

CHAPTER 7 ADDITIONAL REQUIREMENTS APPLYING TO SPECIFIC LAND USES

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Section 1 Intent

The standards in this Chapter are established to provide supplemental regulations to address the unique characteristics of certain land uses.

Section 2 Applicability

The standards in this Chapter apply to specific land uses within any zoning districts in which they are allowed, whether the uses are permitted or conditional. The standards in this chapter shall apply in addition to the general criteria for conditional uses in Chapter 8, Section 10, and all other applicable regulations.

Section 3 Accessory Uses and Structures

A. **Accessory uses.** The following accessory uses, in addition to those specified elsewhere in this Ordinance, shall be permitted in any residential district if the accessory uses do not alter the character of the premises in respect to their use for the purposes permitted in the district.

1. The operation of accessory facilities and equipment in connection with schools, colleges, universities, hospitals and other institutions permitted in the district.
2. Recreation, refreshment and service buildings in public parks and playgrounds.

- B. **Accessory buildings and structures.** The following requirements shall apply to accessory buildings and structures in all land use districts.
1. **Attached.** An accessory building or structure attached to the main building is part of the main building and shall comply in all respects with the requirements for the main building.
 2. **Not in side yard.** A detached accessory building or structure other than a fence shall not be located in any required front or side yard in a residential subdivision.
 3. **Accessory structure use limited.** If any portion of the floor space of an accessory building or structure is equipped with the three elements listed below in this subsection, providing the capability of independent, continuous human habitation, the building or structure shall be considered equivalent to a guest cottage and must be located on a property that meets or exceeds duplex lot area and width dimensions as listed in Table 5-5 of this Ordinance:
 - a. Cooking or kitchen facilities;
 - b. Water supply and/or sanitary disposal facilities; and
 - c. Sleeping accommodations.
 4. **Accessory structure height limit.** The height of an accessory building or structure shall be limited to twenty-two feet (22') at the peak and not more than one and one-half (1.5) stories in height.
 5. **Accessory structure area and size limits.**
 - a. Accessory structures on a lake frontage lot or within two hundred feet (200') of a lake are allowed to be four hundred eighty (480) square feet or five percent (5%) of that portion of the lot (within 200 feet of a lake) whichever is least restrictive. In all cases, the accessory structures must be located within the setback lines and cannot exceed one thousand two hundred (1,200) square feet in size.
 - b. Accessory structures located over two-hundred feet (200') from a lake and accessory structures located across the road from the lakeshore tract are allowed to be two thousand four hundred (2,400) square feet in size if the structure does not exceed fifteen percent (15%) of the buildable area. This is applicable in a residential use area. Impervious surface standards must also be met.
 6. **Accessory building setback.** Accessory structures located within the shoreland district may be permitted twenty feet (20') from the right-of-way of a platted or dedicated township road or fifty-three feet (53') from the centerline of a non-platted or non-dedicated township road. This setback does not apply to a County or State Highway. Accessory structures may be permitted twenty (20) feet from the rear lot line.
 7. **Conditional use.** Accessory buildings or structures shall be permitted without a conditional use permit on non-riparian lots if the above standards are met.

Section 4 Adult Uses and Sexually Oriented Businesses

- A. **Purposes.** In the development and adoption of the provisions in this Ordinance regulating adult uses and sexually oriented businesses in Becker County, it is recognized that:
1. **Community impacts.** Adult uses and sexually oriented businesses have an impact on the community including:
 - a. There are some adult business uses, which have serious objectionable operational characteristics, particularly when located in close proximity to residential neighborhoods.

- b. These business uses have deleterious impact upon property values.
 - c. These business uses frequently become places of criminality.
2. **Protection of youth.** It is the further purpose of this ordinance to protect the well being of the youth of the community from objectionable operational characteristics of these uses by regulating and restricting their close proximity to established facilities such as, but not limited to, churches, parks, schools, and residential areas.
 3. **Criminal behavior.** It is the belief of the County that, just as advertising is designed to stimulate one's appetite for desired goods and services, an overabundance or preoccupation with sexual displays or materials arouses the appetites of those so preoccupied and encourages criminal sexual behavior.
 4. **Balancing of legitimate interests.** In recognition of the protections afforded to the citizens of the United States under the First and Fourteenth Amendments to the Constitution of the United States, it is neither the intent nor effect of this ordinance to inhibit the freedom of speech or the press. The provisions herein have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by distributors and exhibitors of sexually oriented entertainment to their intended market. This ordinance represents a balancing of the legitimate ends of the County by imposing an incidental, content-neutral place, time and manner of regulation of sexually oriented entertainment to sexually oriented businesses without limiting alternative avenues of communication, and at the same time, requiring the business to carry its financial share of law enforcement activities. The special regulations deemed necessary to control the undesirable effects arising from these enterprises are set forth in this ordinance.
- B. **Findings.** The Becker County Board of Commissioners makes the following findings about the effect adult uses and sexually oriented businesses have on the character of the County's neighborhoods. In making the findings, the County Commissioners accept the recommendations of staff that have studied the experiences of other areas about such businesses: City of St. Cloud, MN, the Minnesota Attorney General, the City of Los Angeles, CA, the City of St. Paul, MN, the City of Austin, TX, Adams County, CO, St. Croix County, WI, the City of New York, NY, and various other cities throughout the country that have studied the impact of adult uses and sexually oriented businesses. These studies have concluded that adult uses and sexually oriented businesses have adverse impacts on the surrounding neighborhoods. Based on these studies, the County Commissioners conclude:
1. **Burden on law enforcement.** Adult uses and sexually oriented businesses can contribute to an increase in crime in the area where such businesses are located. This can be a burden to the County crime prevention programs and law enforcement services.
 2. **Effect on residential neighborhoods.** Adult uses and sexually oriented businesses can significantly contribute to the deterioration of the residential neighborhoods and can increase neighborhood blight. These businesses also can impair the character and quality of the residential housing in the area where such businesses are located. This situation can lessen the amount of desirable housing for residents.
 3. **Effect of concentration.** The concentration of adult uses and sexually oriented businesses in one area can greatly affect the area where such businesses are concentrated and on the quality of life. A cycle of decay can result from the influx and concentration of adult uses and sexually oriented businesses. Others may perceive the presence of such businesses as an indication that the area is deteriorating and the results can be devastating. That is, other businesses move out of the vicinity

and residents flee from the area. Lower property values that can result from the concentration of such businesses erode the County's tax base and contribute to the blight.

4. **Secondary impacts.** Adult uses and sexually oriented businesses have adverse secondary impacts of the type discussed above.
 5. **Protection of health, safety and general welfare.** It is necessary to provide for the special and express regulations of businesses, establishments or commercial enterprises that operate as adult body painting, adult studios, adult bookstores, adult cabarets, adult car washes, adult companionship establishments, adult hotels or motels, adult massage parlors or health clubs, adult motion picture arcades or theaters, adult modeling studios, adult novelty businesses, adult saunas, and similar adult oriented services operating under various names to protect the public health, safety and welfare, and to guard against inception and transmission of disease.
 6. **Inspection, permitting and regulation necessary.** The commercial enterprises such as the types described in paragraph 5 above and all other similar establishments whose services include sessions offered to adults conducted in private by members of the same or opposite sex, and the employing of personnel with no specialized training are susceptible to operations, contravening, subverting, or endangering with the morals of the County by being the site of acts of prostitution, illicit sex, and occasions of violent crimes, thus requiring close inspection, permitting and regulations.
 7. **Demand on public services.** Control and regulation of commercial establishments of these types, in view of the abuses often perpetrated, require intensive efforts by the Sheriff's department and other departments of the County. It is necessary for the County to provide services to all Becker County without concentrating the public services in one area. The concentrated use of County services detracts from and reduces the level of services available to the rest of Becker County. Thus, these types of establishments can diminish the ability of the County to protect and promote the general health, welfare, morals and safety of the citizens of Becker County.
- C. **Intent of regulations.** The County Board of Commissioners adopts the following land use and permitting regulations, recognizing that it has an interest in the present and future character of the County's residential and commercial neighborhoods. These regulations are to lessen the detrimental and adverse effects adult uses and sexually oriented businesses have on adjacent land uses and protect and promote the health, safety and welfare of the resident of Becker County.
- D. **License Required.** No person, firm or corporation shall own or operate an adult use or sexually oriented business in Becker County without having first secured a license as provided herein. The license shall be one of two types.
1. Adult use principal; or
 2. Adult use accessory.
- E. **Application requirements.** The County shall provide an application for an adult use or sexually oriented business license.
1. **Information required.** This application shall include the following information:
 - a. **Applicant/owner information.** The legal and full name, residence, phone number and birth date of the applicant, if an individual; and, if a corporation, partnership, LLC, or similar entity, the legal full names, residences, phone numbers, and birth dates of those owners holding more than five percent (5%) of the issued and outstanding stock of the corporation or ownership interest in a partnership, LLC or similar entity.
 - b. **Operator information.** The legal full name, address, phone number and birth date of the operator and manager of such operation, if different from the owners.

- c. **Location.** The address and legal description of the building, establishment or premises where the adult use or sexually oriented business is to be located.
 - d. **Prior convictions and licenses.** A statement detailing each gross misdemeanor or felony of which the applicant or, for a corporation, the owners holding more than five percent (5%) of the issued and outstanding stock of the corporation or ownership interest in a partnership, LLC or similar entity, have been convicted, and whether the applicant has ever applied for or held a license to operate a similar type of business in other counties or cities.
 - e. **Activities.** The activities and type of business to be conducted.
 - f. **Hours.** The hours of operation.
 - g. **Access restrictions.** The provisions made to restrict access to minors.
 - h. **Building and operations plan.** A building plan of the premises detailing internal operations and activities.
 - i. **Remodeling.** A description or building plan that details all proposed interior and exterior changes to an existing building or structure.
 - j. **Boundaries and location of structures.** A scaled drawing defining property boundaries and distances to structures and sewage treatment systems.
 - k. **True information/Change of information.** Each application shall contain a provision on the application in bold print stating that withholding of information or the providing of false or misleading information will be grounds for the denial or revocation of a license. Any changes in the information provided on the application or provided during the investigation shall be provided to the Zoning Administrator in writing, and the Zoning Administrator shall report the changes to the County Board of Commissioners. Failure to report such changes by the applicant(s) or the licensee may result in the denial or revocation of a license.
2. **Fees.** Each application for a license shall be accompanied by a fee, as set by the resolution of the County Board of Commissioners, for payment in full of the required application and investigative fees for the license as established. All fees shall be paid at time of application.
- a. **Expiration date/Proration of fees.** All licenses shall expire on the last day of December in each year. The County shall issue each license for one (1) year, except if part of the license year has elapsed when the application is made the County may issue a license for the remainder of the year for a prorated fee. In computing such fee, the County shall count any unexpired fraction of a month as one (1) month.
 - b. **Late fees.** License fees shall be considered past due as of January 1 if not paid. Late fees will be assessed on all past due license applications.
 - c. **County Board sets fees.** The annual fee, investigative fee, and late fees for the adult use or sexually oriented business license shall be established by resolution of the County Board of Commissioners.
 - d. **Refunds prohibited.** No part of any annual fee, investigative fee and late fee as required by this ordinance shall be refunded.
- F. **Process for granting of license.** The County shall investigate all facts set out in the application. After the County finishes the investigation, the County shall grant approval of the application if all requirements of this Ordinance are met.
- G. **Restrictions on issuance of license.** The following restrictions shall be placed on the granting of an adult use or sexually oriented business license.

1. **Licensee non-transferable.** The County shall only issue the license to the applicant. The license shall not be transferred to another holder.
 2. **Location non-transferable.** The County shall only issue each license for the premises or location described in the application. No license may be transferred to another location or place without the approval of the County Board of Commissioners.
- H. **Applicants ineligible for license.** The County shall not grant a license to nor may one be held by any person who:
1. Is under twenty-one (21) years of age;
 2. Has been convicted of a felony;
 3. Is not the proprietor of the establishment for which the license is issued;
 4. Has not paid the license and investigative fees required by the Ordinance;
 5. Is not a citizen of the United States; or
 6. Has had an adult use or similar permit or license revoked under any Ordinance or statute similar to this Ordinance.
 7. No license shall be granted for adult uses or sexually oriented businesses if a licensee has been convicted of a violation of this Ordinance, or where any license hereunder has been revoked for cause, until one (1) year has elapsed after such conviction or revocation.
 8. Except for uses lawfully existing at the time of this Ordinance, no license shall be granted for any adult use or sexually oriented business where the premises do not meet all County Ordinance requirements, all building and fire codes requirements, and all provision of state and federal law.
- I. **Conditions of license.** The following conditions shall be part of a license for an adult use or sexually oriented business and the conditions shall be met on a continuing basis.
1. **All licenses – principal and accessory.**
 - a. **Other laws.** Every license shall be granted subject to the conditions in the following subdivisions and all other provisions of this Ordinance and any applicable county, state and federal law. No adult use or sexually oriented business shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the adult use establishment that is prohibited by any ordinance of Becker County, the laws of the State of Minnesota or the United States of America. Nothing in this Ordinance shall be construed as authorizing or permitting conduct that is prohibited or regulated by other statues or ordinances prohibiting the exhibition, sale or distribution of obscene materials generally, or the exhibition, sale or distribution of specified materials to minors.
 - b. **Posting.** All licenses shall be posted in a conspicuous place.
 - c. **Minors.** No minor shall be allowed in or on the premises of an adult use or sexually oriented business. No adult goods, materials or services shall be offered, sold, transferred, conveyed, given, displayed or bartered to any minor.
 - d. **Right of entry and inspection.** Any designated inspection office or law enforcement officer of the County shall have the right to enter, inspect, and search the premises of a licensee during business hours to ensure compliance with age and liquor requirements.
 - e. **Licensee responsible for compliance.** Every licensee shall be responsible for the conduct of their place of business and shall maintain conditions consistent with this Ordinance and the County Ordinance generally.
 - f. **Separation distances from specific other uses.** No adult use or sexually oriented business shall be located closer than one thousand three hundred twenty feet (1320') from the property

line of any residential structure, place of worship, school, public park, shoreland areas, open space, licensed child care or day care center in any city or county. Measurements shall be made in a straight horizontal line, without regard to city or county boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult use or sexually oriented business to the nearest building used as a residential structure, place of worship, school, public park, open space, licensed child care or day care center.

- g. **Number of uses per building limited.** The County prohibits any building owner or operator from having more than one (1) of the following uses, tenants or activities in the same building structure: Adult body painting studios, adult book stores, adult car washes, adult hotels or adult motels, adult motion pictures theaters, adult mini motion picture theaters, adult massage parlors, adult health/sport clubs, adult sauna/steam room/bathhouses, adult companionship establishments, adult rap/conversation parlors, adult novelty businesses, adult motion picture arcade, adult modeling studios, and other premises, enterprises or establishments, businesses or places open to some or all members of the public at or in which there is an emphasis on the presentation or display, depiction, or description of “specified sexual activities” or “specified anatomical areas” that the public can see.

2. **Special requirements for live adult entertainment.**

- a. **Performers.** All performers, dancers, and persons providing live entertainment distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas in the licensed facility or in areas adjoining the licensed facility where entertainment can be seen by patrons, customers or spectators, shall:

- (1) Provide social entertainment on a platform intended for that purpose which is raised at least two feet (2') from the level of the floor;
- (2) Provide said entertainment at a distance no closer than six feet (6') to any patron;
- (3) Not fondle or caress any patron; and
- (4) Not solicit any pay or gratuity from any patron.

- b. **Patrons.** No patron, customer or spectator of a licensed facility providing live entertainment distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas shall:

- (5) Fondle or caress any performer, dancer or other person, providing live entertainment; or
- (6) Pay or give any gratuity to any performer, dancer or other person providing live entertainment.

3. **Conditions of license – Adult use principal or sexually oriented business principal.** The County permits adult use principal and sexually oriented businesses principal subject to the following conditions:

- a. **Separation distances between adult uses.** No adult use principal or sexually oriented business principal shall be located closer than one thousand three hundred twenty feet (1320') from any other adult use principal or sexually oriented business principal. Measurements shall be made in a straight horizontal line, without regard to city or county boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult use principal or sexually oriented business principal to the nearest point of the actual business premises of any other adult use principal or sexually oriented business principal.

- b. **Liquor.** An adult use principal or sexually oriented business principal shall not sell or dispense intoxicating or non-intoxicating liquors, nor shall it be located within one thousand three hundred twenty feet (1320') of a building that contains a business that sells or dispenses

intoxicating or non-intoxicating liquors. An adult use principal or sexually oriented business principal shall not allow the consumption of intoxicating liquor or non-intoxicating liquors anywhere on a premise containing that use or business.

- c. **Off-site impacts.** No adult use principal or sexually oriented business principal shall be conducted in any manner that permits the perception or observation from any property not approved as an adult use of any materials depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” by any visual or auditory media including display, decoration, sign, show window, sound transmission or other means.
 - d. **Required sign.** All adult use principal and sexually oriented business principal shall prominently display a sign at the entrance and located within two feet (2’) of the door opening device of the adult use establishment or section of the establishment devoted to adult books or materials which states: “This business sells or displays material containing adult themes. Persons under eighteen (18) years of age shall not enter”.
 - e. **Hours limited.** No adult use principal or sexually oriented business principal shall be open between the hours of 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between 1:00 a.m. and 12:00 p.m. (Noon) on Sunday.
4. **Conditions of license – Adult use accessory.** The County permits adult use accessory and sexually oriented businesses accessory subject to the following conditions:
- a. **Separation distances between adult uses.** No adult use accessory or sexually oriented business shall be located closer than one thousand three hundred twenty feet (1320’) from any other adult use accessory or sexually oriented business. Measurements shall be made in a straight horizontal line, without regard to city or county boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult use accessory or sexually oriented business.

J. Revocation, suspension, or non-renewal of license.

1. **Causes for revocation, suspension or non-renewal.** The Zoning Administrator may revoke, suspend or not renew a license upon recommendation of the assigned staff, MN Department of Health Official and/or Fire Marshal, or the County Sheriff that shows that the licensee, it’s owners, managers, employees, agents or any other interested parties have engaged in any of the following conduct:
 - a. Fraud, deception or misrepresentation in securing a license;
 - b. Habitual drunkenness or intemperance in use of controlled substance under Minnesota Statutes Chapter 152;
 - c. Engaging in conduct involving moral turpitude or permitting or allowing others within their employ or agency to engage in conduct involving moral turpitude or failing to prevent agents, officers, or employees in engaging in conduct involving moral turpitude;
 - d. Failure to follow any requirements of the Ordinances of Becker County regarding sanitary and safety conditions, zoning requirements, or ordinances, the violation of which involves moral turpitude, or failure to follow the requirements of this Ordinance;
 - e. Conviction of an offense involving moral turpitude;
 - f. Conviction of a felony.
2. **Appeal to County Board.** The license holder may appeal such suspension, revocation, or non-renewal to the County Board of Commissioners. The County Board of Commissioners shall

consider the appeal at the regularly scheduled public hearing within thirty (30) days from the service of the notice of appeal to the Zoning Administrator.

- a. At the conclusion of the hearing, the County Board of Commissioners may order:
 - (1) The revocation, suspension or non-renewal affirmed; or
 - (2) That the revocation, suspension or non-renewal be lifted and that the license be returned to the certified holder.
- b. The decision of the County Board of Commissioners is final.
- c. An appeal must be accompanied by a letter of credit, cashiers check, or cash in the amount of one thousand dollars (\$1000). If the decision of the Zoning Administrator is upheld, the County is entitled to recover expenses and return any balance that may remain. If the decision is overturned, the full amount will be refunded to the license holder.

K. **Sign restrictions.** The following sign regulations shall apply to all adult uses or sexually oriented businesses in Becker County. These regulations are to protect children from exposure to sexually oriented or shocking signs and materials and to preserve the value of property near adult use and sexually oriented businesses. These regulations are in addition to any other provisions of the County's regulations.

1. All signs shall be flat wall or freestanding signs. No sign shall be located on the roof or contain any flashing or rotating lights, moving elements or electronically or mechanically changing messages.
2. The County's sign regulations in Chapter 7, Section 15 of this Ordinance, Becker County, Minnesota shall regulate the number, size, and location of signs allowed for an adult use or sexually oriented businesses.
3. No merchandise, photos, or pictures of any products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk or public right of way adjoining the building or structure in which the adult use or sexually oriented business is located.
4. No signs shall be placed in any window.
5. A two (2) foot square sign may be placed on the door to state hours of operation and admittance to adults only.

Section 5 Commercial and Industrial Performance Standards

A. **Intent.** This Section is enacted to provide that commercial and industrial uses of land and buildings shall be maintained with proper appearance from streets and adjoining properties and to provide that each permitted use shall be a good neighbor to adjoining properties.

B. **Performance standards.** Commercial and industrial uses shall meet the following performance standards.

1. **Landscaping.** All required yards shall either be open landscaped and green areas or be left in a natural state. If any yards are to be landscaped, they shall be landscaped attractively with lawn, trees, shrubs, etc. Any areas left in a natural state shall be properly maintained in a sightly and well-kept condition. Commercial and industrial yards adjoining any residential district shall be landscaped with buffer planting screens. Plans of such screen shall be submitted for approval as a part of the site plan.

2. **Noise.** Noise shall be measured on any property line of the tract on which the operation is located. Noise shall be muffled so as not to become objectionable due to intermittence, beat frequency, shrillness or intensity.
3. **Odors.** If a use may result in odors that would be offensive to occupants of adjacent or nearby properties the Zoning Administrator may require detailed plans for the prevention of the odors before issuing a building permit.
4. **Glare.** Glare, whether direct or reflected, such as from floodlights or high temperature processes, and as differentiated from general illumination, shall not be visible beyond any property line.
5. **Exterior lighting.** Any lights used for exterior illumination shall direct light away from adjoining properties.
6. **Vibration.** Vibration shall not be discernible at any property line to the human sense of feeling for three (3) minutes or more duration in any one (1) hour.
7. **Smoke.** Any use established, enlarged or remodeled after the effective date of this Ordinance shall be so operated as to meet the minimum requirements of the Minnesota Pollution Control Agency for the emission of smoke or other particulate matter.
8. **Dust.** See item 7, Smoke, above.
9. **Fumes or Gases.** Fumes or gases shall not be emitted at any point in concentrations or amounts that are noxious, toxic or corrosive. Detailed plans for the elimination of fumes or gases may be required before the issuance of a building permit.
10. **Hazard.** Every operation shall be carried on with reasonable precautions against fire and explosion hazards.
11. **Use of river water.** Industrial plants which use river water for cooling processes within their operations shall safeguard against impeding the natural flow of the immediate stream or to pollute, including thermal pollution of its waters.

C. **Standards for location of commercial or industrial uses near other uses.** Commercial and industrial uses located near uses of lesser intensity may have detrimental side effects. The location of the commercial or industrial use should be based upon the relationship of the proposed use and adjacent properties so any offensive emissions or excess traffic or location of dangerous, explosive or otherwise hazardous materials do not detract from or endanger said adjacent lands. Considerations for approval of a request should involve storage techniques, safety measures to be incorporated, containment of stored facilities in case of failure of safety measures, wind direction, deflection of blast forces, screening of visually objectionable uses, monitoring devices or techniques, lighting, location and direction and similar design standard criteria.

D. **Proof of compliance.** In order to assure compliance with the performance standards set forth above, the Board of County Commissioners may require the owner or operator of any permitted or conditional use to have made such investigations and tests as may be required to show adherence to the performance standards. Such investigation and tests as are required to be made shall be carried out by an independent testing organization selected by the County.

Section 6 Extraction of Materials and Minerals

The following regulations shall apply to the extraction of materials and minerals in any land use district.

- A. **Conditional use permit required.** No person shall extract any sand, gravel, stone, coal, clay, peat, subsoil, topsoil or mineral from the land for sale without first obtaining a conditional use permit.
- B. **Exemption for public roadway projects.** Extraction sites to be used for public roadway projects are exempt from provisions of this section.
 - 1. **Land alteration permit required.** Any operator who has a public roadway construction contract shall be granted a land alteration permit provided the following conditions are met:
 - a. The operator shall provide evidence that the operator has been awarded a contract for public roadway construction. The contract shall state that the operator shall reclaim the nonmetallic mining site according to the most recent edition of the Minnesota Department of Transportation Standards Specifications for Construction, with the additional requirements of any applicable sections of this Ordinance.
 - b. The operator shall provide a copy of the contracting agency's Completion Certificate upon completion of the project.
 - c. All other provisions of the Becker County Zoning Ordinance shall apply.
- C. **Application for extraction conditional use permit.** Application for the conditional use permit shall be made at the office of the Zoning Administrator and the applicant shall furnish the information required:
 - 1. **Applicant information.** Applicant's true name and address.
 - 2. **Property description.** A legal description of the location of the pit or excavation or where it is proposed to be or where the impounded waters are to be maintained.
 - 3. **Mining plan.** A mining plan containing the following information:
 - a. **Map.** A general map of the area defining:
 - (1) Property boundaries;
 - (2) Location and names of all streams and roads on or within three hundred feet (300') of the project site;
 - (3) Location of structures on or adjacent to the site, identifying the purpose of each structure;
 - (4) Boundaries of previous excavations on the property;
 - (5) Location and description of proposed mining site boundary stakes with the permanent reference point described.
 - b. **Operations plan.** A plan for the operation of the extractive use shall include the following information:
 - (1) **Land use.** A narrative outlining current land use.
 - (2) **Material.** An inventory of material to be excavated.
 - (3) **Groundwater.** Observed or estimated depth to groundwater.
 - (4) **Method of extraction.** The description is to include the method of mining.
 - (5) **Timetable.** A timetable for commencement and cessation of mining, operations if seasonal operations are intended, the months of operation shall be identified. The timetable should include hours of operation.
 - (6) **Topsoil management.** A plan for management of topsoil removed to expose material to be mined.
 - (7) **Erosion control plan.** A plan for temporary erosion control measures and temporary stabilization measures to be used during excavation.

- (8) **Screening plan.** Measures to be taken to screen the operation from view of surrounding land uses or an explanation of why such measures are not needed
 - (9) **Noise control.** Measures to be taken to control noise from affecting surrounding land uses.
 - (10) **Dust control.** Measures to be taken to control dust from affecting surrounding land uses.
 - (11) **Pollution control.** Control measures to minimize any pollution potential from equipment, tanks, chemical storage sheds etc.
 - (12) **Haul routes.** A list of highways, roads and other public ways in the county to be used for the hauling of any material removed.
- c. **Site plan and staging plan.** A site plan and staging plan including the following information:
 - (1) Site plan drawing and description of the sequential stages of the mining activity. The drawing shall show the location of the planned staged boundary locations and extent of the mining site.
 - (2) The plan is to include, but not be limited to, mining refuse dumps, sediment and/or wash ponds and sediment basins.
 - (3) Estimated total volume of materials to be extracted by phase.
 - d. **Reclamation plan.** A post mining management plan shall be included with the application. A progressive or staged phasing of a reclamation plan is preferred. The intent is designed to minimize environmental problems, safety issues erosion and ground water contamination. If the site is five (5) acres or less and is to be worked for one (1) year or less, the site is to be reclaimed within twelve (12) months of the stoppage of operations.
- D. **Extractive use standards.**
- 1. **Shoreland areas.** Processing machinery in shoreland shall be located consistent with all setback standards for structures from ordinary high water levels of public waters and from bluffs.
 - 2. **Metals and peat.** Mining of metallic minerals and peat shall meet the provisions of Minnesota Statutes, Sections 93.44 to 93.51.
- E. **Bond may be required.** Bond shall be required by the Board of County Commissioners in such form and sum as the Board shall determine, with sufficient surety running to the County, conditioned to pay the County the extraordinary cost and expense of repairing, from time to time, any highways, streets or other public ways where repair work is made necessary by the special burden resulting from hauling and travel, in removing materials from any extractive process, the amount of cost and expense to be determined by the County Engineer; and conditioned further to comply with all the requirements of this Subdivision and the particular permit, and to pay any expense the County may incur by reason of doing anything required to be done by any applicant to whom a permit is issued.

Section 7 Fences

Fences shall be permitted in all yards and along all property lines subject to the following regulations:

- A. **Height.** The following height limits shall apply to fences.
 - 1. Fences shall not exceed six feet (6') in agriculture and residential districts, and ten feet in (10') commercial and industrial districts, except that fences located in front yard setbacks in residential districts or shore impact zones shall not exceed four feet (4') in height.
 - 2. If a side lot line is adjacent to a street or roadway, fencing shall not exceed four feet (4') in height and shall be located within the lot setback lines.

3. Fences located within the setback lines of the lot shall not exceed ten feet (10') in height.
 4. Fences in excess of the above limits may be permitted by conditional use permit except that a fence shall never exceed the height of the principal structure.
- B. **Best side to neighbors.** That side of a fence that is uninterrupted by posts or similar structural components fastening the fence upright or attaching the fence to the ground shall face abutting property.
- C. **Walls and hedges considered fences.** Walls and hedges as well as living plant material or inorganic material sited, placed, or planted along property lines or in required setback areas that present the appearance of a continuous structure shall be considered a fence for the interpretation of this Ordinance. This is not to include trees or plants or decorative structures that are planted at random and which do not hinder roadway vision or detract from the quality of light or air to adjacent properties.
- D. **Within owners lot.** All fencing, whether by fence or hedge landscape, shall be accomplished on the property where the fence landscape originates. Fencing, branches, leaves or any overhang into adjacent property shall not be permitted except by permission of the adjacent landowner.
- E. **Exemption.** Fences normally associated with agricultural operations such as barbed wire fencing and snow fencing shall be exempt from the requirements of this Ordinance.

Section 8 Height Regulations

- A. **Maximum height.** Maximum height limits are established for each land use district in Table 5-4 in Chapter 5. In any instance of a variance or conditional use allowing a greater height, there shall be a maximum height limitation of one hundred and fifty feet (150') on all structures within Becker County. Any tower, spire, etc., may exceed this height only after obtaining a conditional use permit and then only after obtaining a letter of clearance from the Federal Aeronautics Administration and the Airport Commission for any airport located within ten (10) miles of the structure proposed to exceed the height limitation.
1. **Exceptions.** Height limitations set forth in Table 5-4 in Chapter 5 may be increased by one hundred percent (100%) to a maximum of three hundred feet (300') when applied to the following:
 - a. Monuments
 - b. Flag poles
 - c. Cooling towers
 - d. Grain elevators
 - e. Church spires, belfries, or domes that do not contain usable space
 - f. Water towers
 - g. Chimneys or smokestacks
 - h. Radio or television transmitting towers, micro-wave relay towers
 - i. Utility poles or towers

Section 9 Home Occupations

Allowed home occupation uses located in a dwelling shall occupy no more than one-third (1/3) of the floor area of the dwelling. Allowed home occupation uses located in an accessory building shall occupy space not exceeding the floor area of the dwelling located on the same lot or parcel.

Section 10 Mobile Home Parks and Multiple Family Dwellings

The location proposed for a mobile home parks or multiple dwellings as a conditional use in General Agriculture or residential zone shall have one or more of the following characteristics:

- A. The proposed location shall be adjacent to heavy traffic carriers such as collector routes or greater in traffic capacity as defined in the Becker County Comprehensive Plan.
- B. The proposed location shall be adjacent to or in near proximity to commercially zoned land uses.
- C. The proposed location shall be part of a planned unit development where adjacent residences were aware of the land use types before their purchase of a lot or parcel in the planned unit development.
- D. The proposed location is comprised of relatively flat terrain (less than 10% grade).
- E. The proposed location is in an area of similar land uses.

Section 11 Non-Residential Uses in GA, RES and HDR Districts

- A. **Non-residential uses except industrial.** Recreational uses, public and semi-public uses such as churches, schools, utility buildings, club houses associated with golf courses, etc., are generally traffic generators, bringing people and automotive traffic into the General Agriculture, Residential or High Density Residential zone. Therefore, in considering an application for conditional uses in a General Agriculture, Residential or High Density Residential zone, particular attention shall be paid to the following:
 - 1. Proximity to traffic generator routes and to the intersection of these routes as opposed other minor roads.
 - 2. Setbacks from adjacent property for screening and landscaping should be adequate.
 - 3. Screening of intensive use areas, such as parking, signing, or lighted areas should be accomplished.
 - 4. Fencing or similar systems to keep people off of adjacent properties.
 - 5. Consideration of limiting hours of use to provide compatibility with neighbors in such case where noise may be a limiting factor.
 - 6. In case of dangerous site work or potentially hazardous site or land development, adequate protection shall be taken to exclude attractive nuisances.
- B. **Industrial uses.** Industrial uses of the land such as public service buildings or structures, railroad yards and mineral extraction are generally dependent upon service factors, terrain or natural resources for location rather than the usual social-economic factors of land use; consequently, safeguards should concentrate upon safety and screening features as opposed to traffic routes and adjacent land uses. Access should be considered so as to be the least detrimental and safest to adjacent uses.

Section 12 **Parking and Loading Requirements**

All parking and loading areas shall conform to the provisions in this Section.

- A. **Minimum size for parking spaces.** Each required parking space shall contain a minimum area of not less than three hundred (300) square feet, including access drives, a width of not less than nine feet (9') and a depth of not less than twenty feet (20').
- B. **Access drives.** Access drives shall conform to the following provisions.
 - 1. Parking and loading spaces shall have proper access from a public right-of-way.
 - 2. The number and width of access drives shall be located to minimize traffic congestion and abnormal traffic hazard. Frontage roads or service roads may be required when they are necessary to maintain traffic safety.
 - 3. Vehicular access to business or industrial uses across property in any residential district shall be prohibited.
- C. **Required loading areas.** Loading and unloading areas for goods, supplies and services shall be sufficient to meet the requirements of each use. All loading spaces shall be sufficient to meet the requirements of each use and shall provide adequate space for storage and maneuvering of the vehicles they are designed to serve. Each loading space shall contain a minimum area of not less than five hundred (500) square feet.
- D. **Reduction of existing parking and loading spaces.** On-site parking facilities existing on the effective date of this Ordinance shall not be reduced below that required by this Ordinance for a similar new building or use.
- E. **Not for storage.** Required parking or loading space shall not be used for storage of goods or for storage of vehicles that are inoperable or for sale or rent.
- F. **Yards/setbacks.** On-site parking and loading facilities shall not be subject to front yard, side yard and rear yard regulations, except that:
 - 1. **Commercial districts.** In a (WOC, C) commercial district, no parking or loading space shall be located within ten feet (10') of any property line that abuts a road or highway right-of-way, or any residential or agricultural district.
 - 2. **Industrial districts.** In (I) industrial districts, no parking or loading space shall be located within ten feet (10') of any property line that abuts a highway right-of-way line, or any residential, special protection, or agricultural district except railroad loading areas.
- G. **Buffer fences and planting screens.** On-site parking and loading areas near or abutting residential districts shall be screened by a buffer fence of adequate design or a planted buffer screen. Plans of the screen or fence shall be submitted for approval as part of the required site or plat plan, and the fence or landscaping shall be installed as a part of the initial construction.
- H. **Location of parking facilities and combined facilities.** Required on-site parking space shall be provided on the same lot as the principal building or use. Parking spaces shall be located to make their use convenient and logical to the customer and to discourage customer parking on roadways or adjacent properties.
- I. **Joint facilities.** Combined or joint parking facilities may be provided for one (1) or more buildings or uses in commercial districts and in industrial districts, if the total number of spaces is equal to the sum of the requirements for each building or use.

J. Construction and maintenance.

1. **Commercial and industrial districts.** In (WOC, C) commercial districts and in (I) industrial districts, parking areas and access drives shall be covered with a dust-free, all-weather surface with proper surface drainage, as required by the County Engineer.
2. **Responsible party.** The operator of the principal building or use shall maintain parking and loading areas, access drives and yard areas in a neat and adequate manner.

K. Lighting. Lighting for any parking or loading areas shall be reflected away from the public right-of-way and nearby or adjacent residential or agricultural districts and shall be so turned or shaded to prevent direct lighting or visibility from adjacent residential or agricultural property.

L. Required site plan. Any application for a building permit shall include a site plan or plot plan drawn to scale and dimension, showing on-site parking and loading space to be provided in compliance with the Ordinance.

M. Required number of on-site parking spaces. On-site parking areas of sufficient size to provide parking for patrons, customers, suppliers, visitors and employees shall be provided on the premises of each use. The minimum number of required on-site parking spaces for specific uses are listed in Table 7-1, below. In addition to the requirements in Table 7-1, company vehicles normally kept on the premises shall be provided an additional space.

1. **Computing requirements.** In computing the number of parking spaces required, the following rules shall govern:
 - a. Floor space shall mean the gross floor area of the building.
 - b. If fractional spaces result, the parking spaces required shall be rounded to the nearest whole number.
 - c. The parking space requirement for a use not mentioned in this Ordinance shall be the same as required for a use of similar nature.
2. **Buildings with multiple uses per floor.** Parking spaces for buildings containing more than one type of floor space use shall be computed for the entire building using the formula for the most restrictive parking space requirement.

Table 7-1 Minimum number of on-site parking spaces required by land use

Land use	Minimum number of required parking spaces	Unit of measure for gross area
Automotive, Service stations	4+2	Each service bay
Automotive, Trailer or marine sales and service	1	Every 500 square feet of sales and service area
Bowling alleys	5	Each bowling lane
Fast food and commercial recreation	20+1	Every 20 square feet
Manufacturing and processing	The greater of one (1) space per each two (2) employees on a major shift or one (1) space per each 1,000 square feet of floor area	
Motel or hotel	1	Each rental sleeping unit
Office and service, research or testing	1	Every 500 square feet of floor area
Public and private schools	2	Each classroom
Public and private athletic clubs	20+1	Every 500 square feet in main building
Assembly auditoriums or exhibition halls	1	Every 4 seats in main seating area
Residential dwelling units	2	Each dwelling unit
Restaurant, café or night club	1	Every 75 square feet of floor area of total building
Retail sales and service establishments	1	Every 200 square feet of floor area of total building
Wholesale	1	Every 400 square feet of floor area of total building
Storage and warehouse	1	Every 600 square feet of floor area of total building

Section 13 Recreational Vehicles

Where permitted as specified in Table 5-1, Table of Uses, recreational vehicles may be used as a dwelling only if all of the following requirements are met:

- A. **District standards are met.** The minimum lot size, setbacks and other dimensional standards are met for the district where the recreational vehicle is located.
- B. **One year permit.** A site permit is obtained from the Zoning Administrator. Such site permit shall be limited to a one (1) year period and may be renewed. One (1) recreational vehicle may be occupied temporarily as a guest cottage on a lot, which meets or exceeds single lot area and width dimensions if occupied for less than seven (7) days in any thirty (30) day period without a permit. A recreational vehicle occupied as a guest cottage shall meet all setback requirements.
- C. **Guest Cottage.** One recreational vehicle may be occupied temporarily as a guest cottage on a lot, which meets or exceeds single lot area and width dimensions, if occupied for less than seven (7) days in any 30 day period. A recreational vehicle occupied as a guest cottage shall meet all setback requirements.

Section 14 Residential Uses in Commercial and Industrial Districts

Residential uses in Commercial and Industrial districts should be limited to the necessity of operating the principal purpose of the districts such as housing for watchmen, etc. If a residential type of land use is permitted, such as a mobile home park, concern shall be taken in providing a good living environment in the park and the isolation of the park through screening, from adjacent uses, as well as meeting the general criteria for a conditional use in Chapter 8, Section 9 of this Ordinance.

Section 15 Signs

All signs, except official, public, traffic and street signs, shall conform to this section and any other ordinances or regulations of Becker County.

A. **General provisions.** The following regulations shall apply to all signs:

1. **Prohibited signs.** The following signs shall be prohibited in all districts.
 - a. **Not within public right-of-way.** Signs other than traffic control or warning signs posted by governmental agencies or public utilities shall not be located within the public right-of-way or easements.
 - b. **Fake emergency signs prohibited.** Flashing or rotating signs resembling emergency vehicles or State or County equipment shall not be located in any district.
 - c. **Fake official signs prohibited** No sign shall resemble any official marker erected by a governmental agency.
 - d. **Prohibited locations.** No sign shall obstruct any window, door, fire escape, stairway or opening intended to provide light, air, ingress or egress for any building or structure.
2. **Maintenance requirements.** Signs shall meet the following maintenance standards in all districts.
 - a. **Surrounding area.** The owner, lessee or manager of any ground sign and the owner of the land on which the sign is located shall keep grass or weeds and other growth cut and debris and rubbish cleaned up and removed from the lot on which a sign is located.
 - b. **Sign and structure.** Advertising signs, business signs and nameplate signs that are rotted, unsafe or unsightly shall be repaired or removed by the owner or lessee of the property upon which the sign stands upon notice by the Zoning Administrator.
3. **Standards for signs painted on buildings.** Signs painted on a building shall be governed by the square footage limitations specified for the appropriate zoning districts. These signs shall be repainted periodically and shall be kept in good condition.
4. **Lighting.** If a sign is illuminated, the source of light shall be directed so as not to shine upon any part of a residence or into any residential district or any roadway.
5. **State law controls.** Laws regulating advertising devices along State Highways shall take precedence if they are more restrictive than these regulations.
6. **Signs not requiring a permit.** Signs that are in total thirty-five (35) square feet in size or smaller that are located on property advertising the occupants own business or products do not require a license or permit fee. They shall conform to the regulations of this Ordinance.

B. **Provisions regulating signs in specific districts.** The following provisions shall apply to signs in the land use districts indicated.

1. **Signs in (GA) General Agriculture and the (SP, RES and HDR) residential districts.**

- a. **Prohibited signs.** Advertising and business signs, other than the advertising and business signs specifically allowed in subsection b., immediately below, shall not be located in the GA, SP, RES and HDR Districts.
 - b. **Allowed signs.** In the GA and SP, RES, and HDR Districts, no sign, except warning signs, shall be erected except:
 - (1) **Nameplate.** A nameplate sign or professional nameplate sign identifying the owner or occupant of a building or dwelling unit, if the surface area does not exceed two (2) square feet. The sign may be illuminated.
 - (2) **For-sale sign.** A sign for the lease or sale of a building or property, if the sign does not exceed twelve (12) square feet in surface area and is not be illuminated.
 - (3) **Advertising new subdivision.** Temporary signs advertising a new subdivision development; each subdivision or development shall be allowed the following signs:
 - a. One (1) sign located in the development not to exceed ninety-six (96) square feet in surface area, not more than fifteen feet (15') in height.
 - b. Directional signs not to exceed four (4) square feet in surface area. Each subdivision shall be limited to one directional sign per major thoroughfare approach to the subdivision or development. No directional sign shall be allowed on minor residential streets.
 - (4) **Temporary construction sign.** A temporary un-illuminated sign identifying an engineer, architect, contractor, or product engaged in or used in the construction of a building, if the sign does not exceed ninety-six (96) square feet each in surface area and is no more than fifteen feet (15') in height.
 - (5) **Public use and institutional identification signs.** One (1) identification sign, not to exceed thirty-five (35) square feet in area, for the following uses: church, school, hospital, parks and recreation areas or similar uses.
 - (6) **Resort identification signs.** Composite identification signs for resorts will be permitted to forty-eight (48) square feet in size if they conform to the county resort sign standards available through the county engineer. Each segment of the composite sign shall not exceed ten inches (10") by sixty inches (60"). These signs shall only display the name of the use and its activities and services. It may be illuminated, but not flashing.
 - (7) **Crop demonstration signs.** No advertising signs and billboards, except agricultural crop demonstration information signs, shall be permitted within six hundred sixty feet (660') of the highways designated as scenic routes or parkways on the official County Recreation Plan Map.
 - (8) **Home occupation.** For a conditional use permit for a home occupation, a sign shall not be larger than thirty two (32) square feet in size.
2. **Signs in (WOC) Water Oriented Commercial, (C) Commercial and (I) Industrial Districts.** In (WOC, C) commercial districts and (I) industrial districts, no sign, advertising sign or business sign shall be erected, except for the following:
- a. Signs as permitted and regulated in agricultural and residential districts as specified in subsection B.1 of this Section.
 - b. **Advertising signs.** Advertising signs and billboards subject to the following provisions:

- (1) **Number of sign structures allowed.** Advertising sign structures shall be limited to not more than one (1) for a lot of one hundred feet (100') frontage or less and to one (1) per each additional one hundred feet (100') of lot frontage.
 - (2) **Number of signs per structure.** An advertising structure shall not contain more than two (2) signs per facing in total of no more than four (4) signs per structure.
 - (3) **Maximum length.** Advertising structures shall be limited to no more than fifty-five feet (55') in total length.
 - (4) **Maximum height.** Advertising structures shall not exceed forty feet (40') in height above the average grade.
 - (5) **Separation distances.** No advertising sign shall be erected within one hundred feet (100') of any adjoining residential district.
 - (6) **Location restriction.** No advertising sign shall be permitted within any road or highway right-of-way or within one hundred ten feet (110') of an intersection right-of-way.
- c. **Business signs.** Business signs, subject to the following provisions:
- (1) **Free standing sign limits.** No more than one (1) free standing or pylon sign of not more than one hundred (100) square feet in surface area.
 - (2) **Total for all signs.** The total surface area of all business signs on a lot shall not exceed three (3) square feet per lineal foot of lot frontage or twenty percent (20%) of the front building face area or three hundred (300) square feet in area, whichever is greater.
 - (3) **Height limit.** No business sign, other than a freestanding sign, shall project above the height of the building.

C. License and permit fees.

1. **Application and annual inspection.** The owner or other person having control of any sign except residential, professional and institutional name plate signs, church signs and warning signs, shall file an application for a permit to maintain the sign subject to an annual inspection of the sign. Application for these permits shall be accompanied by detailed plans and other information necessary to determine the location and compliance with all regulations.
2. **Permit time limit.** All permits shall be renewed by January 1st of each five (5) year period.

Section 16 Single Family Residences

No more than one single-family residence is allowed per lot or parcel.

Section 17 Storage of Materials

Commercial and industrial districts. In commercial districts and industrial districts, open storage of materials in any required front, side or rear yard shall be prohibited. Any other outside storage shall be located or screened so as not to be visible from any residential district.

Section 18 Towers

- A. **Purpose.** This Section is adopted in order to accommodate the communication needs of residents and businesses while protecting the public health, safety and general welfare. The Becker County Board of Commissioners find these regulations are necessary in order to:
1. Maximize the use of existing and approved towers and buildings in order to reduce the number of new towers necessary in order to provide wireless telecommunications services to the community;
 2. Ensure wireless communication towers are designed, sited, and constructed in a manner consistent with the protection of the public health, safety, and general welfare; and
 3. Require tower sites to be secured in order to discourage trespassing and vandalism.
- B. **Tower uses allowed without a permit.** The following tower facilities will be allowed within all districts of Becker County including shoreland without obtaining either a building permit or a conditional use permit:
1. Antennas incidental to residential use;
 2. Routine maintenance of existing tower facilities; and
 3. The addition of antennas to a tower facility that meets the standards of this Section and does not increase the height of the tower facility (additional support structures will still require a building permit).
- C. **Tower uses requiring only a building permit.** The following tower facilities will be allowed within Becker County without a conditional use permit, but do require a building permit:
1. Tower facilities that are located outside the shoreland and outside the residential zones or residential subdivisions that consist of an unlit monopole tower that does not extend more than one hundred feet (100') above ground level; and
 2. The addition of an antenna or antennas on existing structures including, but not limited to, buildings, flag poles, church steeples, cupolas, ball field lights, power lines support device where no modifications are required to the existing structure if the antenna does not increase the height of the structure by more than twenty feet (20').
- D. **Tower uses requiring a building permit and CUP.** All other tower facilities not listed in subsections B. and C., above, require a conditional use permit and building permit pursuant to the terms of this Ordinance.
- E. **Standards for all towers.** All towers in Becker County shall meet the following standards.
1. **CUP towers prohibited in residential subdivision.** No conditional use permit shall be issued for a tower facility within a subdivision intended for residential use.
 2. **Minimum setbacks.** Any tower shall conform with the following minimum setback requirements:
 - a. **Public water setback.** No tower facility shall be erected within two thousand six hundred forty feet (2640') of the ordinary high water level of any public water unless there is a finding that there is no other practical alternative location outside of that distance.
 - b. **Same as other structures in district.** In addition to the public water setback in subsection a., immediately above, tower facilities shall meet the setback requirements of the zoning district in which the tower facility is located.

- c. **Fall zones.** The minimum distance to the nearest residential property line shall be equal to the height of the tower. The minimum distance to the nearest dwelling shall be the height of the tower plus one hundred feet (100’).
3. **Required and prohibited signs.** The owner’s name, telephone number and site identification number shall be posted on the gate of the perimeter fence. No other advertising or identification sign of any kind is permitted on the tower facility, except warning and equipment information required by the manufacturer or by federal, state or local authorities.
4. **Minimum removal of vegetation.** Removal or alteration of vegetation is allowed as necessary for the construction and erection of the tower facility including accessory buildings and supports, but shall be held to a minimum.
5. **Erosion control.** If erection of the tower or construction of tower facility will disturb any bluffs or steep slopes, the erosion control plan submitted with the application shall be complied with.
6. **Building and electrical code.** All towers erected or located within the County and all wiring therefore shall comply with the following requirements:
 - a. Towers and their antennas shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards of the Uniform Building Code and all other applicable reviewing agencies.
 - b. Towers and their antennas shall be designed to conform to accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.
7. **Weather-proof materials.** Metal towers shall be constructed of, or treated with, corrosive resistant material.
8. **Co-location required.** In order to reduce the number of tower facilities needed within the county in the future, any proposed tower shall be designed, structurally, electrically, and in all respects to accommodate both the applicant’s antennas and comparable antennas for additional users. For towers less than two hundred feet (200’) in height, the structure shall be designed to accommodate at least four (4) additional providers. This requirement may be modified if the applicant demonstrates that such a design is not feasible for economic, technical or physical reasons. To allow for future rearrangement of antennas upon the tower, the tower shall be designed to accept antennas mounted at no less than twenty-foot (20’) intervals.
9. **Climbing deterrents.** All towers shall be reasonably protected against unauthorized climbing. The bottom of the tower, measured from ground level to twelve feet (12’) above ground level, shall be designed in a manner to preclude unauthorized climbing or shall be enclosed by a six foot (6’) high chain link fence with anti-climb barbed wire protection and a locked gate.
10. **Camouflage.** All towers and their antennas shall utilize building materials, colors, textures, screening and landscaping that effectively blend the tower facilities with the surrounding natural setting and built environment to the greatest extent possible as determined by the office of the Zoning Administrator.
11. **Screening.** Trees and large shrubs, native to the area, shall be planted so that the facility is screened from adjacent residential properties. These trees and large shrubs shall be maintained for the life of the tower facility.
12. **Lighting.** Towers and their antennas shall not be illuminated by artificial means, except for camouflage purposes (designed as a lighted tower for a parking lot or a ball field) or the illumination is specifically required by the Federal Aviation Administration or other authority. No nighttime strobes shall be allowed unless specifically required by the Federal Aviation Administration or other authority.

13. **Prohibited in public right-of-way.** No part of any antenna or tower, nor any lines, cable, equipment, wires, or braces shall at any time extend across or over any part of the right-of-way, public street, highway, or sidewalk, without approval of the County through the building permit approval process.
14. **Insurance required.** All communication towers and their antennas shall be adequately insured for injury and property damage caused by collapse of the tower.

F. **Site permit application requirements for antennas mounted on roofs, walls, and existing towers.** In addition to the submittal requirements required elsewhere in this Ordinance, an application for a building permit for antennas to be mounted on an existing structure shall be accompanied by the following information:

1. **Site plan.** A site plan showing the location of the proposed antennas on the structure and documenting that the request meets the requirements of this Ordinance;
2. **Building plan.** A building plan showing the construction of the antennas, the proposed method of attaching them to the existing structure, and documenting that the request meets the requirements of this ordinance;
3. **Structural information.** Proof of the structure's or tower's ability to support the antennas; and
4. **Proof of no interference.** An intermodulation study to ensure there will be no interference with existing tenants or public safety telecommunication providers.

G. **CUP application requirements.** Application for a conditional use permit for a tower facility shall be submitted pursuant to the requirements of Chapter 8, Section 10 of this ordinance and shall be accompanied by the following:

1. **Site plan.** A site plan for the proposed tower facility site, which shall include the following:
 - a. Graphic scale of the plan, not less than one inch to twenty feet (1":20');
 - b. North directional arrow;
 - c. Location and size of the proposed tower facility, support structures, accessory buildings, access driveways, public roads, parking fences, signs and landscaped areas;
 - d. Building setback lines;
 - e. Existing topography, with contour intervals of not more than ten feet (10'), related to the United States Geological Survey datum;
 - f. The location of water courses, ravines, bridges, lakes, wetlands, wooded areas, rock outcroppings, bluffs, steep slopes, and other geological features within the site;
 - g. Proposed surface drainage diagram for the site;
 - h. Proposed screening; and
 - i. Proposed removal of natural vegetation.
2. **Vicinity map.** Vicinity map showing land uses and existing residences and businesses within one-half (1/2) mile of the proposed tower.
3. **Co-location effort statement.** A sworn statement signed by applicant that the communications equipment for the proposed tower cannot be accommodated on an existing tower or building within a two (2) mile radius of the proposed tower due to one or more of the following reasons:

- a. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced or modified to accommodate planned equipment at a reasonable cost.
 - 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, and the interference cannot be prevented at a reasonable cost.
 - c. No existing or approved towers or commercial/industrial buildings within a two-mile radius meet the radio frequency (RF) engineer.
 - d. Existing or approved towers and commercial/industrial buildings within a two (2) mile radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional radio frequency (RF) engineer.
 - e. In spite of best efforts, the applicant is unable to negotiate reasonable business terms regarding the lease or purchase of space on an existing tower. Proof of negotiations may be required.
 - f. The applicant must demonstrate that a good faith effort to co-locate on existing towers and structures within a two (2) mile radius was made, but an agreement could not be reached.
4. **Future co-location agreement.** A commitment in writing from the applicant committing the applicant and its successors to allow the shared use of the tower facility if an additional user agrees in writing to meet reasonable industry terms and conditions for shared use.
 5. **Erosion control plan.** If erection of the tower or construction of any tower facility will disturb any part of a bluff or a steep slope, the applicant shall provide an erosion control plan prepared by a landscape architect or professional engineer.
 6. **FAA filing.** Proof of filing of an application with the Federal Aviation Administration or an engineer statement showing that no filing with the Federal Aviation Administration is necessary.
 7. **FCC requirements.** A copy of the National Environmental Protection Act study required by the Federal Communication Commission. No antenna shall be installed on any tower facility until a Federal Communication license is issued for that antenna.
 8. **Proof of insurance.** A copy of the Certificate of Insurance for liability and workers compensation insurance that requires notification to Becker County Planning and Zoning Office prior to cancellation. This insurance shall be kept in effect until the tower facility is removed.
 9. **Financial guarantee.** An acceptable financial guarantee equal to one and one-half times the estimated cost of removing the tower facility and restoring the site to its original condition. The estimated cost shall be determined by the Becker County Zoning Administrator.
 10. **Fees.** Filing fees as determined by the Becker County Board of Commissioners.
- H. **Time frame for completion of construction.** Construction of an approved tower facility shall be completed within two (2) years from the date of the issuance of the conditional use permit. Landscaping and screening must be installed within the first growing season immediately following construction.
- I. **Continued use of existing towers, abandonment and removal.**
1. **Continued use.** Existing tower facilities may continue in use and routine maintenance may be performed on them, but they may not be altered, converted, modified, transformed, varied, added to or changed in any way without complying with the terms of this Ordinance.

2. **Annual statement of use required.** The owner of an existing tower facility or any tower facility erected or constructed after the passage of this Ordinance shall file an annual statement on or before January 10th of each year following construction of the tower. If the statement is not filed by January 10th of any year, the County shall notify the owner in writing of failure to file. Failure to file a statement within sixty (60) days of receiving a notice of failure to file shall be prima facie evidence that the tower facility is no longer in use and may be considered abandoned.
 3. **Abandonment and removal.** Tower facilities that are not in use for 180 consecutive days shall be deemed abandoned and shall be removed by the owner within 180 days from the date of the abandonment. Removal includes removal of the complete tower facility, including accessory buildings and related above ground infrastructures and restoration of the site to preexisting vegetative cover,
 - a. **Multiple operators.** In case of multiple operators sharing the use of a single tower, the tower shall not be deemed abandoned until all users cease operations for a period of 180 consecutive days.
 - b. **Removal by County.** If the tower facility is not removed in accordance with this subdivision, then the County, after 60 days notice to the owner or operator of the tower facility, may take legal action. The County's remedies may include obtaining a court order allowing the County to remove the tower facility at the cost of the owner or last operators.
- J. **Maintenance required.** All tower facilities shall be maintained in a safe and clean condition. The tower facility owner shall be responsible for maintaining a graffiti, debris, and litter free site. The landscape plan shall be maintained for the life of the tower facility. If the facility is not maintained, the County may bring legal action. The County's remedies may include, after 60 days notice to the owner or operators, an order allowing the County to complete the maintenance at the cost of the owners or operators of the tower facility.

Section 19 Used Buildings

A building that has been previously used elsewhere shall not be moved onto a property without first obtaining a site permit. This provision shall not apply to a building that is to be used for agricultural purposes.

Section 20 Yard Encroachment Regulations

The following provisions shall govern the encroachment of structures, portions of structures, and uses into required yards and setbacks.

- A. **Measurement rule.** Measurements shall be taken from the nearest point of the wall of a building to the lot line in question.
- B. **Encroachments by architectural features.**
 1. Cornices, canopies or eaves may extend into the required front yard a distance not exceeding four feet six inches (4'6").
 2. Fire escapes may extend into the required front yard a distance not exceeding four feet six inches (4'6").
 3. A landing place or uncovered porch may extend into the required front yard to a distance not exceeding six feet (6'), if the landing place or porch has its floor no higher than the entrance floor of the building. An open railing no higher than four feet (4') may be placed around such place.

4. The above architectural features also may extend into any side or rear yard, except that no porch or terrace for the support of people, or outside stairway shall project into the required side yard distance.
5. On nonconforming lots, eaves of the structures shall not encroach the side lot line by more than two (2) feet.

C. Fences, walls, hedges.

1. No wall, fence or hedge over four feet (4') in height may occupy any part of a required front yard in a residential district. On double frontage lots, the required front yard shall be provided on both streets.

D. Clear sight requirements.

1. The required front yard of a corner lot shall not contain any wall, fence or other structure, tree, shrub or other growth that may cause danger to traffic on a road or public road by obscuring the view.
2. The required front yard of a corner lot shall be unobstructed above a height of three feet (3') in a triangular area, two (2) sides of which are the lines running along the side road lines between the road intersection and a point fifty feet (50') from the intersection, and the third side of which is the line between the latter two points.
3. If a lot is located at the intersection of two (2) or more roads or highways there shall be a front yard setback on each road or highway side of each corner lot. No accessory buildings shall project beyond the front yard of either road.

Section 21 Yard Maintenance and Landscaping Requirements

Commercial and industrial districts. In all commercial districts and industrial districts, all required yards shall be either open landscaped and green areas or be left in a natural state, except as provided in Chapter 6, Section 7. If any yards are to be landscaped, they shall be landscaped attractively with lawn, trees, shrubs, etc. Any areas left in a natural state shall be properly maintained in a sightly and well-kept condition. Yards adjoining any residential districts shall be landscaped with planting buffer screens. Plans for such screens shall be submitted as a part of the application for building permit and installed as a part of the initial construction.

Section 22 Mass Gathering

A. Purpose. No person, firm or corporation shall conduct, maintain, operate, promote, organize, manage, or advertise, nor sell or give tickets of admission to, a show, exhibition or assembly of any nature (hereinafter called assembly) for which it is planned or may reasonable be expected that 300 or more persons attending the assembly may remain, or may be permitted to remain, upon the site, lot, field, or tract of land (hereinafter called premises) upon which the exhibition, show, or assembly is conducted for more than eighteen consecutive hours, except as permitted by this ordinance.

B. Application. The applicant for license shall make application in writing, verified under oath by the applicant or, if a corporation is applicant, by its president and secretary, filed with the County Auditor not less than sixty (60) days prior to the proposed beginning date of the assembly and shall set forth:

1. The full name, age, residence, and mailing address of the applicant, or names and addresses of the partners if applicant is a partnership, or the names of the stock of the corporation if the applicant is a corporation.
 2. A legal description of the premises upon which it is proposed to conduct the assembly, with the names and addresses of all persons owning an interest in the premises, stating the nature of the interest.
 3. The nature and purpose of the assembly, the proposed beginning date and the period during which the assembly will be conducted, and a detailed statement of the manner in which it will be conducted.
 4. The maximum number of persons which the applicant will permit to assemble on the premises at any time during the assembly, which number shall be stated as a condition of any license which may be issued.
 5. The plans of the applicant to limit and control admission to the premises to the maximum number of persons stated in the license, and for controlling and parking vehicles of persons assembling on the premises.
 6. Description of existing facilities, and plans for proposed construction and alteration of, sewage, garbage and waste disposal systems, toilets, urinals, sinks, wash basins, drains; the source of water supply and plans for water distribution on the premises and methods of fire protection to be used during such assembly.
 7. The proposed method of lighting the structures and premises during the assembly.
 8. The number, location, and power of amplifiers and speakers, and the plans for sound control during the assembly, if applicable.
 9. Plans for maintenance of security and order on the premises, including the proposed number, deployment, and hours of availability of security guards upon the premises prior to, during, and immediately after the close of the assembly.
 10. Plans for the preparation and distribution of food and refreshments upon the premises.
 11. Plans for telephone facilities to the premises reasonably available to persons assembling and to law enforcement agents and county officers and employees.
 12. Plans for medical services, including buildings therefore, the names and hours of availability of physicians and nurses, and provisions for ambulance and other emergency services.
- C. **Fees.** The application shall be accompanied by a license fee in the amount of \$500.00, together with bond in penal sum of \$25,000.00 with sureties to be approved by the County of Becker conditioned that the licensee (a) carries out all of the plans and keeps and performs all of the conditions of the application and license, (b) maintain order on the premises, (c) leave the premises in neat and respectable condition, (d) pay, when due, to the person or persons entitled thereto, all debts and obligations incurred in promoting, advertising, and conducting and operating the assembly, and (e) indemnify and hold harmless the County of Becker, its officers, agents, and employees, from any liability or causes of action arising in any way from the conduct of the assembly, The bond shall run for a period of one (1) year. If the applicant has made application for a like assembly at the same location for four (4) consecutive years immediately preceding the application under consideration, the Becker County Board of Commissioners may, in its sole discretion, waive the license fee and/or the bond referred to above.

- D. **Board Action.** In considering applications for license, the County Board shall consider the character of the applicant, the nature of the assembly, the place thereof, the length of time during which it is to be conducted, and the adequacy of facilities for the protection of the public peace, healthy, safety, and welfare to be provided on the premises and in the area of the assembly, and plans to secure compliance with the conditions of the license.
1. Within twenty (20) days of filing of application, the County shall consider the application:
 - a. If the application is denied, the County shall inform the applicant in writing of the reasons for denying the applications; if the objection can be corrected, the applicant may amend the application and resubmit it for approval.
 - b. If the application is approve, the applicant shall be given an approval report which shall permit the applicant to proceed according to the plans stated in; the application, provided, however, that such approval shall not relieve the applicant from compliance with all applicable statutes, ordinances, and regulations.
 - c. Plans and statements submitted in an approved application shall be deemed a condition of the approval report and of any license issued pursuant thereto, whether or not stated in the report or license.
- E. **Filing Operation Plan with County Auditor.** Not less than ten days prior to the start of the assembly the applicant shall file with the County Auditor:
1. The names, addresses and credentials of all security guards to be employed during the assembly.
 2. The names and addresses of all food and service concessionaires who would be permitted to operate on the premises, with the license or permit number of each.
 3. A report showing completion of all construction and installation necessary to comply with the application for license, or in the event that such remain incomplete, evidence satisfactory to the County that completion will be had prior to the scheduled commencement of the assembly. Upon receipt of such report and after making such investigation and inspection of the premises as it may deem proper, and finding that all plans and requirements stated in the application have been or will be complied with, the County shall issue a license. The license shall at all times permit law enforcement officers and agents and officers of the county to enter upon the premises upon which the assembly is to be, or is being, conducted.
- F. **Limitations.** No licensee shall sell tickets to, nor permit to assemble, more than the number of persons stated in the license.
- G. **Revocation of License.** The license may be revoked at any time if any of the conditions of the approval report of license are not performed or complied with, or cease to be performed or complied with. The County shall forthwith, upon revocation, serve upon the licensee a notice specifying the way or ways in which the licensee has failed to comply: upon satisfactory proof of compliance, the County Board, may, in its discretion, reinstate said license.

- H. **Cease and Desist.** If the license shall be denied or revoked, the applicant and all persons under the applicant's direction and control shall forthwith cease and desist from all acts for the promotion, advertisement, organization, and operation of the assembly, and shall do all things necessary to advise persons who may intend to assemble of the refusal or revocation of license, and shall do all things necessary to disperse persons who may have assembled upon the premises.
- I. **Enforcement.** Any person, firm, corporation or association violating or failing to comply with any provision of this ordinance, or any licensee who fails to comply with the conditions of a license, shall be subject to a fine of not more than \$700.00, or to imprisonment for not more than ninety (90) days, or both. The County Attorney may institute in the name of the county any appropriate actions or proceedings for the enforcement of this ordinance and the conditions of licenses issued pursuant to it. The promotion, conduct, operation or maintenance of an assembly in violation of this ordinance or any license issued pursuant to it is hereby declared a public nuisance.
- J. **Indoor Assembly.** This ordinance shall not require a license for an indoor assembly at an established and permanent stadium, auditorium arena or place of worship where the reasonably anticipated assembly does not exceed the maximum seating capacity of the structure by more than 250 persons.
- K. **Validity.** If any section or part of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions hereof.
- L. **Adoption.** This ordinance shall become effective upon its adoption and publication according to law and will amend and supersede that ordinance passed by the Becker County Board of Commissioners on the 5th day of June, 1974. This was adopted and signed the 11th day of April, 1989.