on the lot shall be suitable for the type of dwelling proposed, considering size, required open spaces, and manner of support, and any improvements necessary on the lot for the support or anchoring of the type dwelling proposed shall be provided to the dwelling so supported and/or anchored before occupancy.

The limits of each mobile home lot shall be clearly marked on the ground by permanent flush stakes, markers, or other suitable means.

Section 10.44 MOBILE HOME SKIRTING AND ANCHORING:

- A. All mobile homes shall be securely anchored to the ground in such a manner as to withstand wind pressures specified for mobile homes by the State Building Code.
- B. All mobile homes shall be completely skirted.

Section 10.46 ADVERTISING SIGNS:

The purpose of this section is to protect the traveling public from distraction and maintain the natural and scenic beauty and attractiveness of the Township. By the construction of public roads, the public has created views to which the public retains a right-of-view and it is the intent of these standards to prevent the taking of that right.

- A. **Zoning Certificate:** No advertising signs shall hereafter be erected within Salem Township until the Salem Township Zoning Administrator has reviewed such sign and a zoning certificate issued for that sign.
- B. **Directional Advertising Sign Standards:** One directional advertising may be erected adjacent to a township road, subject to the following standards:
 - 1. Must not exceed dimensions totaling 24 square feet of area.
 - 2. Must provide direction only to a use that is located within Salem Township.
 - 3. The business being advertised must be on permitted by this zoning ordinance.

4. Such signs shall be located not less than 10 feet from any road right-of-way.
5. Such signs shall contain not more than 2 faces, and shall not exceed a height of 10 feet above the ground.
6. Written permission from the property owner upon which said sign is to located must accompany any application for a zoning certificate for the sign.

C. General Advertising Signs: General advertising signs shall be subject to the following standards:

1. The following provisions shall apply to all roads located within Salem Township. These provisions apply to all Federal, State, County, Township, and private roads.
 - a. No General Advertising sign shall exceed dimensions totaling an area of 600 square feet.
 - b. No General Advertising sign shall be located within 500 feet of an existing dwelling.
2. The following provisions shall apply only to County, Township and private roads.
 - a. No General Advertising sign shall exceed a total height of 30 feet above the surface of the adjacent roadway.
 - b. General Advertising signs may only be located upon lands zoned commercial or industrial by Salem Township.
 - c. No General Advertising sign shall be erected within a distance of 1320 feet from another General Advertising sign.
 - d. No General Advertising sign may be erected within a distance of 1320 feet of lands zoned residential by any political jurisdiction.
 - e. No General Advertising sign may be erected on lands designated as a shoreland District or within 1320 feet of lands designated as a Shoreland District.
 - f. No General Advertising sign shall be erected as the principle use on the property.

g. General Advertising signs shall maintain all yard and setback requirements equal to the requirements of the zoning district where located.

4. All General Advertising Signs existing as of March 10, 1998 shall be exempt from the provisions of this Chapter. These signs may be altered, rebuilt, reconstructed, or replaced on the same property with another General Advertising sign of the same square footage.

5.

Section 10.48 TRANSPORTATION IMPACT REPORTS:

A. Purpose: The intent of this section is to provide the information necessary to allow decision-makers to assess the transportation implications of traffic associated with a proposed development in relation to safety, the existing and proposed capacity and condition of the street system, congestion, and the quality of life of neighboring residences. This section establishes requirements for the analysis and evaluation of transportation impacts associated with proposed developments. Traffic studies should identify what improvements, if any, are needed to:

1. Insure safe ingress to and egress from a site;
2. Maintain adequate street capacity on public streets serving the development;
3. Ensure safe and reasonable traffic operating conditions on streets and at intersections in the vicinity of a proposed development;
4. Avoid creation of or mitigate existing hazardous traffic conditions;
5. Minimize the impact of non-residential traffic on residential uses in the vicinity; and
6. Protect the public investment in the existing street system.

B. When Required: Development proposals with any of the following traffic or land use characteristics shall be accompanied by a traffic impact report prepared consistent with the provisions of this section unless the requirements is waived by the relevant road authority under the provisions of 10.48.C:

1. Uses that generate more than 500 vehicle trips per day according to the Institute of Transportation Engineers most recent Trip Generation Manual or 30 heavy vehicle trips per day based on the best available data. Where the development proposed cannot be adequately described by ITE, trip generation should be estimated based on data collected from other developments of similar size and scope, with a minimum of three independent data samples provided.

2. Proposed land use plan amendments from the Resource Protection designation to the Suburban Development designation or Urban Service Area designation or from the Resource Protection designation or Suburban Development designation to the Urban Service Area designation. Traffic impact studies for land use plan amendments to the Urban Service Area designation shall identify the road system investments to the County and State road systems necessary to serve anticipated urban development in the Urban Service Area.
 3. Zone change requests to zoning districts which include uses (other than conditional uses) whose trip generation exceeds 500 total vehicle trips per day according to the Institute of Transportation Engineers most recent Trip Generation Manual , or which may generate more than 30 heavy vehicle trips per day according to the best available truck trip generation information.
 4. Residential General Development Plans with 25 or more dwellings whose primary access beyond the limits of the development will be a gravel surfaced road, or 50 or more dwellings where the primary access beyond the limits of the development will be a paved road.
 5. Developments having direct access onto existing or planned Interstate, Interregional, Strategic Arterial or Major Arterial highway as designated by the adopted Functional Designation Map in the ROCOG Long Range Transportation Plan.
- C. Waiver:** The requirement for a Traffic Impact Report may be waived if the Road Authority Representative (the County Highway Engineer for County, State or Federal Highways, or the Town Board or its Designee for township roads), determines that a Traffic Impact Report is not necessary to determine needed road improvements or that no unsafe or hazardous conditions will be created by the development as proposed. This waiver shall not preempt the authority of the Minnesota Department of Transportation to require a traffic study under the requirements of the State Access Management Guidelines on any state or federal highway.
- D. Complete Application:** No application for a development identified as requiring a Traffic Impact Report will be determined to be complete unless it is accompanied by an appropriate traffic study except if a waiver has been granted by the Road Authority Representative.
- E. Contents:** All roads and intersections serving a proposed use must be determined to be capable of handling the estimated share of projected traffic generated by the use. A Traffic Impact Report shall include the following:
1. An analysis of traffic operations and intersection improvement needs at all site access points under projected traffic loads. This operational evaluation shall include on-site circulation as it may affect access, on-site and off-site turn lanes and required storage, the potential need for signalization or other traffic control, and review of sight distance and other intersection safety aspects. The proposed access plan should be consistent

with the standards of the Olmsted County Access Management Ordinance for county roads or with other Access Management regulations that may apply for other roads.

2. An analysis of the impact of site-generated traffic on the level of service of affected intersections and public streets in the vicinity of the site. Affected intersections are any road segment or intersection where the additional traffic volume created by the proposed development is greater than 10 percent of the current traffic volume (for road segments) or the current entering volume (for intersections). The Road Authority representative may choose to waive study of certain intersections.
3. For developments expected to generate more than 30 truck trips per day, an analysis of the intersections and road segments these trucks would use to reach the major arterial road system from the site. Issues of concern include structural capacity, impacts of slow moving vehicles on roadway safety, and the need for intersection operation improvements to accommodate truck traffic.
4. An analysis of the impact of the proposed development on residential streets in the vicinity of the site to identify any potential adverse effects of the proposed development and mitigation measures to address any impacts. Examples of possible effects include, but are not limited to, non-residential traffic impacts on residential neighborhoods, pedestrian and bicyclist safety hazards, traffic noise, or turning movements conflicts with other driveways or local access roads.
5. The finding that site access and other improvements that are identified to mitigate the traffic impact of the development meet commonly accepted engineering design standards and access management criteria.
6. A detailed list of the transportation infrastructure improvements needed to mitigate the impact of the development and estimated costs of these improvements.

F. Preparation: The applicant may choose to have a traffic study prepared by a Traffic or Transportation Engineer, or other qualified professional with experience in the preparation of such analysis, or may choose to have the Zoning Administrator prepare a report once the development application is submitted. At his or her discretion, the Zoning Administrator may decline to prepare the study. When the applicant chooses to have the Zoning Administrator prepare the study, and the Zoning Administrator agrees to prepare the study, the application triggering the need for a TIR shall be considered incomplete until 45 days after the request is made to the Zoning Administrator to complete the TIR, in order to provide time to prepare the study. The applicant shall be responsible for the costs of preparation of the traffic study incurred by the Zoning Administrator, as identified in the Fee Schedule.

G. Traffic Service Standards: The standards for traffic service that shall be used to evaluate the findings of traffic impact reports are:

1. **Capacity:** The following table shall be used to assess the impact of the proposed development on the capacity of the roadway system. Development traffic when combined with projected 20 year background traffic growth shall not cause the volume to capacity (V/C) ratio to be exceeded. The listed ADT (Average Daily Traffic) capacity should be used as a first test to determine whether V/C limits might be approached; if so, a more detailed analysis of V/C should be completed using methods in the Highway Capacity Manual or similar techniques.

LAND USE AREA (1)	V/C RATIO	ROADWAY TYPE	ROAD CHARACTER	ADT CAPACITY
RURAL	.055	2 LANE HIGHWAY	LEVEL WITH SHOULDERS	4800
			ROLLING OR LEVEL WITH LIMITED OR NO SHOULDERS	2900
URBAN INFLUENCE	0.60	2 LANE HIGHWAY	LEVEL	6500
			ROLLING OR LEVEL WITH LIMITED OR NO SHOULDERS	5000
DEVELOPING AREA	0.70	2 LANE HIGHWAY	LEVEL	8700
			ROLLING OR LEVEL WITH LIMITED OR NO SHOULDERS	7100
ALL AREAS	NA	LOCAL COLLECTOR ROAD	ALL	1200
ALL AREAS	NA	LOCAL RESIDENTIAL ROAD	ALL	800

(1) LAND USE AREAS ARE DEFINED IN CHAPER 4A OF THE ROCOG LONG RANGE TRANSPORTATION PLAN.

2. **Level of Service:** The Level of Service Standard for all highway corridor operations (including freeway mainline, merging areas and ramp junctions, and arterial and collector intersections or corridors) should meet the Level of Service standards listed in the table below. Level of Service should be calculated using the Highway Capacity

manual or equivalent techniques. Where the existing Level of Service is below these standards, a traffic impact report shall identify those improvements needed to maintain the existing level of service, and what additional improvements would be needed to raise the level of service to the standards indicated.

LAND USE "ZONE (ROCOG LRTP)	LAND USE "AREA"	LEVEL OF SERVICE
DEVELOPING AREAS	SMALL CITIES	MID C
	ROCHESTER	C/D MIDPOINT
URBAN INFLUENCE AREA	ROCHESTER	B/C MIDPOINT
RURAL AREA	ALL	B/C MIDPOINT

3. **Number of Access Points:** The number of access points shall be the minimum needed to provide adequate access capacity for the site. The spacing of access points shall be consistent with the road authority's access management ordinance. If the road authority has not adopted an access management ordinance, then there shall be 500 feet, or the maximum available distance if less than 500 feet, between access points and the nearest adjoining intersection or driveway on adjacent parcels and 200 feet between driveways on the same parcel.
4. **Residential Street Impact:** Non-residential development shall contribute no more than 20% of the traffic on any local street for which residentially zoned property makes up more than 50% of the street frontage.
5. **Vehicle Storage:** The capacity of storage bays and auxiliary lanes for turning traffic shall be adequate to insure turning traffic will not interfere with through traffic flows on any public street.
6. **Internal Circulation:** On-site vehicle circulation and parking patterns shall be designed so as not to interfere with the flow of traffic on any public street and shall accommodate all anticipated types of site traffic.
7. **Safety:** Access points shall be located and designed to provide for adequate intersection and stopping sight distance and appropriate facilities to accommodate acceleration and deceleration of site traffic. The geometric design of access points shall meet the standards of the Olmsted County Access Management Ordinance, or the Access Management Ordinance adopted by the Road Authority, if applicable.

Section 10.49 DUMPING AND DISPOSAL OF WASTE MATERIAL:

The deposit, burning, or disposal of rubbish, or other refuse or of industrial ashes, fly ash, products containing fly ash, slag, sludge or other wastes or byproducts is not permitted on land within Salem Township, except under a conditional use permit which may be issued in appropriate cases upon the filing of an application and payment of fee, accompanied by suitable agreement or bond that such dumping or disposal will not pollute the waters of the Township or cause stagnant water to collect or leave the surface of the land, at the expiration of such permit, in an unacceptable condition or unfit for growing of turf or other permitted land uses. The application of agricultural manure generated upon the landowners own agricultural property or rented property shall be permitted without the need of a permit. The burning of brush generated upon the landowners own property shall be permitted with a burning permit. The pumping and spreading of individual septic systems upon the owner's agricultural land needs no permit.

Section 10.50 WIND ENERGY CONVERSION SYSTEMS:

- A. **Purpose:** Olmsted County promotes the use of wind energy conversion systems and to balance the need for clean and renewable energy with the need to protect the public health, safety, and general welfare. In furtherance of this purpose submittal requirements and standards are established to ensure that wind turbines and wind energy conversion systems, that are a combined nameplate capacity of less than 5,000 kilowatts, are appropriately sited, designed, installed, operated and maintained. In no case shall the provision of this ordinance guarantee wind rights or establish access to the wind.

- B. **Site Testing:** A person may establish a WECS Meteorological Tower on a single or multiple parcels of land for up to a period of three (3) years by obtaining a zoning certificate. The purpose of the tower shall be primarily to measure wind speed, direction, and to determine capacity factor and collect related data necessary to determine suitability of the site for the establishment of a WECS.

- C. **Location and Setback Requirements:** All wind turbines shall meet or exceed the setbacks or separation distance established in this section.
 - 1. **Setback from property lines:** Unless a project site includes multiple properties all wind turbines shall be setback 1.1 times the total height of the wind turbine. Where Small Utility WECS are proposed that include multiple properties, wind turbine setbacks shall be the project area boundaries as described in the application. WECS Meteorological Towers shall be setback 1.1 times the total height. The guy anchor locations for guyed towers where Small Non-utility WECS are constructed shall be a minimum of 8 feet from any property line.

2. Separation Distance:

- a) For Small Utility WECS the distance separation from state wildlife management areas and other MNDNR lands, Public Waters and Types 3-5 wetlands shall be 600 feet. The distance separation from Lake Zumbro, county parks, state forestland, or the Whitewater Wildlife Management Area shall be ¼ mile.
- b) For Small Utility WECS the separation distance from on-site dwellings shall be 1.1 times the total height of the wind turbine and 750 feet from dwellings on adjacent property. For Small Utility WECS separation distance from residential zoning districts shall be ¼ mile.
- c) Structures not a part of the Small Utility WECS project and located on the project site shall be setback from the tower base a distance equal to one rotor diameter.

3. **Setbacks for accessory structures and facilities:** Substations, facility buildings and other structures that are part of the Small Utility WECS shall meet the setback requirements for the zoning district in which the project is located.

D. Aesthetic and Environmental Requirements:

1. **Tower type:** For Small Utility WECS the wind turbine towers shall be freestanding and of tubular construction.
2. **Color and finish:** All wind turbines and towers that are part of a WECS shall be a neutral color including white, grey, light blue, or other non-obtrusive color. Blades may be black in order to facilitate deicing. Finishes shall be non-reflective.
3. **Lighting:** The site shall comply with all FAA lighting requirements. White strobe lights are not permitted unless required by the FAA. White strobe lights shall not be used between dusk and dawn. Red strobe lights are required for all towers located on the perimeter of the site for nighttime illumination to reduce impacts of migrating birds. Interior towers shall not be lit unless required by the FAA standards. Simultaneously pulsing strobe lights are required for the perimeter lights.
4. **Signage:** The manufacturers or owner's company name and/or logo may be placed upon the nacelle of the wind turbine. Warning signs shall be placed on fencing surrounding on-site substations.
5. **Location:** Wind energy conversion systems shall not be located within floodplain districts as regulated in Section 9.00-9.08, the Shoreland district as regulated in Section 9.10 of the zoning ordinance, or wetlands as regulated under MR Chapter 8420.

6. **Waste:** All previously used parts and equipment shall be removed from the site and properly disposed. All hazardous waste generated by the operation and maintenance of the WECS shall be removed from the site and recycled or disposed of properly as required under Minnesota statutes and rules.

7. **Height:** Wind turbine height shall be as specified in the zoning district within which the WECS is located.

E. **Noise and Safety Standards:**

1. **Noise:** Except during short-term events including utility outages and severe wind events, a WECS shall be designed, installed and operated so that the noise generated does not exceed 60 dBA at the property line.

2. **Automatic Overspeed Controls:** All wind turbines shall be equipped with manual and automatic overspeed controls to limit the blade rotation speed to within unit design limits. A professional engineer must certify that the wind turbine is equipped with rotor and overspeed controls.

3. **Blade Clearance:** No portion of a wind turbine blade in a small utility WECS shall extend closer to the ground than 50 feet. Blade clearance for Small Non-utility WECS shall be no less than 20 feet.

4. **Climbing Apparatus:** All climbing apparatus located outside of the tower shall be located at least 15 feet above the ground. All towers shall have controlled access and doors shall be locked.

5. **Intra-project Power and Communication Lines:** All power lines used to collect power from individual wind turbines and all communication lines shall be buried underground.

F. **Decommissioning of Small Utility WECS:** The applicant and future owners shall ensure that facilities are decommissioned upon the end of project life or facility abandonment. A decommissioning plan shall be submitted with the project application. Decommissioning shall include: removal of all structures and electrical transmission components, to a depth of 4 feet, restoration of the soil and vegetation to avoid temporary or long term soil erosion consistent with Section 10.20 of this ordinance.

G. **Application Requirements:** All applicants shall complete a zoning certificate or conditional use permit application form and supply all information required on the application. For a single wind turbine that meets the definition of a Small Utility WECS and is located in the A-1, A-2, or A-3 districts the submittal requirements for a conditional use shall include #1-5,7, and 12 listed in this subsection. For a Small Utility WECS the following additional information is required for a conditional use permit application:

1. A site plan to scale detailing the location of the project area boundaries, property lines, leased land, easements on the site and easements obtained for the project, wind turbine locations, internal roads, transmission lines, transformers and substations, communication lines, interconnection with the utility system, ancillary equipment and structures, access to the public road system, and site topography/elevations;

2. A description of the project, including but not limited to the number of turbines, rated capacity, height of towers, rotor diameter and height of tower and rotor combined, turbine and tower color, manufacturers of the equipment, and schedule/phasing of project including expected date of commercial operation;
3. Current land use and land cover on the project site and on the adjacent parcels;
4. Identification and location of floodplain, floodprone soils, surface water bodies, public waters and shoreland, and wetlands on the project site;
5. Distance of turbines from all property lines and to the nearest dwellings and other structures on the project property and adjacent property;
6. Engineering certification of tower and foundation design suitability for wind turbine, soils, geology, and site topography;
7. Grading and erosion control plan;
8. Decommissioning plan;
9. Evidence of electric power purchase contracts and power transmission contracts, or documentation that the power will be utilized on-site, and control of wind easements in the project area;
10. Identification, location, and description of neighboring small utility WECS and wind easements;
11. Certification that the project has or will obtain liability insurance; and
12. Separation distance from structures, land uses and resource features as listed in subsection C of Section 10.50.

Section 10.51 CHICKENS IN THE RESIDENTIAL DISTRICTS:

- A. Chickens Limited:** It is unlawful for any person to keep or harbor chickens on any premises unless issued a Zoning Certificate to do so as provided in this chapter. No permit shall be issued for the keeping of any rooster chicken on any premises.
- B. Definitions:** The term “Chicken Coop” means a structure for housing chickens made of wood or other similar materials that provides shelter from the elements. The term “Chicken Run” means an enclosed outside yard for keeping chickens.

The term “Premises” means any platted lot or group of contiguous lots, parcels or tracts of land.

- C. Permit:** No person shall maintain a chicken coop and run unless they have been granted a Zoning Certificate by the Zoning Administrator. The permit shall be subject to all terms and conditions of this chapter and any additional conditions deemed necessary by the Zoning Administrator to protect the public health, safety and welfare. Included with the completed application must be a scaled diagram that indicates the location of any chicken coop and run, and the approximate size and distance from adjoining structures and property lines. A permit for the keeping of chickens may be revoked or suspended by the Zoning Administrator for any violation of the Zoning Ordinance upon written notice.

D. Confinement: Every person who owns, controls, keeps maintains or harbors hen chickens must keep them confined at all times in a chicken coop and chicken run. Any coop and run shall be screened with a solid fence or landscaped buffer with a minimum height of four feet. Any coop and run shall be at least 25 feet from any residential structure on any other premises.

E. Chicken Coops:

1. All chicken coops and runs must be located at least 25 feet from any dwelling on any other premises. All chicken coops must meet the requirements of the building and zoning codes, must not exceed ten square feet per chicken and must not exceed six feet in total height. Attached fenced-in chicken runs must not exceed 20 square feet per chicken and must not exceed six feet in total height. Chicken runs may be enclosed with wood and/or woven wire materials, and allow chickens to contact the ground. Chicken feed and manure must be kept in rodent and raccoon proof containers and/or used as compost.

2. Chicken coops must either be:

a) Elevated with a clear open space of at least 24 inches between the ground surface and framing/floor of the coop; or

b) The coop floor, foundation and footings must be constructed using rodent resistant concrete construction.

F. Conditions: Where the hen chickens are kept, any person who owns, keeps or harbors hen chickens on the premises must maintain the area designated for the chickens in a healthy, sanitary and reasonably order free condition and must not allow the premises to be in such condition that noxious odors are carried to adjacent public or private property. Any chicken coop and run authorized by Zoning Certificate/Building Permit, under this section, may be inspected at any reasonable time by an animal control officer, County Feedlot Technician, Zoning Administrator, or other County Representative.

G. Violations: Any person who keeps or harbors chickens in Olmsted County without obtaining or maintaining a current Zoning Certificate and/or Building permit, or after a permit has been suspended or revoked by the Zoning Administrator shall be guilty of a petty misdemeanor.

Section 10.52 SOLAR ENERGY FARMS:

A. Purpose: Olmsted County supports the use of solar collection systems and the development of solar energy farms. The development of solar energy farms should be balanced with the protection of the public health, safety, and welfare. The following standards intend to ensure that solar energy farms can be constructed within Olmsted County while also protecting public safety and the existing natural resources of the county. The provisions of this section of the ordinance shall apply within all zoning districts. In no case shall the provisions of this ordinance guarantee rights to solar access.

B. Location and Site Design Requirements:

1. **General District Regulations:** All elements of the solar energy farm shall meet or exceed all general district regulations based on the applicable zoning district.

2. The applicant must submit evidence that the solar power farm can connect to the off-site power transmission system, and evidence of electric power purchase contracts and power transmission contracts, or documentation that the power will be utilized on-site.
3. The land area within the solar energy farm must minimize soil erosion by complying with the standards of Section 10.20 of the zoning ordinance.
4. Solar energy farms shall not be located within the Shoreland District or Floodway District. Solar energy farms located in either a Flood Fringe or Flood Plain District shall be elevated to the flood protection elevation.
5. Solar energy farms that utilize concentrating solar power (CSP) devices shall not be permitted to be located within Zones A, B, or C, the Horizontal Zone, the Conical Zone, or the Precision Instrument Approach Zone as designated in the Rochester International Airport Zoning Ordinance #5 as amended.
6. Solar energy farms that utilize concentrating solar power (CSP) devices shall not abut or be located across a road from a land management unit of the Minnesota Department of Natural Resources, Olmsted County, or private conservation organization, county or city park, Type 3, 4 or 5 wetlands, or residential zoning district.
7. All power lines used to collect power from the solar panels and all communications lines shall be buried underground compliant with the National Electrical Code or the standards and requirements of the National Electrical Safety Code where applicable. Where existing site conditions preclude the burial below the existing grade of the site the communications and power lines may be placed at ground level and buried with fill material that will permit re-vegetation or that does not cause or generate soil erosion. The connection of the solar energy farm distribution system load center (transformer, substation) to the electrical utility may be located above ground.
8. All unenclosed electrical conductors located above ground must be contained within structures that control access or must be protected from entry by a six foot fence. All electrical connections to the utility system must meet the National Electrical Safety Code.
9. Solar energy farms utilizing concentrated solar power devices (CSP) shall be required to provide a bufferyard "E" where located abutting or across a road from any residential zoning district.
10. Decommissioning of Solar Farms: The applicant and future owners shall ensure that facilities are decommissioned upon the end of project life or facility abandonment. A decommissioning plan shall be submitted with the project application. Decommissioning shall include removal of all structures and electrical transmission components, and where buried remove all construction above and below grade, and restoration of the soil and vegetation to avoid temporary or long term soil erosion consistent with Section 10.20 of this ordinance.

C. Conditional Use Review Criteria: In addition to the criteria identified in Section 4.02, the following additional criteria shall be applied:

1. To issue a conditional use permit, the Planning Advisory Commission must find that the design, construction and operation of a solar energy farm, taking into account mitigation, are not likely to result in a significant adverse impact to the general public, adjacent properties and to natural resources.
 - a) The site design must be consistent with the provisions of Section 8.09.2A for farms utilizing concentrated solar power devices.

- b) Where concentrated solar power devices utilizing mirrors are proposed the project will be designed to reduce the likelihood of significant adverse effects to birds. The operation must avoid the creation of bird habitat or habitat for bird prey. The proposed project has been designed and will be operated to protect public safety, and specifically to prevent public access. That portion of the property developed within the solar energy farm must be fenced and gated.
 - c) The proposed facility utilizing concentrated solar power devices has been designed and operated to prevent the misdirection of concentrated solar radiation onto adjacent or nearby property, public roads or other areas open to the public.
 - d) The applicant must show that the solar collector system is properly located and aligned or adequately screened from view from the public right of way so as to preclude any glare from the equipment which would adversely impact the vision of motorists on the public right of way.
 - e) A bufferyard to screen the system may be required as a part of the conditions of approval. It shall be based on the proximity of residential buildings and the solar collection system to the abutting public rights of way. The vegetation shall consist of canopy and conifer trees.
2. In addition to the exhibits required under Section 4.02C, the applicant must submit the following exhibits with the conditional use application unless waived by the Zoning Administrator:
- a) Maintenance plan for grounds surrounding the solar collection systems.
 - b) Plan for use, storage and disposal of chemicals used in the cleaning of the solar panels or mirrors.
 - c) Where concentrating solar power devices are used the applicant must submit the site plan for review to the Minnesota Department of Natural Resources. A statement from the MNDNR addressing wildlife and habitat impact must accompany the application.
 - d) Submit information explaining how glare generated from the solar collector system will be screened from adjacent properties or that glare will not be created by the system.
 - e) A decommissioning plan.