

1998

BIG STONE COUNTY

LAND AND RELATED RESOURCES

MANAGEMENT ORDINANCE

As adopted June 16 , 1998

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ESTABLISHMENT OF ORDINANCE

1. PREAMBLE AND PURPOSE *Chapter 1*

1.1. Preamble

An ordinance preserving Big Stone County's best agricultural lands, limiting non-farm ex-urban development and encouraging soil and water conservation and protection; regulating and restricting the height and size of buildings, the size of yards, courts and other open spaces, the density of population, the location and use of buildings and land for trade, industry, residence, recreation, public activities and other purposes creating districts for said purposes and establishing boundaries thereof; providing for changes in regulations, restrictions and boundaries of such districts; defining certain terms used herein; providing for enforcement and administration and imposing penalties for violation of this ordinance.

1.2. Purpose

Pursuant to the authority conferred by the State of Minnesota in Chapter 394, Minnesota Statutes 1974, as amended, for the purpose of promoting and protecting public health, safety and general welfare of the inhabitants of Big Stone County by protecting and conserving the character and social and economic stability of the agricultural, residential, commercial, industrial, and other use areas; by securing the most appropriate use of the land; preventing the overcrowding of land; undue congestion of population; providing adequate light, air and reasonable access; and facilitating adequate and economical provision of transportation, water supply and sewage disposal, school, recreation and other public requirements.

2. TITLE

2.1. Title

This ordinance shall be known and cited as the "Big Stone County Land and Related Resources Management Ordinance"; when referred to herein; it shall be known as the "Ordinance".

3. JURISDICTION, COMPLIANCE, INTERPRETATION

3.1. Jurisdiction

Jurisdiction of this ordinance shall apply to all areas of Big Stone County, outside the incorporated limits of any municipalities. The County may from time to time venture into a joint powers agreement or joint zoning board as permitted by statute, or relinquish its zoning jurisdiction, but only to the extent as permitted by Minnesota state law, as ultimately determined pursuant to the provisions and action taken by the Planning Commission and the Board of County Commissioners.

3.2. Effective Date

From and after the effective date of this ordinance, the use of all land, including individual on-site sewage treatment systems, and every building or portion of a building erected, altered in respect to height and area, added to or relocated, and

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every use within a building or use accessory thereto in Big Stone County shall be in conformity with the provisions of this Ordinance.

3.3. Existing Non-conformities

Any existing building or structure and any existing use of properties not in conformity with the regulations herein prescribed shall be regarded as non-conforming, but may be continued, extended or changed subject to the special regulations herein provided with respect to non-conforming properties or uses.

4. SEVERABILITY AND REPEAL OF CONFLICTING ORDINANCE

4.1. Severability

The provisions of this Ordinance shall be severable, and the invalidity of any paragraph, subparagraph or subdivision thereof, shall not make void any other paragraph, subparagraph or subdivision of this Ordinance.

4.2. Repeal of Conflicting Ordinance

The Big Stone County Land and Related Resource Management Ordinance passed July 6, 1981, and amendments adopted May 5, 1982, June 2, 1982, and February 18, 1992 is hereby repealed, and all amendments thereof and supplemental thereto are hereby repealed.

RULES AND DEFINITIONS

5. RULES AND DEFINITIONS *Chapter 2*

5.1. Rules

For the purpose of this Ordinance, words used in the present tense shall include the future; words in the singular shall include the plural, and the plural singular.

5.1.1. **"Building"** shall include **"structures"** of every kind, regardless of similarity to buildings.

5.1.2. **"Lot"** shall include the word "plot", "piece" and "parcel".

5.1.3. **"May"** is permissive.

5.1.4. **"Operator"** shall include any person who is engaged in the business of removing aggregate material from the surface or subsurface of the soil for the purpose of selling it. The sale can be material removed from the ground or material included in a marketable product or service.

5.1.5. **"Person"** shall include a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

5.1.6. **"Shall"** is mandatory and not discretionary.

5.1.7. **"Used"** or **"occupied"** include the words "intended", "designed" or "arranged to be used or occupied".

5.2. Definitions

For the purpose of this Ordinance, certain words and terms are herein defined as follows:

5.2.1. **"Accessory Building."** A building or structure for use on the same lot with and of a nature customarily incidental and subordinate to the principal building or use.

5.2.2. **"Aggregate Material."** Non-metallic natural mineral aggregate which includes, but is not necessarily limited to: sand, silica sand, gravel, building stone, crushed rock, limestone, and granite, but which excludes dimension stone and dimension granite.

5.2.3. **"Agricultural Land."** Agricultural lands that have characteristics which support the production of crops and/or livestock on the continuous basis when managed under appropriate soil and water conservation practices. There are four categories of agricultural lands: "prime," "good," "marginal" and "non-tillable".

5.2.3.1. "Prime Agricultural Land" has the soil qualities of Natural Resource Conservation Service Class I and II soils.

5.2.3.2. "Good Agricultural Land" has the soil qualities of Natural Resource Conservation Service Class III soils.

5.2.3.3. "Marginal Agricultural Land" has the soil qualities of Natural Resource Conservation Service Class IV soils.

5.2.3.4. "Non-tillable Agricultural Land" has the soil qualities of Natural Resource Conservation Service Class V, VI, VII, and VIII soils.

5.2.4. **"Agricultural Structures."** Structures customary and incidental to farming and the raising of animals, including barns and other animal shelters, corrals

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- and fences, silos and storage shed for machinery and crops.
- 5.2.5. **"Agricultural Use."** The use of land for the production of food or fiber, their storage on the area, and/or the raising thereon of domestic pets or domestic farm animals.
- 5.2.6. **"Agriculture."** The art or science of cultivating the soil and activities incidental thereto, the growing of soil crops in the customary manner on open tracts of land, and/or the accessory raising of livestock and poultry on agricultural feedlots. The term shall not include the processing or manufacturing of feed or foodstuffs not raised on the premises for sale or resale.
- 5.2.7. **"Big Stone County."** A political subdivision of the State of Minnesota whose address is 20 Southeast 2nd Street, Ortonville, Minnesota 56278.
- 5.2.8. **"Board of Adjustment."** The established Board of Adjustment appointed by the Board of County Commissioners.
- 5.2.9. **"Building."** Any structure, having a roof, and used or built for shelter or enclosure of any person, animal, chattel of property of any kind.
- 5.2.10. **"Building Height."** The vertical distance measured from the ground level adjoining the building to the highest point of the roof surface.
- 5.2.11. **"Building Permit."** A written approval issued pursuant to the terms of Section 10.
- 5.2.12. **"County Board."** The Board of County Commissioners of Big Stone County, Minnesota.
- 5.2.13. **"District."** Any section in the unincorporated area of Big Stone County for which the regulations governing the use of buildings and land or the height and area of buildings are uniform.
- 5.2.14. **"Dwelling."** A building or portion thereof which is occupied wholly as a home, residence or sleeping place of one (1) or more human beings.
- 5.2.15. **"Environmental Officer."** The Planning and Zoning Administrator for Big Stone County.
- 5.2.16. **"Farm."** A farm shall be a parcel of land which is worked as a single contiguous unit of not less than ten (10) acres in extent.
- 5.2.17. **"Farmstead."** The area within which the farm dwelling, barn, stables, machinery sheds and usual and customary accessory agricultural structures are located.
- 5.2.18. **"Financial Security."** The performance and payment bond, letter of credit, escrow account or certificate of deposit required for securing performance and payments required under Section 6.6 of this Ordinance made payable to Big Stone County.
- 5.2.19. **"Gravel."** Refer to Aggregate Material and Mineral Aggregate.
- 5.2.20. **"Hazardous Waste."** A waste is considered hazardous if it is:
- 5.2.20.1. Flammable - a waste material which ignites at a temperature below 200⁰ F.;
 - 5.2.20.2. Corrosive - Acid or caustic waste solutions that corrode steel or that have a ph below 3 or above 12;
 - 5.2.20.3. Irritative - Waste materials which cause second degree burns

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- when exposed to the skin;
- 5.2.20.4. Toxic - Waste materials that cause illness or death to humans, animals or aquatic life; or
- 5.2.20.5. Generic Waste - Explosive, oxidative, petroleum waste and crank case oil.
- 5.2.21. **"Highway."** Any trunk highway, county state-aid highway, county highway, or town road.
- 5.2.22. **"Home Occupation."** Any occupation or profession carried on by a member of a family, residing on the premises, in connection with which there is used no sign other than one (1) non-illuminated nameplate measuring not more than one (1) by one and one-half (1 & 1/2) feet in area attached to the building entrance provided that:
- 5.2.22.1. No commodity is sold upon the premises;
- 5.2.22.2. No person is regularly employed for commercial purposes other than a member of the immediate family residing on the same premises; and
- 5.2.22.3. No more than twenty-five per cent (25%) of the total floor area is to be use for said home occupation.
- 5.2.23. **"Industrial."** Any activity in which the physical or chemical structure of a product or material, either solid, fluid or gaseous is changed or modified.
- 5.2.24. **"Land Spreading."** The spreading of materials upon any land for the soil treatment of petroleum contaminated soil, septage, or industrial waste or by-products.
- 5.2.25. **"Land Use Permit."** A written approval issued pursuant to the terms of this Ordinance authorizing the applicant to utilize a plot of land according to the terms of the application.
- 5.2.26. **"Lot."** A piece or parcel of land occupied or to be occupied by a building, structure or use, or by other activity permitted thereon and including the open spaces required under this Ordinance. A lot need not be a lot of existing record.
- 5.2.27. **"Lot, Corner."** A corner lot is a lot of which at least two (2) adjacent sides abut for their full length upon a street.
- 5.2.28. **"Lot of Record."** A lot which is part of a subdivision, the plat of which has been recorded in the office of the County Recorder of Big Stone County, or a lot described by metes and bounds, the deed of which as been recorded in the office of the County Recorder of Big Stone County. No new metes and bounds descriptions will be accepted by the County Recorder of Big Stone County.
- 5.2.29. **"Maintenance Storage Facility."** An area of land used to stockpile gravel, granite fines, topsoil, and other materials used in the maintenance of streets and roadways and which meets the Minnesota Pollution Control Agency rules for such storage facilities.
- 5.2.30. **"Mineral Aggregate."** Refers to non-metallic and metallic aggregate. Mineral includes, but is not limited to, sand, silica sand, gravel, building stone, crushed rock, limestone or granite.

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- 5.2.31. **"Mobile Home."** Any mobile home, camper, house trailer or similar mobile unit, which may be used as a portable dwelling.
- 5.2.32. **"Mobile Home Park."** A lot or tract of land upon which two (2) or more occupied mobile homes are harbored either with or without charge and including any building or enclosure intended for use a part of the equipment of such park.¹
- 5.2.33. **"Motel."** A motel is a business comprising a series of attached or semi-detached or detached rental units for the overnight accommodation of transient guests.
- 5.2.34. **"Non-Conforming Use."** A land use or building or structure or portion thereof lawfully existing at the effective date of this Ordinance, or at the time of any amendment thereto, which does not conform to the regulations of the zone in which it is located.
- 5.2.35. **"Open Fences."** Wire, rail, or other fences so constructed which do not hold or restrict snow.
- 5.2.36. **"Operator."** Any person who is engaged in the business of removing any classification of soil or aggregate material from the surface or subsurface of the soil for commercial, industrial, or governmental purposes. This includes material removed from the ground or material included in a marketable product or service.
- 5.2.37. **"Parking Space."** An area of not less than two hundred (200) square feet, exclusive of drives or aisles giving access thereto, accessible from street or alleys, and to be usable for the storage or parking of motor vehicles.
- 5.2.38. **"Planning and Zoning Administrator."** The Environmental Officer for Big Stone County.
- 5.2.39. **"Planning Commission."** The established Big Stone County Planning Commission appointed by the Board of County Commissioners.
- 5.2.40. **"Principal Building."** A building or structure in which is conducted the main or principal use of the lot on which said building or structure is situated.
- 5.2.41. **"Privacy Fences."** A fence which may be placed on a property line or within a property line which includes fences, walls, hedges, or shrubbery.
- 5.2.42. **"Salvage Yard."** An area used for storage, sorting or processing of scrap metal, automobile bodies, farm machinery or other scrap metals.
- 5.2.43. **"Setback."** An open space between a building and the adjoining lot lines, unoccupied and unobstructed from the ground upward. Setback measurements shall be the minimum horizontal distance between a lot line and the nearest line of a building.

¹*Refer to Countryside Public Health Service Ordinance Establishing Standards and Procedures Regulating Manufactured Home Parks and Recreational Camping Areas in Big Stone, Chippewa LacQuiParle, Swift, and Yellow Medicine Counties, delegating regulatory responsibility to Countryside Public Health Service board of Health, effective January 1, 1991 under terms of agreement dated August 1, 1987.*

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- 5.2.44. **"Sewage treatment system."** A septic tank and soil absorption system or other individual or cluster type sewage treatment system and regulated in the Big Stone County Sewage Treatment Ordinance, 1997.
- 5.2.45. **"Sewer system."** Pipelines or conduits, pumping stations and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate treatment.
- 5.2.46. **"Street."** A thoroughfare other than a public alley, dedicated to the use of the public and open to public travel, whether designated as a road, avenue, highway, boulevard, drive lane, circle, place, court or any other similar designation, or a private street open to restricted travel, at least thirty (30) feet in width.
- 5.2.47. **"Structure."** Anything constructed or erected, the use of which requires a location on the ground.
- 5.2.48. **"Use."** The purpose for which land or buildings thereon are designed, arranged or intended to be occupied or used, or for which they are occupied or maintained.

GENERAL REGULATIONS

6. GENERAL REGULATIONS *Chapter 3*

- 6.1. Application of Regulations
The following regulations contained in this section shall apply equally to all Districts.
- 6.2. Compliance Required
Except as provided in Section 8, land and structures in each District shall be used only for purposes specifically permitted by this Ordinance.
- 6.3. Minimum Requirements - Setback & Height
The following shall be considered as minimum requirements in all Districts:
- 6.3.1. Front Setback: No structure or tree planting shall be located less than 150 feet from the center line or 45 feet from the right-of-way line, whichever is greater, of the roads they abut;
- 6.3.2. Side and rear setback: No structure shall be located less than twenty (20) feet from any side or rear property line they adjoin; and
- 6.3.3. Building height: The maximum structure height shall not exceed thirty-five (35) feet, provided that radio and television towers, churches, storage silos, barns and other usual and customary agricultural structures may exceed this height.
- 6.4. Approval of Plats
No proposed plat of a new subdivision shall hereafter be approved unless the lots within such plat shall be equal to or exceed the minimum lot size required for the District in which the property is located, and is approved by the township in which the subdivision is to be located for access to a publicly maintained road. In addition, all new subdivisions shall comply with the Big Stone County "Subdivision Controls Ordinance" adopted October 17, 1995. Refer to the "Subdivision Controls Ordinance" for these regulations.
- 6.5. Easements
No easement may be obtained, nor land purchased, for any of the following uses without first obtaining a conditional use permit for such use:
- 6.5.1. Petrochemical or coal slurry pipelines; and
- 6.5.2. Electrical transmission lines over sixty-nine (69) KV.
- 6.6. Exploration and Extraction of Mineral Aggregate
The use of land for the exploration and/or commercial extraction of mineral aggregate, which includes, but is not necessarily limited to: sand, silica sand, gravel, building stone, crushed rock, limestone, or granite is not permitted in any District except with the granting of a conditional use permit as specified in Section 11 or a land alteration permit. It is the intent of Big Stone County to assist the operators who work within Big Stone County to meet the increasing demands of caring for our environment.
- 6.6.1 Any person who is engaged in the business of removing aggregate material

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from the surface or subsurface of the soil for any commercial, industrial, or governmental purposes, including in a marketable product or service shall have the appropriate permit. Application for such permit shall be made upon a form furnished by the Environmental Services Office and shall contain the following items:

1. Name & address of person requesting the Conditional Use Permit.
2. The legal description and acreage to be (mined/extracted).
3. The following maps of the entire site including all areas within 500 feet of the site.

Map A

Existing conditions to include:

- ◆ Existing vegetation
- ◆ Existing drainage and permanent water areas
- ◆ Existing structures
- ◆ Contour lines at five (5) foot intervals

Map B

Proposed operations to include:

- ◆ Structures to be erected
- ◆ Location of sites to be extracted and proposed depth
- ◆ Setbacks for processing machinery
- ◆ Estimated location of storage of extracted materials and height of storage deposits (subject to change)
- ◆ Location of vehicle parking
- ◆ Location of storage of explosives
- ◆ Erosion and sediment control structures
- ◆ Estimated location of tailings deposits showing maximum height of deposit

Map C

End use plans are to be turned in before the operation is terminated and should include:

- ◆ Location and species of vegetation to be replanted
- ◆ Location and nature of any structures to be erected in relation to the end use plan
- ◆ Contour lines @ (5) five foot intervals

4. Soil Erosion and Sediment Control Plan
5. Dust and Noise Control Plan
6. Full description of all phases of the proposed operation to include an estimated duration of the excavation operation
7. Proof of workers compensation insurance
8. Any other information requested by the Planning Commission

6.6.2. Mining operations that have commenced before ordinance adoption shall not be required to obtain a conditional use permit for said mining operation, but rather shall obtain a land alteration permit from the Environmental Services

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Office. All documents required for conditional use permits shall be submitted with the land alteration permit application.

- 6.6.3. A separate permit shall be required for each recorded parcel of land;
- 6.6.4. Permits shall be granted for (5) years and shall be subject to review and rehearing at that time.
- 6.6.5. Each operator must obtain the appropriate permit before commencing work for extraction.
- 6.6.6. Small scale mining operations may secure a land alteration permit from the Environmental Services Office in lieu of a conditional use permit provided the following conditions are met:

A maximum of 10,000 cubic yards of material shall be removed from, and/or processed in the mining operation;

- 1. The mining operation will be commenced, completed and rehabilitated within a twelve (12) month period;
 - 2. Only one (1) land use permit may be issued per quarter-quarter of land in perpetuity;
 - 3. All other requirements of Section 6.6 shall apply to the permittee.
- 6.6.7. The governing body may impose additional performance standards as part of the Conditional Use Permit.
 - 1. General Provisions
 - a. Vegetation, weeds and any other unsightly or noxious vegetation shall be cut or trimmed as may be necessary to preserve a reasonably neat appearance and to prevent seeding on adjoining property.
 - b. No sand and gravel operation shall be conducted on parcels of less than twenty (20) acres in size. This limitation shall not apply when the tract of land is contiguous to an active mining operation, provided that both tracts are being operated by the same sand and gravel producer.
 - c. All equipment used for mining operations shall be constructed, maintained and operated in such a manner as to minimize, as far as is practicable, noises and vibrations which are injurious or substantially annoying to persons living in the vicinity.
 - 2. Water Resources

The extraction operation shall not be allowed to interfere with surface water drainage beyond the boundaries of the mining operation.

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The extraction operation shall not adversely affect the quality of surface or subsurface water resources.

Surface water originating outside and passing through the extraction district shall, at its point of departure from the mining site, be of equal quality of the water at the point where it enters the mining site.

The extraction operator shall perform any water treatment necessary to comply with this provision, such as culverts, berms, etc.

3. Safety Fencing

Any extraction operation adjacent to a residential zone or within three hundred (300) feet of any residential structures shall be bound by the following standards:

a. Holding or Ponding Areas

Where collections of water occur that are one and one half (1 ½) feet or more in depth existing for any period of at least one (1) month, and occupy an area of seven hundred (700) square feet or more, all access to such collections of water shall be barred by a fence or some similarly effective barrier such as snow fence of at least four (4) feet in height.

b. Steep Slopes

In locations where slopes occur that are steeper than one (1) foot vertical to three (3) feet horizontal existing for a period of one (1) month or more, access to such slope shall be barred by a fence or some similarly effective barrier such as a snow fence at least four (4) feet in height.

4. Mining Access Roads

The location of the intersection of mining access roads with any public roads shall be selected such that traffic on the access roads will have a sufficient distance of public road in view so that any turns onto the public road can be completed with a margin of safety and have the approval of the appropriate Road Authority.

5. Screening Barrier

To minimize problems of dust and noise and to shield mining operations from public view, a screening barrier may be maintained between the excavation site and adjacent residential and commercial properties.

A screening barrier shall be maintained for long-term operations between the excavation site and any public road within five hundred (500) feet of any mining or processing operations. The screening

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barrier shall be planted with a species of fast growing trees such as green ash.

Existing trees and ground cover along public road frontage shall be preserved, maintained, and supplemented for the depth of the roadside except where traffic safety requires cutting and trimming.

6. Setback

Processing of minerals shall not be conducted closer than one hundred (100) feet to the property line and not closer than six hundred (600) feet to any residential or commercial structures located prior to commencement of processing operations without written consent of all owners and residents of said structures.

Extraction operations shall not be conducted closer than thirty (30) feet to the boundary of any zone where such operations are not permitted, nor shall such production or processing be conducted closer than thirty (30) feet to the boundary of an adjoining property, unless written consent of all owners, is first secured in writing. Extraction operations shall not be conducted closer than thirty (30) feet to the right-of-way line of any existing or platted street, road or highway, except that excavating may be conducted within such limits in order to reduce the elevation thereof in conformity to the existing or platted street, road or highway.

No stockpiles shall be located less than 150 feet from the center line or 45 feet from the right-of-way line, whichever is greater, of the roads they abut.

7. Appearance

All buildings, structures and plants used for the production or processing of sand and gravel shall be maintained in such a manner as is practicable and according to acceptable industrial practice as to assure that such buildings, structures and plants will not become dangerously dilapidated.

8. Hours of Operation

Mining operations closer than 500 feet to a residential zone shall be conducted between the hours of 7:00 a.m. and 7:00 p.m. Conditional Use Permits may be allowed for operations not meeting the 500 foot requirement.

9. Erosion Control

All materials to be used for erosion control such as seed mixtures and so forth are to be approved by the County.

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Culverts, berms, etc. may also be required for erosion control.

10. Dust and Dirt

All equipment used for extraction operations shall be constructed, maintained and operated in such a manner as to minimize, as far as is practicable, dust conditions which are injurious or substantially annoying to persons living within six hundred (600) feet of the extraction operation's lot line.

All access roads from extraction operations to public highways, roads or streets or to adjoining property shall be paved or surfaced with gravel to minimize dust conditions.

11. Extraction Operations in Industrial Zone

The limitations above shall not apply to any extraction operation in any industrial zone, unless such operations are closer than one hundred fifty (150) yards to a zone other than an Industrial Zone.

12. Topsoil

Adequate topsoil shall remain on site to be used in the reclamation of the site in accordance with the End Use Plan.

6.6.8. All mining sites shall be rehabilitated immediately after mining operations cease. Rehabilitation shall be complete within one calendar year after operation ceases. The following standards shall apply:

1. Removal of Buildings, Structures and Plants

a. All buildings, structures and plants incidental to such operation shall be dismantled and removed by, and at the expense of, the operator last operating such buildings, structures and plants within the following period of time:

(1) within three (3) months after the termination of an operation,

(2) or within three (3) months after abandonment of such operation for a period of six (6) months,

(3) or within three (3) months after expiration abandonment of such operation for a period of six (6) months,

(4) or within three (3) months after expiration of a permit,

b. Written permission may be granted for those buildings, structures, machinery and plants required to process

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previously extracted materials stored on the site. One year from the permission granting, all buildings, structures, machinery and plants shall be removed.

2. Surface Grading

The peaks and depressions of the area shall be graded and backfilled to a surface which will result in a gently rolling topography in substantial conformity to the land area immediately surrounding, and which will minimize erosion.

3. Slopes

Banks of all excavations shall be sloped at a rate which shall not be less than three (3) feet horizontal to one (1) foot vertical, unless a plan has been submitted which indicates special consideration is needed, and if said plan, with special consideration, has been approved by the County.

4. Vegetation and Topsoil

Reclaimed areas shall be sodded or surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding, and to a depth of at least three (3) inches.

Such required topsoil shall be planted with legumes and grasses. Trees and shrubs may also be planted but not as a substitute for legumes and grasses. Such planting shall adequately retard soil erosion.

Excavations completed to a water producing depth shall be sloped to the water-line at a slope no greater than three (3) feet horizontal to one (1) foot vertical.

5. Finished Grade

The finished grade shall be such that it will not adversely affect the surrounding land or future development of the site upon which the operations have been conducted.

6.6.9 Each operator is liable for timely filing of the required documents, quarterly reports and paying any tax due;

6.6.10 To ensure that the reclamation work is performed and that the quarterly reports with tax payment are filed in a timely manner, financial security made payable to Big Stone County, is required. The Planning Commission, in considering the application, shall recommend the amount of financial security in an amount less than or equal to the approximate reasonable costs for reclamation according to the reclamation plan and for the projected tax payments, based upon the conditional use permit application, due during the

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four quarters of each year for which the permit is issued. The Board of County Commissioners shall have the final authority in setting the amount of financial security when they act upon the conditional use application and shall determine financial security for land alteration applications. Within ten days, the Environmental Officer shall then notify each applicant of the decision by the Board of County Commissioners. The applicant will then submit the financial security prior to the filing of the conditional use permit with the County Recorder and prior to any extraction work. Said financial security shall remain in effect for one year following completion of the operation for which the extraction conditional use permit or land alteration permit is issued or earlier if the conditions are met. Failure to maintain financial security, perform reclamation, submit timely reports and payment of taxes shall constitute default and revocation of the conditional use permit or land alteration permit entitling Big Stone County to recover payment;

- 6.6.11 Upon completion of the reclamation project, the operator shall notify the Environmental Officer who shall then inspect the site to determine if it is in accordance with the approved reclamation plan. If the site is not in accordance with the approved reclamation plan, the Environmental Officer shall notify the operator of its deficiencies and the operator shall correct the deficiencies. When the site is in accordance with the plan, the Environmental Officer shall issue a letter of acceptance of the site to the applicant; and
- 6.6.12 The performance bond or financial assurance shall be released by the County Auditor upon presentation to the County Auditor, by the operator or the letter of acceptance from the Environmental Officer.

Each operator is responsible for meeting any and all provisions of this Section of the Ordinance and any and all conditions attached to the conditional use permit or land alteration permit for extraction purposes. The use of land for the exploration and/or commercial extraction of mineral aggregate, which includes, but is not necessarily limited to: sand, silica sand, gravel, building stone, crushed rock, limestone, or granite is not permitted in any District except with the granting of a conditional use permit as specified in Section 11. It is the intent of Big Stone County to assist the operators who work within Big Stone County to meet the increasing demands of caring for our environment.

- 6.7. Fences
 - 6.7.1. No fence, wall, structure, planting or other obstruction shall be permitted over three (3) feet in height within twenty-five (25) feet of any road right-of-way intersection in order to ensure visibility across such road intersection; and
 - 6.7.2. Privacy fences, walls, hedges, or shrubbery may be erected, placed, and maintained except as they may constitute a safety hazard.

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- 6.8. Floodplain
Refer to the "Big Stone County Floodplain Management Ordinance", August 31, 1993, for these requirements.
- 6.9. Landfill Operations
Refer to the Big Stone County "Solid Waste Ordinance" and Minnesota Pollution Control Agency for these regulations.
- 6.10. Land Spreading
- 6.10.1. Land spreading for soil treatment of petroleum contaminated soils, multiple application of septage, or non-hazardous industrial waste or by-products shall not be done within a two-mile buffer zone of any incorporated area nor a municipal well head; and
- 6.10.2. All land spreading of petroleum contaminated soils or multiple applications of septage must meet Minnesota Pollution Control Agency guidelines and must have a conditional use permit as specified in Section 11.
- 6.11 Littering
Refer to the Big Stone County "Anti-Littering Ordinance", adopted December 21, 1972, for these requirements.
- 6.12. Nonconforming Uses
The lawful nonconforming use of buildings, structures or land existing at the time this Ordinance becomes effective may be continued provided that no nonconforming use shall:
- 6.12.1. Be changed to another nonconforming use;
- 6.12.2. Be extended to occupy a greater portion of the lot, building or structure than it occupied on the effective date of this Ordinance;
- 6.12.3. Be reestablished if discontinued for a period of one (1) year; and
- 6.12.4. Be rebuilt after damage in excess of fifty percent (50%) of its then appraised value.
- 6.13. Particular Uses of Right of Way; Misdemeanors
Any violation in this subsection is a misdemeanor. Except for the actions of the road authorities, their agents, employees, contractors, and utilities in carrying out their duties imposed by law or contract, and except as herein provided, it shall be unlawful to:
- 6.13.1. Erect a fence on the right of way of a trunk highway, county state-aid highway, county highway or town road, except to erect a lane fence to the end of a livestock pass;
- 6.13.2. Obstruct any ditch draining any highway with rocks or other material or drain any noisome or polluting contaminant materials into any ditch;
- 6.13.3. Deposit any rocks, debris, or rubbish within the right of way of any highway;

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- 6.13.4. Place or maintain any advertisement within the limits of any highway; and
- 6.13.5. Paint, print, place, or affix any advertisement or any object within the limits of any highway.

6.14. Rubbish Dumping and Disposal

- 6.14.1. The use of land for the dumping or disposal of any rubbish materials will not be allowed except on permitted sites, with such permit to be obtained from the Minnesota Pollution Control Agency.
- 6.14.2. The unauthorized deposit of such materials may result in:
 - 6.14.2.1. Requiring the owners or occupants of property to remove the unauthorized deposit;
 - 6.14.2.2. If it is not removed, the County may provide for removal of the unauthorized deposit at the owner's or occupant's expense; and
 - 6.14.2.3. The County may provide for the expense to be a lien on the property and collected as a special assessment.

6.15. Sewage Treatment

Refer to the "Big Stone County Sewage Treatment Ordinance", adopted September 16, 1997, for these requirements

- 6.15.1. Any premises used for human occupancy must be provided with an adequate method of sewage treatment. New construction of premises used for human occupancy, or alteration of such premises which results in an increase in interior living space shall be required have a septic system according to the standards set forth in the Big Stone County Sewage Treatment Ordinance, adopted September 16, 1997 and in MN Rules Chapter 7080.;
- 6.15.2. All private sewage treatment systems replaced, altered, installed or repaired subsequent to the effective date of this Ordinance, must meet or exceed the Minnesota Pollution Control Agency standards for individual sewage treatment systems contained in the document titled, "Individual Sewage Treatment Systems Standards, Chapter 7080", a copy of which is hereby adopted by reference and declared to be a part of this Ordinance;

6.16. Sewage Treatment Systems – Nonconforming

- 6.16.1. Any failing sewage system is one which is failing; that is, one which fails to hydraulically accept all of the waste discharged into it or to properly treat the sewage. A sewage treatment system determined to be failing upon evaluation, or otherwise be non-conforming shall constitute a nuisance. The Environmental Officer is entitled to abate said nuisance and may proceed to issue a notice of abatement.

6.17. Shoreland

Refer to the Big Stone County "Shoreland Management Ordinance", adopted March 23, 1993, and to the Minnesota Department of Natural Resources for these

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requirements.

6.18. Soil Excavation/Loss

- 6.18.1. An excavation permit is required by an operator for excavation of material in excess of fifty (50) cubic yards unless otherwise noted in this Ordinance, i.e., building permits, sewage permits, and mineral extraction permits;
- 6.18.2. An excavation permit is not required for any person who owns or operates land used for farming who excavates material in the routine operation of said farm, which is done in accordance with current environmental, soil and water conservation practices; and
- 6.18.3. No soil of any classification, except for mineral aggregate and stone or rock, shall be removed from Big Stone County by mechanical means unless allowed by a conditional use permit. This shall apply to commercial operators and/or private individuals.

6.19. Structures To Be Moved

No structures shall be moved to a new location within Big Stone County until a building permit has been secured as specified in Section 10. Any such structure shall conform to all provisions of this Ordinance as a new structure.

6.20. Structures Under Construction

Any structure for which a building permit has been issued and the construction has started prior to the effective date of this Ordinance may be completed and used in accordance with plans and approved application on which said building permit was granted.

ZONING DISTRICTS

7. ZONING DISTRICTS *Chapter 4*

7.1. Districts

For the purpose of this Ordinance, the unincorporated area of Big Stone County is divided into zoning districts as follows:

- 7.1.1. A-1 Agricultural Preservation District
- 7.1.2. A-2 Agricultural Preservation District
- 7.1.3. OS-1 Natural Areas Preservation District
- 7.1.4. U Urban Development District
 - 7.1.4.1. R-1 Residential
 - 7.1.4.2. C-1 Commercial
 - 7.1.4.3. I-1 Industrial

7.2. Additional Zoning Districts

The Shoreland and Floodplain Management Districts shall be as delineated in the "Shoreland Management Ordinance", adopted March 23, 1993 and the "Floodplain Management Ordinance", August 31, 1992.

7.3. Zoning Map

The location and boundaries of the Districts established by this Ordinance are hereby set forth on the zoning map, and said map is hereby made a part of this Ordinance; said map shall be known as the "County Zoning Map". Said map, consisting of sheets and all notations, references and data shown thereon are hereby incorporated by reference into this Ordinance and shall be as much a part of it as if all were fully described herein. It shall be the responsibility of the Environmental Officer to maintain said maps, and amendments thereto shall be recorded on said Zoning Map within thirty (30) days after the official adoption of the amendments. The Official Zoning Map shall be kept on file in the office of the Big Stone County Environmental Officer.

7.4. District Boundaries

7.4.1. Means of Delineation

The boundaries separating districts are, unless otherwise specified, the centerlines of highways, roads, streets, alleys, or railroad rights-of-way, or such lines extended, or lines parallel or perpendicular thereto, or section, half section, quarter section, quarter-quarter section, or other fractional section lines of United States public land surveys as provided by law.

7.4.2. Rationale for Districts

The determination of the Agricultural and Natural Preservation Districts, and hence the delineation of these Districts' boundaries, are based primarily upon soil capabilities and existing land use. Soil Conservation Service personnel assisted with the interpretation of the soil characteristics by utilizing the best soils information presently available for Big Stone County. The Planning Commission and Board of County Commissioners concluded that using soil capability and existing land use information was the most

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accurate, and consequently the fairest, method for determining the best and most productive agricultural areas, which shall be preserved for continued agricultural use, as well as for determining areas suitable for other uses. Despite variable soil capabilities, sometimes within relatively small areas, this method has proved superior to delineating Districts and District boundaries based solely on land use. The Urban Development District was determined utilizing existing land use, soil capabilities and proximity to existing urban growth areas.

7.4.3. Error and Omissions of Boundaries

In the event that the boundaries of the Districts of this Ordinance overlap or do not completely coincide with the Shoreland Management Ordinance and the Floodplain Management Ordinance district boundaries, the boundaries of the Shoreland Management District and/or the Floodplain Management District, shall supersede over the Districts of this Ordinance.

7.5. Future Detachment

Any land detached from an incorporated municipality and placed under the jurisdiction of this Ordinance in the future shall be placed in the A-1 Agriculture Preservation District until placed in another District by action of the Board of County Commissioners after recommendation of the Planning Commission.

ZONING DISTRICT REGULATIONS

8. USE DISTRICT REGULATIONS *Chapter 5*

8.1. A-1 Agricultural Preservation District

8.1.1. Purpose

This District is dedicated to the continuation of agricultural pursuits and related uses in those areas best suited for such activities. It is particularly intended to preserve the County's prime and good agricultural lands for farming by encouraging future non-agriculture development in other Districts.

Because of frequently variable soil capabilities, the A-1 Agricultural Preservation District contains some areas that are not "prime" or "good" agricultural lands. Such areas are included in the A-1 Agricultural Preservation District to maintain the land use homogeneity of the District and to enhance the clarity and efficiency of interpreting the District's boundaries. These areas would be suitable for uses identified as conditional in the A-1 Agricultural Preservation District.

8.1.2. Permitted Uses

8.1.2.1. Agriculture including farm dwellings and agricultural buildings;

8.1.2.2. Feedlots as permitted in the "Big Stone County Feedlot Ordinance", adopted July 16, 1996;

8.1.2.3. Accessory buildings and uses customarily and usually incidental to the uses listed above; and

8.1.2.4. Non-farm one (1) and two (2) family dwellings; upon a detailed site inspection by the Environmental Officer and is determined that the specific site is not on prime or good farm land and is suitable for the proposed land use. In such area, a soil analysis, or the written approval of the Big Stone County Soil Conservation District Conservationist may be required.

8.1.2.5. Public utilities, telephone and electric transmission lines and pipelines within the right-of-way; those outside the right-of-way will be permitted only as necessary through a conditional use permit.

8.1.3. Conditional Uses

8.1.3.1. Airports;

8.1.3.2. Churches, cemeteries;

8.1.3.3. Feedlots as permitted in the "Big Stone County Feedlot Ordinance", adopted July 16, 1996;

8.1.3.4. Golf courses, resorts, vacation farms, group camps, riding stables, and similar private outdoor recreational areas;

8.1.3.5. Land spreading of petroleum contaminated soils;

8.1.3.6. Land spreading of multiple applications of septage;

8.1.3.7. Maintenance storage facilities for commercial and/or

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- governmental units;
 - 8.1.3.8. Municipal sewage treatment and disposal facilities;
 - 8.1.3.9. Municipal wells and water storage facilities;
 - 8.1.3.10. Non-farm and non-residential development;
 - 8.1.3.11. Demolition debris landfill facilities as permitted by the Minnesota Pollution Control Agency;
 - 8.1.3.12. Public utilities, telephone and electric transmission lines, pipelines outside the right-of-way only when it cannot be placed in the right-of-way;
 - 8.1.3.13. Television, radio and cellular towers.
- 8.1.4. **Minimum Lot Size**
Five (5) acres for one (1) and two (2) family dwellings. Two and one half acres for all other permitted and conditional uses within the district unless greater area is necessary for parking, environmental requirements and/or aesthetics so as not to have an adverse impact on the area.”
- 8.1.5. **Minimum Front Setback**
As specified in Section 6.3.1.
- 8.1.6. **Minimum Side and Rear Setbacks**
As specified in Section 6.3.2.
- 8.1.7. **Maximum Building Height**
As specified in Section 6.3.3
- 8.2. **A-2 Agricultural Preservation District**
- 8.2.1. **Purpose**
The A-2 Agricultural Preservation District, which generally contains "marginal" or "non-tillable" agricultural lands, has some areas that are "prime" or "good". This District is a transition district and is intended to provide a District that will:
- 8.2.1.1. Allow suitable areas of Big Stone County to be retained in and developed for agricultural use;
 - 8.2.1.2. Minimize scattered, non-farm development; and
 - 8.2.1.3. Ensure economy in the provision of public services through the clustering of non-agricultural uses in accordance with the comprehensive land use plan for the county.
- 8.2.2. **Permitted Uses**
- 8.2.2.1. Permitted uses specified in Section 8.1.2.; and
 - 8.2.2.2. Temporary stands for the sale of farm products.
 - 8.2.2.3. Aggregate Mining Operations as permitted under Section 6.6.

ZONING DISTRICT REGULATIONS

- 8.2.3. Conditional Uses
 - 8.2.3.1. Conditional uses as specified in Section 8.1.3.;
 - 8.2.3.2. Black top and cement ready-mix plants;
 - 8.2.3.3. Exploration and extraction of mineral material, including aggregate material, dimension rock, and dimension granite;
 - 8.2.3.4. Greenhouses and plant nurseries;
 - 8.2.3.5. Golf driving ranges, drive-in movie theaters, trap shooting ranges and related commercial outdoor recreational areas;
 - 8.2.3.6. Petroleum bulk plants;
- 8.2.4. Minimum Lot Size
 - 8.2.4.1. Ten (10) acres
 - 8.2.4.2. Five (5) acres for one (1) and two (2) family dwellings
- 8.2.5. Minimum Front Setback
 - As specified in Section 6.3.1.
- 8.2.6. Minimum Side and Rear Setbacks
 - As specified in Section 6.3.2.
- 8.2.7. Maximum Building Height
 - As specified in Section 6.3.3.
- 8.3. Urban Use Development District
 - 8.3.1. The Urban Development District is intended to provide areas in the unincorporated portion of Big Stone County for residential, commercial and industrial uses. This District is subdivided into the sub-districts:
 - 8.3.1.1. R-1 Residential Sub-district;
 - 8.3.1.2. C-1 Commercial Sub-district; and
 - 8.3.1.3. I-1 Industrial Sub-district.The sub-districts' boundaries are dependent upon:
 - 8.3.1.4. Existing and surrounding land use;
 - 8.3.1.5. The proximity a parcel of land has with an incorporated community and the public services that community provides to it or an adjacent parcel of land;
 - 8.3.1.6. Growth potential of the area; and
 - 8.3.1.7. Soil capabilities.
 - 8.3.2. R-1 Residential Sub-district
 - 8.3.2.1. Purpose
 - The R-1 Residential Sub-district is intended to provide a District which will allow low density residential development and on-lot utilities in areas adjacent to urban development, but where essential utility services may not be available, or in the residential groupings of unincorporated communities where it

ZONING DISTRICT REGULATIONS

is desirable to encourage orderly growth and eliminate uncontrolled and incompatible use mixes.

8.3.2.2. Permitted Uses

- 8.3.2.2.1. Permitted uses as specified in Section 8.1.2.;
- 8.3.2.2.2. Accessory buildings and uses customarily and usually incidental to the uses listed;
- 8.3.2.2.3. Churches, cemeteries;
- 8.3.2.2.4. Home occupations;
- 8.3.2.2.5. One (1) and two (2) family dwellings; and
- 8.3.2.2.6. Truck gardening and plant nurseries.

8.3.2.3. Conditional Uses

None allowed.

8.3.2.4. Minimum Lot Size

Two and one-half (2 1/2) acres.

8.3.2.5. Minimum Front Setback

As specified in Section 6.3.1

8.3.2.6. Minimum Side and Rear Setback

As specified in Section 6.3.2.

8.3.2.7. Maximum Building Height

As specified in Section 6.3.3.

8.3.3. C-1 Commercial Sub-district

8.3.3.1. Purpose

The C-1 Commercial Sub-district is intended to provide a District which will allow compact and convenient limited highway-oriented business, closely related in existing urban areas in Big Stone County and at standards which will not impair the traffic-carrying capabilities of abutting roads and highways.

8.3.3.2. Permitted Uses

- 8.3.3.2.1. As specified in Section 8.1.2.;
- 8.3.3.2.2. Animal Clinics;
- 8.3.3.2.3. Billboards, outdoor advertising signs;
- 8.3.3.2.4. Eating and drinking places;
- 8.3.3.2.5. Motels and motor courts; and
- 8.3.3.2.6. Truck stops, gas stations, and repair garages.

ZONING DISTRICT REGULATIONS

- 8.3.3.3. Conditional Uses
Other retail or service uses.
- 8.3.3.4. Minimum Lot size
Two and one half acres for all conditional uses within the district unless greater area is necessary for parking, environmental requirements and/or aesthetics so as not to have an adverse impact on the area.
- 8.3.3.5. Minimum Front Setback
As specified in Section 6.3.1.
- 8.3.3.6. Minimum Side and Rear Setback
As specified in Section 6.3.2.
- 8.3.3.7. Maximum Building Height
As specified in Section 6.3.3.
- 8.3.3.8. Minimum Parking Spaces Required
Two (2) for each one (1) employee.
- 8.3.4. I-1 Industrial Sub-district
 - 8.3.4.1. Purpose
It is intended to provide a District which will allow compact, convenient, limited, highway-oriented industry closely related to existing urban areas in Big Stone County and at standards which will not impair the traffic-carrying capabilities of abutting roads and highways. It is recognized that industrial uses are an important part of Big Stone County's land use pattern. The regulations for this District are intended to encourage industrial development which is compatible with surrounding or abutting Districts.
 - 8.3.4.2. Permitted Uses
As specified in Section 8.1.2., subject to the requirements for the C-1 Commercial Sub-district, Section 8.3.3. Any other use not prohibited by law except those uses listed below shall require a conditional use permit.
 - 8.3.4.3. Conditional Uses
 - 8.3.4.3.1. Feedlots as permitted in the "Big Stone County Feedlot Ordinance", adopted July 16, 1996;
 - 8.3.4.3.2. Exploration and extraction of mineral

ZONING DISTRICT REGULATIONS

- materials;
- 8.3.4.3.3. Meat packing plants and slaughter houses; and
- 8.3.4.3.4. Rubbish dumps, landfills, and junkyards with proper permits.
- 8.3.4.4. Minimum Lot Size
Ten (10) acres.
- 8.3.4.5. Minimum Front Setback
As specified in Section 6.3.1.
- 8.3.4.6. Minimum Side and Rear Setback
As specified in Section 6.3.2.
- 8.3.4.7. Maximum Building Height
As specified in Section 6.3.3.
- 8.4. OS-1 Natural Areas Preservation District
 - 8.4.1. Purpose
The purpose of the OS-1 this District is to identify areas of the County that are suitable for open space/recreational uses. This District also encourages the protection of unique ecological areas, and fish and wildlife habitat.

Included in this District are all public land, lakes and "marginal" and "non-tillable" areas not presently in agriculture. Much of the land in this District is regulated by Big Stone County's "Shoreland Management Ordinance" and the "Floodplain Management Ordinance."
 - 8.4.2. Permitted Uses
 - 8.4.2.1. As specified in Section 8.1.2.;
 - 8.4.2.2. Golf courses, resorts, vacation farms, group camps, riding stables and similar private outdoor recreation areas;
 - 8.4.2.3. Nature trails, snowmobile trails, ski trails and similar facilities;
 - 8.4.2.4. Greenhouses and plant nurseries; and
 - 8.4.2.5. Golf driving ranges, trap shooting ranges and related commercial outdoor recreation areas.
 - 8.4.3. Conditional Uses
 - 8.4.3.1. Public parks, State, Federal and the Nature Conservancy wildlife areas and similar public outdoor recreation areas; and
 - 8.4.3.2. Exploration and extraction of mineral material.
 - 8.4.4. Minimum Lot Size
Five (5) acres.

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- 8.4.5. Minimum Front Setback
As specified in Section 6.3.1.
- 8.4.6. Minimum Side and Rear Setback
As specified in Section 6.3.2.
- 8.4.7. Minimum Building Height
As specified in Section 6.3.3.

PROCEDURES FOR USING THIS ORDINANCE

9. AMENDMENT *Chapter 6*

9.1. Purpose

Amendments, including changes in the use district boundaries (rezoning) or in the text of this Ordinance, may be made wherever the public necessity and general welfare require by following the procedure specified in this section.

9.2. Initiation

An amendment to official controls may be initiated by the Board of County Commissioners, County Planning Commission or by petition of affected property owners.

9.3. Procedure for Application

An application for amendment initiated by petition of the owner or owners of the actual property shall be filed with the Environmental Officer. The application shall be accompanied by a map showing lands proposed to be changed and all lands within one quarter (1/4) mile of the property, together with the names and addresses of the owners of said land.

9.4. Fees

9.4.1. A fee shall be paid to the Environmental Office before any application is processed and said fee shall be transferred to the County Auditor for deposit to the account of the Environmental Fund.

9.4.2. The amount of the fee shall be determined by the Board of County Commissioners by resolution.

9.5. Planning Commission Review

9.5.1. Any amendment initiated by the Planning Commission shall be studied and reported to the County Board and shall not be acted upon by the County Board until it has received the recommendation of the Planning commission or until sixty (60) days have elapsed from the time of referral.

9.5.2. An amendment not initiated by the Planning Commission shall be referred to the Planning Commission for study and report, and may not be acted upon by the County Board until it has received the recommendation of the Planning Commission.

9.6. Notice and Hearing

9.6.1. The Planning Commission shall hold at least one (1) public hearing in a location to be prescribed by the Planning Commission at least ten (10) days in advance of each hearing;

9.6.2. Notice of the time and place of such hearing shall be published in the official paper of Big Stone County;

9.6.3. Written notice shall be given to all townships and to all municipalities; and

9.6.4. Following the public hearing, the Planning Commission shall make a report of its findings and recommendations on the proposed amendment and shall

PROCEDURES FOR USING THIS ORDINANCE

file a copy with the County Board and the Environmental Officer within sixty (60) days after the hearing.

9.6.5. County Board Action

If no report or recommendation is transmitted by the Planning Commission within sixty (60) days after the hearing, the County Board may take action without awaiting such recommendation;

9.6.5.1. Upon the filing of such report or recommendation, the County Board may hold such public hearings upon the amendment as it deems advisable;

9.6.5.2. After the conclusion of the hearings, if any, the County Board may adopt the amendment or any part thereof in such form as it deems advisable; and

9.6.5.3. The amendment shall be effective only if four-fifths (4/5) of all the members of the County Board concur in its passage.

9.7. Recording Of Amendment

A certified copy of any and all amendments or changes to this Ordinance shall be filed with the County Recorder for record.

9.8. Petitions Previously Denied

A period of not less than one (1) year is required between presentation of petitions for a change or amendment applying to a specific piece of property, where prior petition was denied.

10. BUILDING/EXCAVATION/INDIVIDUAL ON-SITE SEWAGE SYSTEM PERMITS

10.1. Permits Required

10.1.1. No Person shall hereafter erect, alter or move any building or structure without first obtaining a building permit from the Environmental Officer.

10.1.2. No operator shall excavate material in excess of fifty (50) cubic yards without first obtaining a land alteration permit from the Environmental Officer.

10.1.3. No person shall install, alter, or repair an individual on-site sewage treatment system without first obtaining a sewage system permit from the Environmental Officer.

10.2. Procedure For Application

10.2.1. Application for said permit shall be made to the Environmental Officer on a form to be provided by Big Stone County; and

10.2.2. Each application shall indicate the use to be made of the structure, location and dimensions of the property and the nature of the proposed construction, alteration or repair;

PROCEDURES FOR USING THIS ORDINANCE

10.3. Fees

10.3.1. A fee shall be paid to the Environmental Office before any application is processed and said fee shall be transferred to the County Auditor for deposit to the account of the Environmental Fund.

10.3.2. The amount of the fee shall be determined by the County Board by resolution.

10.4. Issuance Of Permit

10.4.1. Upon determining that the proposed construction, alteration or repair conforms to all provisions of this Ordinance and other applicable codes and ordinances, the Environmental Officer shall issue said permit;

10.4.2. No permit shall be required for interior alterations or remodeling, provided that the building use is not changed. A change in outside dimensions including height, requires a permit; and

10.4.3. One (1) copy of the said permit and applications shall be returned to the applicant and the other shall be retained permanently as part of the records of the Environmental Officer.

10.5. Permit Limitations

If the work described in said permit application is not substantially completed within one (1) year, said permit shall expire and further work shall not proceed until a new permit is obtained.

11. CONDITIONAL USES

11.1. Purpose

Recognizing that certain uses may or may not be compatible with the principal permitted uses in the various zoning districts, depending on the particular case, the authority to permit such uses is vested in the Big Stone County Board of County Commissioners according to the procedures in this Section.

11.2. Procedure For Application

11.2.1. An application for a conditional use permit shall be filed with the Environmental Officer on a form prescribed by the County Board;

11.2.2. The application shall be accompanied by a map showing lands proposed to be changed and all lands within one quarter (1/4) mile of the property; and

11.2.3. The application shall be forwarded to the Planning Commission and shall be accompanied by such additional information as prescribed by the Planning Commission.

11.3. Fees

11.3.1. A fee shall be paid to the Environmental Office before an application is processed and said fee shall be transferred to the County Auditor for deposit to the account of the Environmental Fund.

PROCEDURES FOR USING THIS ORDINANCE

11.3.2. The amount of the fee shall be determined by the County Board by resolution.

11.4. Notice and Hearing

Within sixty (60) days after receipt of filing of a request for a conditional use permit or an appeal from and administrative order of determination, the Planning Commission shall set a hearing date for a hearing thereon, and shall hear such persons as wish to be heard either in person or by agent or attorney.

11.4.1. Notice of the time and place of such hearing shall be published in the official paper of Big Stone County at least ten (10) days in advance of each hearing;

11.4.2. The person or persons who filed the appeal or request and in the case of a request for a conditional use permit shall be notified by U.S. mail as to the time and place of the public hearing not less than ten (10) days before the date of hearing;

11.4.3. The township in which the conditional use is proposed to be located and any municipality within two (2) miles shall be notified by U.S. mail as to the time and place of the public hearing not less than ten (10) days before the date of hearing;

11.4.4. All property owners within one quarter (1/4) mile of the affected property or the nearest ten (10) property owners of the affected property, whichever is the most property owners, shall be notified by U.S. mail as to the time and place of the public hearing, insofar as the names and addresses of such owners can be determined by the Environmental Office from records available to the public; and.

11.4.5. Report of the Planning Commission to the County Board

The Environmental Officer, on behalf of the Planning Commission, shall report to the County Board its findings and recommendations, including the stipulation of additional conditions and guarantees that such conditions will be complied with when they are deemed necessary for the protection of the public interest.

11.5. Conditional Use Review Criteria

No conditional use shall be recommended by the Planning Commission unless said Planning Commission shall find:

11.5.1. That the use is one of the conditional uses specifically listed for the District in which it is to be located;

11.5.2. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish nor impair property values within the immediate vicinity;

11.5.3. That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area;

11.5.4. That adequate utilities, access roads, drainage and other necessary facilities

PROCEDURES FOR USING THIS ORDINANCE

have been or are being improved;

11.5.5. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use; and

11.5.6. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise or vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

11.6. County Board Action

Upon receipt of the report of the Planning Commission, the County Board may hold whatever public hearings it deems advisable and shall make a decision upon the proposal to grant or deny a conditional use permit.

11.6.1. The County Board may impose such conditions and safeguards upon the premises benefited by a conditional use as may be necessary to prevent injurious effects therefrom upon other property in the neighborhood. Violation of such conditions and safeguards, when made a part of the terms under which the conditional use is granted shall be deemed a violation of this Ordinance and punishable under Section 14.

11.6.2. The Conditional Use Permit shall be effective only if four-fifths (4/5) of all the members of the County Board concur in its passage.

11.7. Recording of Conditional Use Permit

The original conditional use permit and all associated conditions and guarantees, which are considered as part of the conditional use permit, shall be recorded with the Big Stone County Recorder. The conditional use permit shall include the legal description of the property involved.

11.8. Petitions Previously Denied

A period of not less than one (1) year is required between presentation of petitions for a Conditional Use Permit applying to a specific piece of property and for similar purposes.

11.9. Conditional Use Permit Limitations

11.9.1. Conditional Use Permits may be issued for only the uses or purposes for which such permits are required or permitted by provisions of this Ordinance.

11.9.2. No conditional use permitting the erection or alteration of a building shall be valid for a period longer than one (1) year unless the building is erected or altered within that period.

12. VARIANCES

12.1 Purpose

12.1.1. The Board of Adjustment shall have the exclusive power to order the issuance of variances from the terms of any official control including

PROCEDURES FOR USING THIS ORDINANCE

restrictions placed on non-conformities.

- 12.1.2. Variances shall only be permitted when they are in harmony with the general purposes and intent of this Ordinance in cases when there are practical difficulties or particular hardship in the way of carrying out the strict letter of this Ordinance, and when the terms of the variance are consistent with the comprehensive plan.
 - 12.1.3. "Hardship" as used in connection with the granting of a variance means the property in question cannot be put to a reasonable use if used under the conditions allowed by this Ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted will not alter the essential character of the locality.
 - 12.1.4. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of this Ordinance.
 - 12.1.5. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located.
- 12.2. Procedure For Application
- 12.2.1. An application for a variance shall be filed with the Environmental Officer on a form prescribed by the County Board;
 - 12.2.2. The application shall be accompanied by a map showing lands proposed to be changed and all lands within one quarter (1/4) mile of the property; and
 - 12.2.3. The application shall be forwarded to the Board of Adjustment.
- 12.3. Fees
- 12.3.1. A fee shall be paid to the Environmental Office before processing any application and said fee shall be transferred to the County Auditor for deposit to the account of the Environmental Fund.
 - 12.3.2. The amount of the fee shall be determined by the County Board by resolution.
- 12.4. Notice And Hearing
- Within sixty (60) days after receipt of filing of a request for a variance or an appeal from and administrative order of determination, the Board of Adjustment shall set a hearing date for a hearing thereon, and shall hear such persons as wish to be heard, either in person or by agent or attorney.
- 12.4.1. Notice of the time and place of such hearing shall be published in the official paper of Big Stone County at least ten (10) days in advance of each hearing;
 - 12.4.2. The person or persons who filed the appeal or request and in the case of a request for a variance shall be notified by U.S. mail as to the time and place of the public hearing not less than ten (10) days before the date of hearing;
 - 12.4.3. The township in which the variance is proposed to be located and any municipality within two (2) miles shall be notified by U.S. mail as to the time and place of the public hearing not less than ten (10) days before the

PROCEDURES FOR USING THIS ORDINANCE

date of hearing;

- 12.4.4. All property owners within one quarter (1/4) mile of the affected property or the nearest ten (10) property owners of the affected property, whichever is the most property owners, shall be notified by U.S. mail as to the time and place of the public hearing, insofar as the names and addresses of such owners can be determined by the Environmental Officer from records available to the public; and
- 12.4.5. Within a reasonable time after the hearing, the Board of Adjustment shall make its order deciding the matter and serve a copy of such order upon the appellant or the petitioner by mail.

12.5. Variance Review Criteria

No variance in the provisions or requirements of this Ordinance shall be authorized by the Board of Adjustment unless it finds evidence that all the following facts and conditions exist:

- 12.5.1. That there are exceptional or extraordinary circumstances or conditions applying to the property in question as to the intended use of the property that do not apply generally to other properties in the same zoning district; and
- 12.5.2. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same district and in the same vicinity. The possibility of increased financial return shall not in itself be deemed sufficient to warrant a variance.

12.6. Variance Conditions

In granting a variance, the Board of Adjustment may impose such conditions and safeguards upon the premises benefited by a variance as may be necessary to prevent injurious effects therefrom upon other property in the neighborhood and to insure compliance.

12.7. Recording Of Variance

The original of any order and all associated conditions issued by the Board of Adjustment acting upon an appeal from an order, requirement, decision or determination by an administrative official, or a request for a variance, shall be filed with the County Recorder. The order issued by the Board of Adjustment shall include the legal description of the property involved.

12.8. Variance Limitations

- 12.8.1. That the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of this Ordinance or the public interest;
- 12.8.2. That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature as to make reasonable practicable the formulation of a general regulation for such conditions or situation; and

PROCEDURES FOR USING THIS ORDINANCE

- 12.8.3. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located.

13. FEES

All petitions for amendments to this Ordinance, requests for variances, notices of appeals from and administrative order or applications for conditional use permits shall be accompanied by a fee to be established by the County Board.

14. VIOLATIONS

14.1. Misdemeanors

Any person, firm or corporation who violates any of the provisions of this Ordinance, or who fails to comply with any of the provisions of this Ordinance, shall be guilty of a misdemeanor.

14.2. Separate Offenses

Each day that a violation continues shall constitute a separate offense.

14.3. Threatened Offenses

In the event of a violation or a threatened violation of the Ordinance, the Environmental Officer or the County Board or any member thereof, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations or threatened violations, and it shall be the duty of the County Attorney to institute such action.

14.4. Mandamus Proceedings

Any taxpayer or taxpayers of Big Stone County may institute mandamus proceedings in District Court to compel specific performance by the proper official or officials of any duty required by this Ordinance.

POWERS AND DUTIES

15. ADMINISTRATION AND ENFORCEMENT *Chapter 7*

15.1. Administration Official

Administration and enforcement of this Ordinance shall be the responsibility of the Environmental Officer. The Environmental Officer shall perform duties as stated in this Section.

15.2. Duties

15.2.1. Administer the Ordinance;

15.2.2. Enforce the terms of this Ordinance through proper legal channels;

15.2.3. Issue building permits;

15.2.4. Receive and forward to the Planning Commission and Board of County Commissioners all applications for conditional use permits and applications to amend this Ordinance;

15.2.5. Receive and forward to the Board of Adjustment all application for variances;

15.2.6. Maintain permanent and current records of the zoning ordinance including all maps, amendments, conditional uses;

15.2.7. Provide clerical and technical assistance to the Board of Adjustment;

15.2.8. Provide information to the public, relative to the content and administration of this Ordinance;

15.2.9. Ensure that all ordinances, official zoning maps, amendments, conditional uses, variances and non-conforming uses are recorded in the Big Stone County Recorder's Office; and

15.2.10. Plan and facilitate the joint organizational meeting of the Planning Commission and the Board of Adjustment within thirty days of appointments to said Planning Commission and Board of Adjustment by the Chairman of the County Board. This meeting will also serve as the public meeting with other units of government and appropriate organizations to enhance cooperation in the execution of powers and duties of Planning and Zoning. The Environmental Officer shall send written invitations to the United States Fish and Wildlife Service and Minnesota Department of Natural Resources, and any other agency that the Environmental Officer deems appropriate, so that these agencies may be represented at this meeting. Invitations shall also be extended to the County Board and Township officials. All other interested landowners and citizens will be notified via the public notice in the official newspaper of Big Stone County.

16. BOARD OF ADJUSTMENT

16.1. Creation of Board of Adjustment

The Big Stone County Board of Adjustment was created in accordance with Minnesota Statutes 394.27.

POWERS AND DUTIES

16.2. Membership

- 16.2.1. The Board of Adjustment shall consist of four (4) members, one of whom shall be an alternate, who shall be appointed by the Chair of the County Board and whose term of office shall be three years and whose terms shall be staggered in order to provide continuity;
- 16.2.2. All appointments shall be made at the first meeting of the County Board in each calendar year;
- 16.2.3. At least one member shall be a resident of the portion of the county outside the corporate limits of municipalities;
- 16.2.4. One member of such Board of Adjustment shall also be a member of the Planning Commission appointed under the provision of Minnesota Statutes 394.21 to 394.37;
- 16.2.5. No officer or employee of the County shall serve as a member of the Board of Adjustment;
- 16.2.6. The alternate member of the board shall, when directed by the chair, attend all meetings of the Board of Adjustment and participate fully in its activities but shall not vote on any issues unless authorized to do so by the chair;
- 16.2.7. The chair shall authorize the alternate member of the board to vote on an issue when a regular member is absent, physically incapacitated, abstains because of a possible conflict of interest, or is prohibited by law from voting on that issue;
- 16.2.8. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a regular board member from voting thereon shall be decided by majority vote of all regular members of the Board of Adjustment except the member who is being challenged.

16.3. Meetings and Officers

- 16.3.1. The Board of Adjustment shall meet within thirty days after its appointment each year and elect a chair and other necessary officers from its membership;
- 16.3.2. The Board of Adjustment may adopt rules and bylaws;
- 16.3.3. A majority of the members of the Board of Adjustment shall constitute a quorum;
- 16.3.4. The regular and alternate members of the Board of Adjustment may be compensated in an amount determined by the County Board. All members may be paid their necessary expenses in attending meetings of and in the conduct of the business of the Board of Adjustment.

16.4. Powers and Duties

- 16.4.1. The Board of Adjustment shall act upon all questions as they may arise in the administration of any ordinance or official control, including the interpretation of zoning maps, and it shall hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official charged with enforcing any ordinance adopted

POWERS AND DUTIES

pursuant to the provisions of Sections 1 to 17, Chapter 394.37. Minnesota Statutes of 1977, as amended;

- 16.4.2. Such appeal may be taken by any person aggrieved or by any officer, department, board or bureau of a town, municipality, county or state;
 - 16.4.3. Such appeal shall be taken in such time as shall be prescribed by the Board of Adjustment by general rule, by filing with the Board of Adjustment a notice of appeal specifying the grounds thereon;
 - 16.4.4. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the appellant and the officer from whom the appeal is taken and decide the same within a reasonable time;
 - 16.4.5. The Board of Adjustment may reverse or affirm wholly or partly, or may modify the order, requirement decision or determination as in its opinion ought to be made on the premises and to that end shall have all the powers of the officer from whom the appeal was taken and may issue or direct the issuance of a permit;
 - 16.4.6. The reason for the Board of Adjustment decision shall be stated; and
 - 16.4.7. The decision of such Board of Adjustment shall not be final and any person having an interest affected by such ordinance shall have the right to appeal to the District Court in the county in which the land is located on questions of law and fact.
- 16.5. Variances
- 16.5.1. The Board of Adjustment shall have the exclusive power to order the issuance of variances from the terms of any official control including restrictions placed on non-conformities pursuant to the procedures in Section 12.
 - 16.5.2. Variances shall only be permitted when they are in harmony with the general purposes and intent of this Ordinance in cases when there are practical difficulties or particular hardship in the way of carrying out the strict letter of this Ordinance, and when the terms of the variance are consistent with the comprehensive plan.
 - 16.5.3. "Hardship" as used in connection with the granting of a variance means the property in question cannot be put to a reasonable use if used under the conditions allowed by this Ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted will not alter the essential character of the locality.
 - 16.5.4. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of this Ordinance.
 - 16.5.5. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located.

17. PLANNING COMMISSION

17.1. Creation of Planning Commission

The Big Stone County Planning Commission was created in accordance with

POWERS AND DUTIES

Minnesota Statutes, Section 394.21 - 394.37 by resolution adopted February 24, 1966.

17.2. Membership

- 17.2.1. The Planning Commission shall consist of eleven (11) members, including County Commissioners, who shall be appointed by the Chair of the County Board and whose terms of office shall be three (3) years unless otherwise stated, and whose terms shall be staggered in order to provide continuity;
- 17.2.2. All appointments shall be made at the first meeting of the County Board in each calendar year;
- 17.2.3. At least two members of the Planning Commission shall be residents of the portion of the county outside the corporate limits of municipalities;
- 17.2.4. No more than two County Commissioners may serve on the Planning Commission at any one time and shall serve for a term of one (1) year and may serve successive terms. Such appointment(s) shall be made by the Chair of the County Board;
- 17.2.5. No more than one voting member of the Planning commission shall be an officer or employee of the County and shall serve for a term of three (3) years and may serve successive terms and only during service as an officer or employee of the County. Such appointment shall be made by the Chair of the County Board;
- 17.2.6. The Environmental Officer, or the officer or employee responsible for administering planning and zoning shall serve as an exofficio member thereon and only during service as an officer or employee of the County;
- 17.2.7. No voting member of the Planning Commission shall have received, during two years prior to appointment, any substantial portion of income from business operations involving the development of land within the county for urban and urban related purposes;
- 17.2.8. Vacancies shall be filled by the Chair of the County Board as soon as practical after the vacancy occurs and such appointment shall be for the unexpired term of the position; and
- 17.2.9. Any member may be removed from the Planning Commission by the Chairman of the County Board for nonperformance of duty or misconduct in office.

17.3. Meetings And Officers

- 17.3.1. The Planning Commission shall meet within thirty days after its appointment each year and elect a chair and other necessary officers from its membership;
- 17.3.2. The Planning Commission may adopt rules and bylaws;
- 17.3.3. A majority of the members of the Planning Commission shall constitute a quorum;
- 17.3.4. The members of the Planning Commission, other than members of the County Board may be compensated in an amount determined by the County Board. All Planning Commission members, including County

POWERS AND DUTIES

Commissioners, may be paid their necessary expenses in attending meetings of and in the conduct of the business of the commission. Nothing in this section shall be construed to prohibit the payment of per diem to county commissioners.

17.4. Powers And Duties

17.4.1. The Planning Commission shall have power and authority pursuant to the provisions of Chapters 394.09 and 394.10, Minnesota Statutes of 1945, as amended; except as otherwise provided by law:

17.4.2. To propose a general comprehensive plan or plans for the future physical development of the county or parts thereof outside of the limits of the city of the first or second class. Such plan or plans may include, among other things, the location, character, and extent of state highways, thoroughfares, viaducts, subways, bridges, water front blockades, by-ways, playgrounds, squares, parks, aviation fields, public ways, public forests, wild life sanctuaries, botanical garden grounds, public buildings, public utilities, building lines, and restricted building districts of all buildings, public or private;

17.4.3. To propose a plan or plans which will divide the county into zones or districts and limit and regulate construction, height, bulk, location and use of buildings and other structures and premises and lot areas in such zones or districts;

17.4.4. To propose a plan or plans concerning the marking of historical landmarks, and location of statuary and other works of art which are or may become the property of the county and the removal or relocation of any such work belonging to the county;

17.4.5. To propose a part of a plan covering one or more of the towns, cities, other than a city of the first class, villages, sections or divisions of the county and may from time to time propose alterations, amendments or additions to any plan or plans;

17.4.6. To cooperate with other planning boards and commissions of the county in the execution of its powers and authority.

17.4.7. The Planning Commission may be required by the County Board to review any comprehensive plans and official controls and any plans for public land acquisition and development sent to the county for that purpose by any local unit of government or any state or federal agency and shall report thereon in writing to the County Board.

17.5. Amendments

The Planning Commission shall study and report to the County Board its recommendations on all proposed amendments to this Ordinance whether initiated by petition of affected property owners, the County Board, or the Planning Commission pursuant to procedures in Section 9.

POWERS AND DUTIES

17.6. Conditional Uses

The Planning Commission shall study and report to the County Board its recommendations on all applications for Conditional Use Permits pursuant to the procedures in Section 11.

ZONING MAP

18. ZONING MAP

ADOPTION OF THIS ORDINANCE

19. ADOPTION OF ORDINANCE Chapter 8

This Ordinance shall become effective and be in force from and after its passage, approval, publication and recording in the office of the County Recorder.

Recommended by the Planning Commission, Big Stone County, Minnesota,

this _____ day of _____, 1998.

Marlton DeNeui, Chairman
Big Stone County Planning Commission

Passed and approved by the Board of County Commissioners, Big Stone County, Minnesota,

this _____ day of _____, 1998.

Dave Torgerson, Chairman
Big Stone County Board of Commissioners

Attest:

Judith Pattison, Big Stone County Auditor

I, Judith Pattison, do hereby certify that this is a true and correct copy of the Big Stone County Land Related Resources Management Ordinance as passed by the Board of County Commissioners

on _____, 1998.

Judith Pattison, County Auditor
Big Stone County

Date of Publication of Summary of Ordinance _____, 1998.

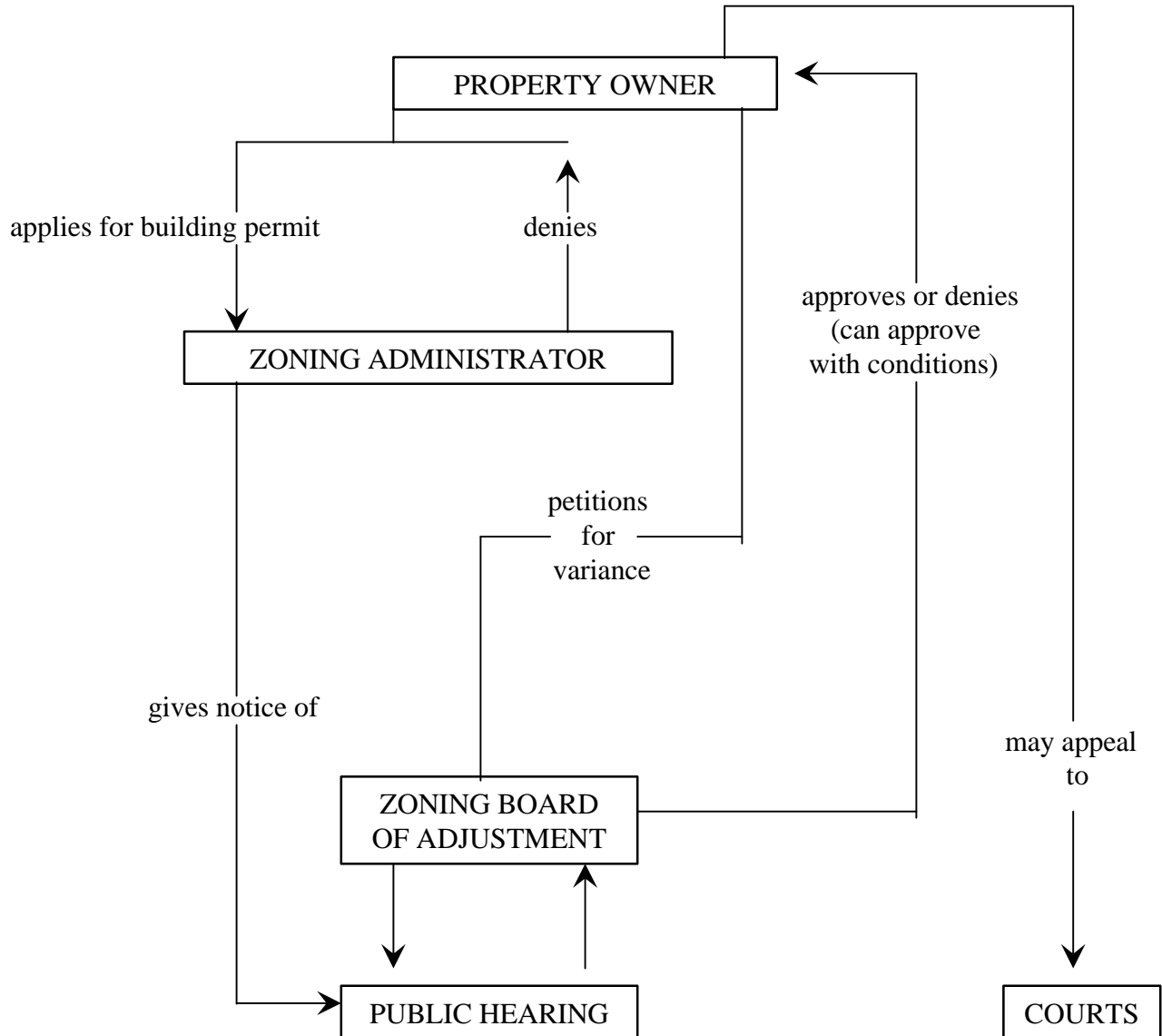
Filed in the Office of the County Recorder, Big Stone County, Minnesota,

this _____ day of _____, 1998.

PROCEDURAL DIAGRAMS

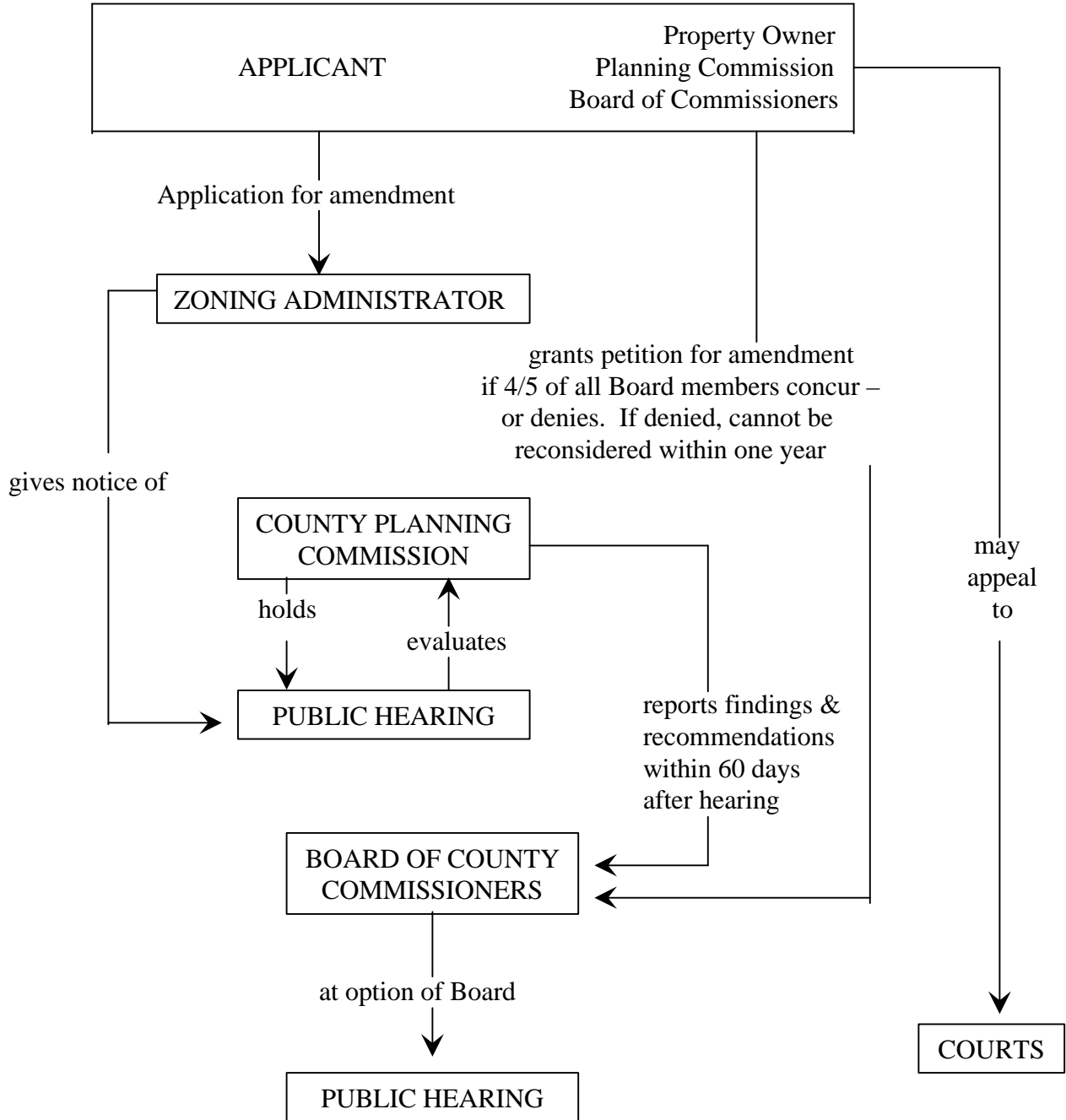
20. PROCEDURAL DIAGRAMS Chapter 9

VARIANCE PROCEDURE



PROCEDURAL DIAGRAMS

AMENDMENT (REZONE) PROCEDURE CONDITIONAL USE PROCEDURE



PROCEDURAL DIAGRAMS

ORGANIZATION DIAGRAM FOR ADMINISTRATION
OF THE
COUNTY ZONING ORDINANCES

