

City of Blackduck

Land Use and Subdivision Ordinance

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SECTION I - TITLE

This Ordinance shall be referred to and cited as the Blackduck Land Use, Land Use and Subdivision Ordinance, except herein where it shall be cited as the "Ordinance".

Updates.

The following updates have been made to this Ordinance since its adoption on August 20, 2007:

- March 10, 2010 – Replacement of Section 4.3, Use of Pre-Existing Lots
- March 10, 2010 – Addition to to Section 4.4, Non-Conforming Structures and Uses
- March 10, 2010 – Addition to Section 11.7, Subdivisions
- June 9th, 2014 – Section 1545.14, Deer Management temporary deer fencing
- January 4, 2016 – Section 8.7, Solar Energy Systems
- September 6, 2016 – Section 8.8, Temporary Family Health care Dwellings
- November 7, 2022 – Section 11.1, Administration

SECTION II - INTENT AND PURPOSE

This Ordinance is established pursuant to the authority granted by Minnesota Statutes, in particular the Municipal Planning Act, Minnesota Statutes Sections 462.351 to 461.364, the Municipal Shoreland Act, Minnesota Statutes Section 379, Minnesota Statutes 1980 Sections 462.351 to 462.364, The Land Subdivision and Condominiums Acts, Chapters 462, 505, 515, 515A and 515B and Policies in Minnesota Statutes, Section 105,115 and 116, and any Amendments thereto. This Ordinance hereby repeals all previous versions of City Code Chapter 15 for the City of Blackduck.

2.1 Purpose

1. Protecting the public health, safety, comfort, convenience and general welfare.
2. Inaugurating and effectuating the goals of the Comprehensive Plan.
3. Promoting order in development by dividing the area of the City into zones and regulating therein the location, construction, reconstruction, alteration and use of the structures and land.
4. Conserving the natural and scenic beauty and attractiveness of the City, for the health and welfare of the public.
5. Providing for adequate light, air and access to property by regulating the use of the land and buildings and the bulk of structures in relation to surrounding properties.
6. Providing for the administration of the provisions of the ordinance and defining the authority and duties of the Administrator, Planning Commission, Board of Adjustment, Parks Committee and City Council under this ordinance.
7. Providing standards and criteria for shorelands to preserve and enhance the quality of surface waters, conserve the economic and natural environment values of shorelands and provide for the wise use of water and related land resources for the City.
8. Promoting the economic well being of the community by providing an attractive, stable and viable venue for new businesses.

2.2 Relation to Land Use Plan

It is the policy of the City of Blackduck that the enforcement, amendment, and administration of this Ordinance be accomplished with due consideration of the recommendations contained in the Blackduck Comprehensive Plan as developed and amended from time to time by the Planning Commission and City Council as well as any other City land use and development plans enacted from time to time. The City Council recognizes the Comprehensive Plan as the policy for regulating land use and development.

SECTION III - RULES AND DEFINITIONS

3.1 RULES

The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:

1. The word person includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.
2. The masculine gender includes the feminine gender and the neuter gender.
3. The singular includes the plural and the plural includes the singular.
4. The present tense includes the past and future tenses and the future includes the present.
5. The word “may” is permissive. The word “shall” is mandatory. Mandatory compliance with the Ordinance shall allow for variances thereto.
6. All horizontal and vertical measured distances shall be expressed to the nearest tenth of a foot and its metric equivalent, unless specifically stated otherwise.
7. The words “lot,” “plot,” “piece” and “parcel” of land are interchangeable.
8. The words “used for,” shall include the phrases “arranged for,” “designed for,” “intended for,” “improved for,” “maintained for,” and “occupied for.”

3.2 DEFINITIONS

The following words shall be defined as follows for the purpose of this Ordinance:

1. **Abandoned Building.** A building as defined hereinafter on public or private property, which no longer serves a practical use and, due to its location or structural condition, is considered a safety hazard in the opinion of the Zoning Administrator.
2. **Abandoned Motor Vehicle.** A motor vehicle as defined in Minnesota Statutes Chapter 169.01 that (a) has remained on public property in an inoperable condition for more than 48 hours, or (b) has remained on private property for more than 48 hours without the permission of the owner, or (c) has remained on private property for more than thirty days and is inoperable or is unlicensed unless kept in a garage or other storage structure.
3. **Abutting.** Making direct contact with or immediately bordering.
4. **Accessory** a system designed as a secondary use to existing buildings or facilities, wherein the power generated is used primarily for on-site consumption.
5. **Accessory Structure:** A building or other structure that is supportive, secondary and subordinate in use and/or size to the principle structure on the same parcel or lot which, because of the nature of its use, can reasonably be located at or greater than minimum structure setbacks. Includes all structures not considered the principle structure including, but not limited to, T.V. towers antennas, dish antennas, outdoor swimming pools, outdoor hot-tubs, detached garages, sheds, guest quarters and boathouses.
6. **Accessory Use.** A use naturally and normally incident and subordinate to the main use of the premises.
7. **Addition.** A physical enlargement of an existing structure.
8. **Adjacent.** In close proximity to or neighboring, not necessarily abutting.
9. **Adult Book and/or Media Store.** An establishment which has a substantial portion (25% of utilized floor area) of its stock in trade or stock on display books, magazines, films, videotapes, or other media which are characterized by their emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.
10. **Adult Cabaret.** An establishment which provides dancing or other live entertainment, and if such dancing or other live entertainment is distinguished or characterized by an emphasis on the performance, depiction or description of Specified Sexual Activities or Specified Anatomical Areas.
11. **Adult Establishment.** Any business which offers its patrons services, entertainment, or the sale of merchandise characterized by an emphasis on matter depicting, exposing, describing, discussing, or relating to specified sexual activities or specified anatomical areas. Specifically included in the term, but without limitation, are adult book and media stores, adult cabarets, adult hotels or motels, adult

- mini-motion picture theaters, adult modeling studios, adult motion picture arcades, adult motion picture theaters, adult novelty businesses, and other adult establishments.
12. **Adult Hotel or Motel.** Adult Hotel or Motel means a hotel or motel wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.
 13. **Adult Mini-Motion Picture Theater.**
 - A. A theater in an enclosed building, with a capacity for less than 50 persons used for presenting motion pictures, including but not limited to film and videotape, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.
 - B. Any business which presents motion pictures, including films and videotapes, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas, for viewing on the premises, including but not limited to private booths, viewing by means of coin operated or other mechanical devices, and the viewing of excerpt of motion pictures offered for sale or rent.
 14. **Adult Motion Picture Arcade.** Any place wherein coin or token operated or electronically, electrically, or mechanically controlled or operated still or motor picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing Specified Sexual Activities or Specified Anatomical Areas.
 15. **Adult Motion Picture Theater.** A theater in an enclosed building with a capacity of 50 or more persons used regularly and routinely for presenting live entertainment or motion pictures, including but not limited to film and videotapes, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas for observation by patrons therein.
 16. **Adult Novelty Business.** A business which sells, offers to sell, or displays devices which stimulate human genitals or devices which are designed for sexual stimulation.
 17. **Adult Use.** Any of the adult activities and businesses described above constitute "Adult Oriented Businesses" which are subject to the regulation of this Ordinance.
 18. **Agent.** Any person acting on behalf of a landowner in dealing with activities under the jurisdiction of the Ordinance, including but not limited to realtors, contractors or attorneys.
 19. **Agricultural Use.** The use of land for agricultural purposes including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture and animal and poultry husbandry and the necessary accessory uses used for packing, treating or storing the product, provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities.
 20. **Airport.** Any premises used or intended for use for the landing and taking off of aircraft including any structures used or intended for use for aircraft services.
 21. **Alteration.** A change or rearrangement in the structural parts or in the existing facilities, or an enlargement, whether by extending on a side or by increasing in height, or by moving from one location to another, of a building or a structure.
 22. **Animals, Domestic.** Common household pets, such as dogs and cats, kept for amusement, companionship, decoration or interest.
 23. **Animals, Food.** Fish, fowl, cattle, swine, sheep and others raised for the purposes of food consumption.
 24. **Animals, Wild or Exotic.** Animals, such as wolves, tigers, lions and snakes, that are not normally a domestic animal or farm animal and would ordinarily be confined in a zoo or found in the wild.
 25. **Animal Boarding Facility.** An establishment that houses animals, other than those belonging to the occupant, overnight or over an extended period of time.
 26. **Animal Grooming Establishment.** An establishment principally engaged in grooming animals in which overnight boarding is prohibited.

27. **Animal Husbandry.** The care or breeding of domestic animals such as cattle, hogs, sheep, horses, poultry, dogs (more than two) or cats (more than three) for the occupants of a property.
28. **Animal Unit.** A unit of measure based on the approximate production of wastes from 1000 pounds of live weight of poultry or animals.
- | | |
|--|------|
| Animal Units | |
| One (1) slaughter weight steer or heifer | 1.0 |
| One (1) mature dairy cow or horse | 1.4 |
| One (1) swine over 55 pounds | 0.4 |
| One (1) sheep | 0.1 |
| One (1) goose | 0.1 |
| One (1) duck | 0.05 |
| One (1) turkey | 0.18 |
| One (1) chicken | 0.1 |
29. **Antenna.** Any structure or device used for the purpose of collecting or radiating electromagnetic waves including but not limited to directional antennas such as panels, microwave dishes, satellite dishes, and omni-directional antennas such as whip antennas. Dishes under 36 inches are excluded from the definition of antenna.
30. **Apartment.** A room or suite of rooms that is designed for, intended for, or occupied as a residence by a family or individual, and is equipped with sanitary facilities.
31. **Appeal.** An application for the review of an order, requirement, decision, determination or interpretation of this Ordinance made by an administrative officer in the application and/or enforcement of this Ordinance.
32. **Arbor.** A light open-work structure of wood or metal, covered or intended to be covered with plants, such as climbing vines or shrubs, as in a park or garden.
33. **Architectural Projection.** A non-functional or ornamental feature on a building or other structure that does not extend to, or from, the ground.
34. **Artist's Studio.** A fine arts workshop of a painter, sculptor, potter, weaver, carver, jeweler, photographer or other similar art that requires artistic skill, where the public is received or where the artist is engaging in retail sales. Not generally utilitarian, related to personal hygiene or adornment.
35. **Attached.** Two buildings or structures that combine to form one building or structure through the use of at least one common wall, not including a breezeway.
36. **Attorney.** The attorney duly appointed by the Council to represent the City of Blackduck.
37. **Auto Salvage Yard.** A lot or yard where four or more motor vehicles are stored while parts are removed, where crushing occurs or where storage pending crushing may occur.
38. **Auto Trip.** Transport in a vehicle that includes both an arrival and a departure from a location.
39. **Balcony.** Same as a deck.
40. **Banner.** A temporary sign constructed out of paper, plastic, cloth, cardboard or some other non-permanent material and affixed to poles or the side of a building in a manner than can be easily moved, modified or rearranged.
41. **Bathroom.** A room containing a shower or bathtub or a sink and toilet.
42. **Basement.** The space below the first story of a structure which is greater than four (4) feet in height.
43. **Bed and Breakfast Dwelling.** A dwelling, single family, licensed through the Beltrami County Public Health Services, where, for compensation, meals and lodging are provided for three or more unrelated persons, but not exceed eight persons. The owner of the parcel must live on the premises.
44. **Bedroom.** A portion of a dwelling unit intended to be used for sleeping purposes, which may contain closets and may have access to a bathroom.
45. **Block.** An area of land bounded by streets, exterior boundary lines and/or bodies of water.
46. **Bluff.** A topographic feature such as a hill, cliff or embankment having all of the following
47. **Boarding House.** Same as Bed and Breakfast dwelling.
48. **Board of Adjustment.** The Board, appointed by the City Council, to hear appeals from actions of the Zoning Administrator, and variance requests.

49. **Breezeway.** A covered or enclosed walkway that physically connects two or more buildings or structures. Shall not materially connect the two or more buildings or structures.
50. **Buildable Area.** Any site, lot, parcel or any portion thereof that does not contain designated flood plain, wetlands or areas in excess of twenty-five (25) percent slope.
51. **Building.** Any structure used or intended for storage, shelter or occupancy.
52. **Building-integrated solar energy system** a solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building including, but not limited to, photovoltaic or hot water solar systems contained within roofing materials, windows, skylights and awnings.
53. **Building Height.** The vertical distance between the highest adjoining ground level at the building or ten (10) feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height between the eaves and the highest ridge of gable, hip or gambrel roofs or ten feet below the peak, whichever is greater.
54. **Building Line.** A line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.
55. **Building Permit.** A permit authorizing an Applicant under this Code to undertake construction or other development activity.
56. **Campground.** Any area, whether publicly or privately owned, consisting of designated campsites with appropriate facilities and management services designed for temporary occupation by tents or recreational vehicles.
57. **Camping.** Habitation of a temporary structure.
58. **Campsite.** A parcel within a resort or campground designated for the occupancy of one family on a periodic basis in a tent or recreational vehicle.
59. **Car Wash.** A building in which motor vehicles are washed or waxed, either by the patron or by others, using machinery specially designed for that purpose.
60. **Cemetery, Unplatted.** Any human remains or burials found outside of platted, recorded or identified cemeteries pursuant to Minnesota Statutes, Chapter 307.08.
61. **Chairman.** The individual elected by the Planning Commission to chair their meetings. A vice-chair may also be elected and would serve as chairman when the elected chairman was absent.
62. **Child Care, Center.** A facility that is maintained, for the whole or part of the day, for the care of five or more children who are eighteen (18) years of age or younger and who are not related to the owner, operator or manager thereof, whether such facility is operated with or without compensation for such care and with or without stated educational purposes. The term shall not include any facility licensed as a foster care home or any facility defined as a Child Care, Family Home.
63. **Child Care, Family Home.** A primary residence where, for the whole or part of the day, an owner of the residence, licensed as a child care provider, cares for five or more children who are eighteen (18) years of age or younger and who are not related to the owner, whether such facility is operated with or without compensation for such care.
64. **Church.** A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship and related community activities.
65. **Clear Cutting.** See Vegetation Removal, Clear Cutting.
66. **Clinic.** A place where medical or dental care is furnished to persons by physicians, dentists and nurses on an outpatient basis.
67. **City Clerk.** The appointed person responsible for administration of the City affairs.
68. **City Council.** The duly elected governing body of the City.
69. **City Sewer or Water System.** A system of municipally maintained utilities, approved by the State, and serving more than one building or property.
70. **Commercial Use.** The principle use of land or buildings for the sale, lease, rental, trade of products, goods or services.

71. **Commercial Wireless Telecommunication Services.** All commercial wireless telecommunications services including cellular, personal communications services, specialized mobilized radio, enhanced specialized mobilized radio, paging and similar services that are marketed to the general public.
72. **Commissioner.** The Commissioner of the Department of Natural Resources.
73. **Community Park.** A park designed to provide recreational opportunities to serve the entire community.
74. **Conservation Parcel.** A parcel of land set aside from development in a Rural Conservation Subdivision.
75. **Comprehensive Plan.** Also referred to as Community Plan. A compilation of policy statements, goals, standards and maps for guiding the physical, social and economic development, both private and public, of the City and its environs and may include, but is not limited to, the following items: statements of policies, goals, standards, a land use plan, a community facilities plan, a transportation plan and recommendations for plan execution.
76. **Community Solar Garden** a solar-electric (photovoltaic) array that provides retail electric power (or a financial proxy for retail power) to multiple community members or businesses residing or located off-site from the location of the solar energy system, under the provisions of Minn. Statute 216B.1641 or successor statute.
77. **Conditional Use.** A land use or development as defined by the Ordinance that would not be appropriate without restriction, but may specifically be allowed without restrictions of conditions as determined by the Planning Commission and the Council upon a finding that (a) the use or development is an appropriate conditional land use in the land use zone, (b) the use or development, with conditions, conforms to the comprehensive land use plan, (c) the use, with conditions, is compatible with the existing neighborhood and (d) the use, with conditions, would not be injurious to the public health, safety, welfare, morals, order, comfort, convenience, appearance or prosperity of the City.
78. **Contiguous.** The sharing of a common border at more than a single point. Lots, parcels or boundaries may be considered contiguous where separated by rights-of-way, rivers or streams.
79. **Council.** The City Council, as established by State Law.
80. **County.** The County of Beltrami, Minnesota.
81. **Crawl Space.** The space below the first story of a structure not more than four feet high and not intended for human habitation.
82. **Cul-de-sac.** A short local street terminating in a vehicular turnaround.
83. **DBH.** Diameter at Breast Height. The width of a tree or shrub as measured at 4.5 feet above the ground surface.
84. **Deck.** An uncovered, unscreened structure or on-grade patio not including on-grade walks four (4) feet wide or less.
85. **Dormitory.** A building, or portion thereof, providing group sleeping accommodations in one room, with shared bath and toilet facilities.
86. **Dwelling, Multi-Family.** Two or more dwelling units attached together by any point including duplexes, triplexes, townhouses and multi-level units regardless of type of ownership.
87. **Dwelling, Single Family.** A dwelling unit totally separated from any other dwelling unit.
88. **Dwelling Site.** A designated location for residential use by one or more persons using temporary or movable shelter including camping and recreational vehicle sites.
89. **Dwelling Unit.** A structure or portion of a structure or other shelter designed as a short or long term living quarters for one or more persons including rental or time share accommodations such as a motel, hotel resort rooms and resort cabins.
90. **Dwelling Width.** The smallest horizontal dimension of the major portion of a dwelling.
91. **Earth Tone.** A shade of color that, when viewed from a distance, blends with the colors of the surrounding landscape.
92. **Engineer.** The engineer duly appointed by the Council to perform technical services for the City of Blackduck.

93. **Exterior Storage.** Storage of goods, materials, equipment, manufactured products outside a fully enclosed building.
94. **Extractive Use.** The use of land for removal of sand, gravel, rock, industrial minerals, soil, other non-metallic minerals or pea not regulated under Minnesota Statutes Sections 93.44 to 93.51.
95. **Family.** An individual or group of two or more persons related by blood, marriage or adoption, together with not more than three additional persons not related by blood, marriage or adoption, living together as a single housekeeping unit, or all members of a common housekeeping management unit of which have common use and access to all living and eating areas, bathrooms, food preparation and serving areas, and which is based on an intentionally structured relationship providing organization and stability.
96. **Feedlot.** A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. Open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots.
97. **Fee Schedule.** The official schedule of land use related fees and penalties adopted by the City Council.
98. **Fence.** A free-standing structure made of metal, masonry or wood, or a combination thereof, including gates, resting on or partially buried in the ground, rising above ground level and used to delineate a boundary or as a barrier or means of protection, confinement or screening. Does not include arbors or trellises.
99. **Fence, Open.** A fence of which open spaces afford direct views through the fence that comprise at least 50% of each one foot wide segment extending over the entire length of the fence, including gates.
100. **Fence, Solid.** A fence that exceeds the transparency provisions of an Open Fence.
101. **Filling.** The act of depositing any clean earthen material.
102. **Final Floor Plan.** A drawing prepared by a Registered Architect, Registered Engineer, or Registered Land Surveyor depicting the condominium subdivision of real estate and related information conforming to the requirements of Minnesota Statutes 1980, Section 515A.2-110.
103. **Final Condominium Plat.** A drawing prepared by a Registered Architect, Registered Engineer or Registered Land Surveyor depicting the condominium subdivision of real estate and related information conforming to the requirements of Minnesota Statutes 1980, Section 515A.2-110.
104. **Final Plat.** A drawing, in final form, showing a proposed subdivision containing all information and detail required by state statutes and by the Subdivision Ordinance to be presented to the Planning Commission and the City Council for approval, and which, if approved, may be duly filed with the County Recorder.
105. **Fish House.** A structure placed on a lake during the winter for use in fishing. A structure will only be considered a fish house if it is 160 square feet or less, is moveable and has a current license.
106. **Floodplain.** The areas adjoining a water course, intermittent or permanently flowing, which have been or will be covered by the runoff waters of a storm with a 1% chance of occurrence any year (100 year storm).
107. **Floodway.** The channel of the water course and those portions of the adjoining floodplain which are reasonably required to carry and discharge the regional flood (100 year chance of occurrence.)
108. **Flush-mounted solar energy systems** a roof-mounted system mounted directly abutting the roof. The pitch of the solar collector may exceed the pitch of the roof up to 5% but shall not be higher than 10 inches above the roof.
109. **Footprint.** The horizontal extent to which a structure covers the ground plane as represented in a plan view including cantilevered building elements but excluding eaves and similar architectural projections of the roof plane.
110. **Forb.** A broad leafed, non-woody plant other than grass, sedge or rush. Forbs include native herbs, ephemerals and wildflowers.

111. **Forest Land Conversion.** The clear cutting of forested lands to prepare for a new land use other than the re-establishment of a subsequent forest stand.
112. **Foundation.** A concrete, concrete and concrete block, or treated wood portion of a structure that supports the bearing loads of the superstructure and penetrates the ground providing frost protection. Must meet the provisions of the building code adopted by the State of Minnesota.
113. **Frontage.** The uninterrupted front boundary line of a lot, or the length of such line, that abuts on a street or protected water.
114. **Garage, Attached.** A part of the principle structure designed for the storage of motor vehicles.
115. **Garage, Detached.** An accessory structure not attached to the principle structure on the property designed and used for storage.
116. **Grading.** The movement of dirt, by mechanical means, so as to alter the existing topography of a property.
117. **Green Space.** Privately owned property permanently dedicated by covenant or deed restriction to vegetate ground coverage with allowance for use as recreational facilities, tree coverage, water course, sewage disposal or similar uses. Public property permanently dedicated to park, vegetative buffer, tree coverage or water courses.
118. **Ground-Mounted Solar energy system** a freestanding solar system mounted directly to the ground using a rack or pole rather than being mounted on a building.
119. **Group Care Facilities.** A facility which provides residential services for individuals that are handicapped, aged, disabled or undergoing rehabilitation. This includes uses such as homes for the physically handicapped, mentally retarded, chemically dependent, foster children, maternity shelters and half-way houses.
120. **Hardship, Undue.** The property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to the property and were not created by the landowner, and a variance, if granted, would not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship if reasonable use exists under the terms of the Ordinance.
121. **Home-Based Business.** A use conducted entirely within an enclosed dwelling, which is clearly incidental and secondary to the residential occupancy and does not change the character thereof. Specifically excluded is any activity that involves structural alterations, window displays or any outdoor storage of machinery, equipment or other materials visible from any location off the lot on which it is located.
122. **Hotel.** A building containing three (3) or more individual rooms, without kitchens, used for overnight lodging by the general public on a short-term basis for a fee, with or without meals, and which has common reservation and cleaning services, combined utilities, and on-site management and reception services.
123. **House of Worship.** Same as church.
124. **Impervious Surface.** An all-weather surface or ground cover that resists the absorption of surface water into the soil. Such surfaces include those constructed of stone, brick, asphalt, concrete, tile, terrazzo, gravel composite or any other paving materials used for parking, driveways, patios, terraces, walkways and the like, as well as areas covered by buildings, decks, porches, swimming pools, tennis courts and any similar surface.
125. **Industrial Use.** The use of land or buildings for the production, manufacture, warehousing, storage or transfer of goods, products, commodities or other wholesale items.
126. **Interim Use.** A use that is established and operates for a set period of time (e.g. one to two years). Generally, an interim use allows a short-term use of the property.
127. **ISTS.** See Sewage Treatment System, Individual.
128. **Junk Yard.** An area where used waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleared, parked, disassembled or handled, including but not limited to scrap iron and other metals, paper, rags, rubber products, bottles, and used building materials. Storage of materials in conjunction with the construction of a manufacturing process shall not be included. Three or

- more automobiles without current licenses constitute a junk yard. Such use shall not include putrid wastes such as garbage.
129. **Kennel.** Any lot or premises on which five (5) or more dogs aged six months or older are kept, either owned or temporarily or permanently boarded, except as otherwise provided for in this Ordinance.
 130. **Lake Classification.** The formal classification provided by the Department of Natural Resources for each body of public waters within the City.
 131. **Landfill.** A method of solid waste disposal in which refuse is buried between layers of dirt.
 132. **Landscaping.** Plantings such as trees, grass, shrubs, and decorative timbers, arbors, rocks and water displays.
 133. **Laundromat.** A place where patrons wash, dry or dry clean clothing or other fabrics in machines owned by the patron.
 134. **Licensed Engineer.** A person licensed as a professional engineer by the State of Minnesota.
 135. **Licensed Surveyor.** A person licensed as a professional surveyor by the State of Minnesota.
 136. **Litter.** Waste materials including but not limited to, cans, bottles, plastic and paper wrappings or containers.
 137. **Livestock.** Domestic animals, such as cattle or horses, raised for home use or for profit, especially on a farm
 138. **Logging.** The sustainable practice of felling and trimming trees and transporting the logs to a mill.
 139. **Lot.** A parcel, piece or portion of land described by metes and bounds, registered land survey, auditor's plat, or subdivision plat and separated from other parcels or portions of land by said description for purposes of sale, lease, mortgage, building or separation.
 140. **Lot Area.** The horizontal area of a lot bounded by the lot lines and the ordinary high water line if bounded by water.
 141. **Lot, Corner.** A lot situated at the junction of and abutting on two or more intersecting streets or a lot at the point of deflection in alignment of one street with the internal angle less than 135 degrees.
 142. **Lot, Front.** The boundary of a lot which abuts on a public right of way, or if a corner lot, the shortest of the two boundaries. If the lot abuts public water, the lake side shall be considered the lot front.
 143. **Lot Line.** The property lines bounding a lot except that where the description extends into a public right of way, the right of way line shall be considered the lot line.
 144. **Lot, Pre-existing.** A lot which is one unit of a subdivision plat heretofore duly approved and filed or one unit of an auditor's subdivision, or registered land survey, or a lot created by metes and bounds that has been recorded in the office of the County Recorder prior to the effective date of this Ordinance.
 145. **Lot Tier Depth.** The lot depth of a normal lot conforming to the shoreland requirements; General Development Lake first tier - 200 feet, second and additional tiers - 267 feet; Recreational Development Lake - 267 feet, Natural Environmental Lake - 400 feet.
 146. **Lot Tiers.** Successive strips of land parallel with the ordinary high-water line, each one tier depth wide, and extending across the parcel.
 147. **Lot Width.** The shortest distance between lot lines measured at the midpoint of the building line.
 148. **Maintenance.** The normal upkeep of a structure including the replacement of windows, siding, roofs, nonbearing walls or interior remodeling that does not expand the footprint of the existing structure, add volume to the usable living space or intensify a non-conforming use.
 149. **Manufactured Home.** A structure, transportable in one or more sections, which, when erected on site, is a minimum of 320 square feet, is built on a permanent foundation, contains the heating, plumbing and electrical systems within and meets the requirements of the building code adopted by the State of Minnesota.
 150. **Mature Tree.** A living tree greater than four (4) inches in diameter.
 151. **Maximum Area for above Ground-Mounted Solar energy systems** relates to the solar panels only (not their mounting poles/hardware) and the total area that the panels occupy.

152. **Metes and Bounds.** A method of property description utilizing directions and distances commencing from and terminating at an identifiable point.
153. **Motel.** A building containing guest rooms or units, each of which has a separate entrance directly from the outside of the building, or corridor, with parking space reserved for each unit, and which is designed, used or intended to be used primarily for the accommodation of transient guests.
154. **Multi-Level Dwelling.** A type of multi-family housing consisting of dwelling units stacked one above the other, creating a party floor or floors between units.
155. **Natural Drainage way.** All land surface areas which, by nature of their contour or configuration, collect, store and channel surface or runoff water.
156. **Neighborhood.** The area adjacent to or surrounding existing or proposed development characterized by common use or uses, density, style and age of structures and environmental characteristics.
157. **Non-conforming.** The building, structure or land lawfully existing prior to and not in conformance with the provisions of this ordinance.
158. **Nuisance.** By authority and direction of Minnesota Statute, 1980, Section 412.221, Subdivision 23 and 24; and Section 429.31, Subdivision 8; and Section 145.22 and 145.23, nuisance is anything that interferes with the use or enjoyment of property, endangers personal health or public safety, or is offensive to the senses such as excessive smoke, odor, noise, heat, vibration, glare, traffic generation, visual impact and other similar interferences or offenses.
159. **Nursery.** A retail business growing and selling trees, flowering or decorative plants and shrubs.
160. **Nursing Home.** Any institution or facility required to be licensed as such under Minnesota Statutes, Sections 144.50 to 144.56 by the State Board of Health.
161. **Off-street parking.** A designated space or area of land with a paved or all-weather surface not within a public street or right-of-way and used for the parking of vehicles.
162. **Open Storage:** Storage of material outside of a building.
163. **Ordinary High Water Mark.** The boundary of public waters and wetlands consisting of an elevation delineating the highest water level which has been maintained for sufficient period of time to leave evidence on the landscape, commonly that point where the natural vegetation changes form predominantly aquatic to predominantly terrestrial. For water courses the ordinary high water level is the elevation of the top of the bank of the channel, for reservoir and flowages, the ordinary high water level is the operating elevation of the normal summer pool.
164. **Overlay Map.** An official map of the City that describes the location of an overlay zone.
165. **Owner.** An individual, firm, association, syndicate, partnership, corporation, trust or any other legal entity having proprietary interest in the land and/or building.
166. **Passive solar energy system** a system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.
167. **Parking Space.** A 10 foot by 20 foot site off public right of way, maintained and sized to accommodate the parking of one automobile.
168. **Party Wall or Floor.** A common wall which divides two independent dwelling units or businesses.
169. **Permitted Use.** A land use conforming to the character of a zoning district which is permitted by ordinance requiring only a zoning permit issued by the Zoning Administrator.
170. **Pet.** An animal commonly associated with human habitation, not considered under animal units and not raised for production of income.
171. **Photovoltaic system** a solar energy system that converts solar energy directly into electricity.
172. **Planned Unit Development (PUD).** A land use characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common green space, density increases, and mix of structure types and land uses. Does not include a duplex where specifically allowed in a zoning district on a single parcel of land.
173. **Planned Unit Developments, Commercial.** Uses that provide transient, short-term lodging spaces, rooms, or parcels and their operation are essentially service orientated. These shall include

- but not be limited to hotel/motel accommodations, resorts, recreational vehicle and camping parks and other primarily service oriented activities.
174. **Planned Unit Development, Residential.** Residential Planned Unit Development means a use where the nature of residency is nontransient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, townhouses, cooperatives and full fee ownership residences would be considered as Residential Planned Unit Developments. Includes time share condominiums not part of a resort.
 175. **Planning Commission.** The body duly appointed by the City Council to determine the development of the City and make recommendations to the City Council on comprehensive plans, zoning district boundaries, conditional use permits, subdivision of land and capital improvements.
 176. **Porch.** A covered platform attached to a structure.
 177. **Porch, Enclosed.** A covered platform attached to a structure with more permanent enclosures than those described in “porch”.
 178. **Portable.** Capable of being transferred or moved from one place to another.
 179. **Pre-Built Home.** Same as Manufactured Home
 180. **Preliminary Plat or Plan.** A plan prepared in accordance with the Subdivision Ordinance depicting the proposed subdivision of property by Final Plat or Final Floor Plan.
 181. **Principal Structure or Use.** The single primary structure or use on a lot, as distinguished from accessory uses or structure. To be considered a principle structure, the structure must be at least 400 square feet.
 182. **Protective Covenants.** Restrictions placed on the property by the owner and duly filed with the County Recorder. These may also be used in planned unit developments to establish homeowners associations, restrict shoreline development and provide for common facilities.
 183. **Recorder.** The County Recorder of Beltrami County.
 184. **Recreational Equipment.** Equipment, both motorized and non-motorized, that is subject to licensing by the State of Minnesota and is designed primarily for recreational use.
 185. **Recreational Vehicle.** Vehicles for recreational use that can be driven, towed or hauled. These vehicles are designed to be temporary living space for camping or travel use. RV’s shall include travel trailers, camper trailers, truck campers, self-propelled motor homes and other similar vehicles.
 186. **Restaurant.** An establishment where the principle business is the preparation, service and sale of food and beverages to be consumed by customers at tables or counters located within the building on the premises.
 187. **Right-of-Way.** A parcel of property dedicated to the public, connecting to other public right of ways, which affords primary access by pedestrians and vehicles to abutting properties.
 188. **Roof-mounted solar energy system** a solar energy system mounted directly or abutting the roof of a principal or accessory building.
 189. **Rural Conservation Subdivision.** A method of subdividing land that provides for preservation of open space and clustering of individual lots.
 190. **School.** A public school giving regular instruction at least five (5) days a week, except holidays, for a normal school year of not less than 7 months, offering a curriculum meeting the requirements of the State Department of Education.
 191. **Screening.** Fencing, an earthen berm or vegetative growth that visually separates one object from another.
 192. **Semi Public Use.** The use of land by private non-profit organizations to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.
 193. **Sensitive Resource Management.** The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over ground water or bedrock, highly erosive or expansive soils, steep slopes, acceptability to flooding or occurrence flora or fauna in need of special protection.
 194. **Setback.** The minimum horizontal distance between a structure, sewage treatment system or other facility and an ordinary high water level, sewage treatment system, top of bluff, road, highway,

- property line or other facility. Three (3) feet of roof overhang, stoops not exceeding 30 square feet and steps from stoop to ground not over 4 feet wide may protrude into the setback.
195. **Setback, Interior Lot.** In a planned unit development, the closest horizontal distance between the lot line and the foundation or wall of a structure when the lot line is not the exterior boundary of the development. Three (3) feet of roof overhang, stoops not exceeding 30 square feet and steps from stoop to ground not over 4 feet wide may protrude into the setback.
 196. **Setback, Side, Exterior.** The closest horizontal distance between the exterior boundary side lot line and the foundation or wall of a structure. This setback takes precedence over setback, interior lot, where any conflict exists. Three (3) feet of roof overhang, stoops not exceeding 30 square feet and steps from stoop to ground not over 4 feet wide may protrude into the setback.
 197. **Setback, Road.** The closest horizontal distance between the road right-of-way line and the foundation or wall of a structure. Three (3) feet of roof overhang, stoops not exceeding 30 square feet and steps from stoop to ground not over 4 feet wide may protrude into the setback.
 198. **Setback, Waterfront.** The closest horizontal distance between the ordinary high water mark and the foundation or wall or edge of a structure. Three feet of roof overhang, stoops not exceeding 30 square feet and steps from stoop to ground not over 4 feet wide may protrude into the setback.
 199. **Sewage Treatment System, Individual.** A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Chapter 7080 or Chapter 7081 of the State Rules and Regulations.
 200. **Sewage Treatment System, Municipal.** The sanitary sewage collection and treatment system operated by the City under permitting by the Minnesota Pollution Control Agency.
 201. **Sewer System.** Pipe lines or conduits, pumping stations and forcemain and all other constructions, devices, appliances or appurtenances used for conducting sewage or industrial waste or other waste to a point of ultimate disposal.
 202. **Shoreland.** Land located within the following distances from public water: 1,000 feet from the ordinary high water level of a lake, pond or flowage; and 300 feet from a river or stream, or landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the water for lesser distances and when approved by the DNR Commissioner.
 203. **Sign.** A name, identification, description, display, illustration, advertisement or device which is displayed for the purpose of attracting attention to a person, product, place, activity, institution or business.
 204. **Sign Area.** Sign area is calculated as the total area of signage and shall include all area bound by a rectangle that encompasses the markings that comprise the sign. For two-sided signs, only one side shall be counted.
 205. **Significant Historical Site.** Any archeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historical Places, or is listed in the State Register of Historical Sites or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes Sec. 307.08. A Historical Site meets this criteria if it is presently listed on either Register or if it is determined to meet the qualifications for listing after review by the Minnesota State Archeologist or the Director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historical sites.
 206. **Sketch Plan.** A plan drawn to scale used for planning and discussion purposes only.
 207. **Solar Energy** radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.
 208. **Solar energy system** a device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generation or water heating.
 209. **Solar Resource** a view of the sun from a specific point on a lot or building that is not obscured by any vegetation, building, or objects for a minimum of four hours between the hours of 9:00am and 3:00 pm standard time on any day of the year.

210. **Solar Collector** a device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.
211. **Solar Collector Surface** any part of a solar collector that absorbs solar energy for use in the collector's energy transformation process. Collector surface does not include frames, supports and mounting hardware.
212. **Solar Daylighting** a device specifically designed to capture and redirect the visible portion of the solar spectrum, while controlling the infrared portion, for use in illumination interior building spaces in lieu of artificial lighting.
213. **Solar Energy Device** a system or series of mechanisms designed primarily to provide heating, cooling, electrical power, mechanical power, solar daylighting or to provide any combination of the foregoing by means of collecting and transferring solar generated energy into such uses either by active or passive means. Such systems may also have the capability of storing such energy for future utilization. Passive solar energy systems shall clearly be designed as a solar energy device such as a trombe wall and not merely a part of a normal structure such as a window.
214. **Solar Heat Exchanger** a component of a solar energy device that is used to transfer heat from one substance to another, either liquid or gas.
215. **Solar Hot Air System** (also referred to as Solar Air Heat or Solar Furnace) an active solar energy system that includes a solar collector to provide direct supplemental space heating by heating and re-circulating conditioned building air. The most efficient performance typically uses a vertically mounted collector on a south-facing wall.
216. **Solar Hot Water System** (also referred to as Solar Thermal) a system that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs, including residential domestic hot water and hot water for commercial processes.
217. **Solar Mounting Devices** racking, frames, or other devices that allow the mounting of a solar collector onto a roof surface or the ground.
218. **Solar Storage Unit** a component of a solar energy device that is used to store solar generated electricity or heat for later use.
219. **Specified Anatomical Areas (Adult Use)** include any less than completely and opaquely covered human genitals, pubic region, or pubic hair, buttocks and female breast below a point immediately above the top of the areola; and human male genitals in a discernible turgid state, even if opaquely covered.
220. **Specified Sexual Activities (Adult Use)** are any of the following conditions:
 - A. An act of sexual intercourse, normal or perverted, actual or simulated, including genital-genital, anal-genital, or oral-genital intercourse, whether between human beings or between a human being and an animal.
 - B. Sadomasochistic abuse, meaning flagellation or torture by or upon a person who is nude or clad in undergarments or in a revealing costume or the condition of being fettered, bound, or otherwise physically restricted on the part of one so clothed.
 - C. Masturbation or lewd exhibitions of the genitals including any explicit, close-up presentation of a human genital organ clothed or unclothed.
 - D. Physical contact or simulated physical contact with the clothed or unclothed pubic area or buttocks of a human male or female, or the breasts of a female, whether alone or between numbers of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.
221. **Steep Slope.** Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness due to the site's soil characteristics as mapped and described in available County Soils Surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of these regulations. Where specific information is not available, steep slopes are lands having average slopes over 12% as measured over horizontal distances of 50 feet or more, but which are not bluffs.
222. **Stoop.** An entry platform into a structure.
223. **Storage Shed.** Refer to Accessory Structure.

224. **Street.** A public right-of-way that provides primary vehicular access to abutting property and shall include avenue, road or highway. Street classifications are defined in the Comprehensive Plan unless defined in a roadway classification plan or other similar road specific plan.
225. **Street, Arterial.** A street that has the primary function of rapidly move traffic to or through the City. May provide access to abutting land. Arterial streets are, in general, county or state highways that begin and terminate outside of the City limits or connect to other arterial streets within the City.
226. **Street, Collector.** A street that has the primary function of receiving and distributing traffic to and from local streets and providing distribution of traffic within. May provide access to abutting lots. In general, collector streets begin and terminate at arterial streets or other collector streets.
227. **Street, Local.** A street, the function of which is to provide localized access to individual parcels. Does not normally carry through traffic. Traffic volumes and traffic speeds are expected to be low.
228. **Structure.** Any building, appurtenance including decks or other facility constructed, placed or erected by man except aerial or underground utility lines such as sewer, electric, telephone, telegraph, gas lines and except walks or steps on grade not more than 4 feet wide outside of the shore impact zone, stoops not exceeding 30 square feet, temporary furniture, planter, or decorative material and retaining walls consisting of wood or decorative block.
229. **Subdivider.** The owner, agent, person, corporation, partnership or legal entity proposing to subdivide property under his control.
230. **Subdivision.** The division of real estate into two or more parcels for the purpose of sale, rent or lease, including planned unit development.
231. **Subdivision by Plat.** The subdivision into two or more parcels of any size by the authority of Minnesota Statutes, Chapter 505, with documents prepared by a Registered Land Surveyor and duly approved by the Planning Commission and Council.
232. **Subdivision by Condominium Plan.** The subdivision of a building or the subdivision of real estate into two or more spaces or parcels of any size by the authority of Minnesota Statutes, Chapter 515A, with documents prepared by a Registered Land Surveyor and duly approved by the Planning Commission and Council.
233. **Subdivision by metes and bounds.** Any division of real estate resulting in two or more parcels which are not platted, but divided by description prepared and signed by a Registered Land Surveyor.
234. **Substandard Lot.** A lot that is non-conforming.
235. **Substandard Use.** A use that does not conform to this ordinance.
236. **Temporary.** A use or structure that lasts longer than three days and is discontinued within 14 days. Any use or structure existing longer than 14 days, except where specifically provided for in this Ordinance, shall be considered permanent unless a specific date of discontinuation, agreeable to the Planning and Zoning Administrator to be reviewed by the Planning Commission, has been submitted, in writing, to the City.
237. **Temporary Structure.** A structure of a temporary character including but not limited to house boats, fish houses, recreational vehicles and tents.
238. **Tower.** A structure situated on a site that is intended for transmitting or receiving television, radio, telephone, cellular or wireless communications.
239. **Tower height.** Determined by measuring the vertical distance from the point of contact with the ground to the highest point of the tower including all antenna or other attachments.
240. **Townhouse Dwelling.** A type of multi-family housing consisting of dwelling units attached by common party walls. Ownership may be defined by Plat or Condominium Plan.
241. **Travel Trailer.** Refer to Recreational Vehicle.
242. **Tree.** A woody plant 4 inches or more in diameter or 8 feet or more in height.
243. **Trellis.** A decorative landscape structure made of thin strips of wood or plastic designed to support growing plants.
244. **Variance.** A legally permitted deviation from the provisions of this ordinance as deemed necessary by the Board of Adjustment when the strict interpretation of the Ordinance would create undue hardship and be impractical because of circumstances, relating to lot size, shape, topography or other characteristics of the property, and when the deviation from the Ordinance, with any attached

- conditions, will still be in keeping with the spirit and intent of the Ordinance. Variances cannot create a land use not permitted in a zone.
245. **Vegetation Removal, Clear Cutting.** The removal of more than 75% and up to 100% of a stand of trees and brush over 10 feet in height on a lot or parcel of land up to 40 acres.
 246. **Vegetation Removal, Intensive.** The complete removal of trees or shrubs in a continuous path, strip row or block, excluding that clearing needed for the construction of roads, driveways, walkways or permitted stairways, lifts or landings.
 247. **Walkway.** A parcel of property dedicated to the public for non-vehicular access purposes.
 248. **Wetland.** Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For the purposes of this definition, wetlands must have the following three attributes:
 - A. have a predominance of hydric soils,
 - B. are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions, and
 - C. under normal circumstances support a prevalence of such vegetation.
 249. **Warehousing.** The principle use is the storage of materials or equipment within an enclosed building.
 250. **Warehousing, Commercial.** The rental or sale of warehousing space.
 251. **Yard.** A required green space occupied and unobstructed by a structure or portion of a structure provided that fences, signs, utility poles, lawn lights, antenna and related minor equipment may be permitted in any yard provided that they do not create a safety hazard or constitute a nuisance.
 252. **Zoning Administrator.** The duly appointed person responsible for the enforcement and administration of this Ordinance.
 253. **Zoning District.** An area of the City of Blackduck defined on the zoning map, having uniform zoning provisions.
 254. **Zoning District Overlay.** A zoning district containing regulations superimposed upon other zoning district regulations and superceding the underlying zoning district regulations.
 255. **Zoning Map.** The map of the City of Blackduck, amended from time to time, which defines the boundaries of the zoning districts.
 256. **Zoning Permit.** A permit issued by the Zoning Administrator to allow the construction of a structure or to allow a land use when the provisions of this ordinance have been met, when approval of any conditional use permits or variances have been granted and when the fees are paid. A zoning permit may have administrative conditions specific to the subject site when called for by the Ordinance.

SECTION IV - GENERAL PROVISIONS

4.1 **Application of the Ordinance.**

1. The provisions of this Ordinance shall be held to be the minimum requirements for the maintaining of the public health, safety and welfare.
2. Where the provisions of the Ordinance are either more restrictive or less restrictive than applicable provision of other laws, ordinances, statutes, resolutions, covenants or regulations of any kind, the more restrictive condition, standard or requirement shall prevail, except as authorized by the more restrictive agency.
3. Except as this Ordinance specifically provides, no structure shall be erected, converted, enlarged, reconstructed or altered and no structure or land shall be used for any purpose nor in any manner which is not in conformity with this ordinance.

4. Ambiguities in the Ordinance shall be resolved by interpretation of the Planning and Zoning Administrator. If an applicant wishes to appeal the interpretation of the Administrator, an appeal can be made through a hearing of the Planning Commission.

4.2 Environmental Documents and Concurrent Permits.

1. It shall be the property owner's responsibility to secure necessary concurrent permits such as Pollution Control Agency, State Waste Disposal Permits; Health Department Permits; DNR Planned Unit Development Permits; Corps of Engineers Permits, DNR Public Water Permits and DNR Water Appropriation Permits. Approval by the City does not imply approval by other agencies.
2. The City will prepare an Environmental Assessment Worksheet (EAW) where a proposed project exceeds the limits defined in the Environmental Quality Council's Rules and Regulations for Environmental review program or as requested by the Planning Commission or petitioned by the public.
3. The administration of an EAW or EIS shall be in accordance with the rules and regulations of the Minnesota Environmental Quality Board. The Zoning Administrator shall be responsible to the City Council and have the authority to administer the environmental document. The Planning Commission shall review each document and make recommendations to the City Council whose decision shall be final.

4.3 Use of Pre-Existing Lots.¹

1. A nonconforming single lot of record located may be allowed as a building site without variances from lot size requirements, provided that:
 - a. All structure and septic system setback distance requirements can be met;
 - b. A Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080 and the City of Blackduck SSTS regulations, can be installed or the lot is connected to a public sewer; and
 - c. The impervious surface cover does not exceed the requirements of the underlying zone.
2. In a group of two or more contiguous lots of record under a common ownership, an individual lot must be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements:
 - a. The lot must be at least 66 percent of the dimensional standard for lot width and lot size;
 - b. The lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080 and the City of Blackduck SSTS regulations;
 - c. Impervious surface coverage must not exceed the requirements of the underlying zone; and
 - d. Development of the lot must be consistent with the City of Blackduck Comprehensive Plan.
3. A lot subject to Section 4.3(2) not meeting the requirements of Section 4.3(2) must be combined with the one or more contiguous lots so they equal one or more conforming lots as much as possible.
4. Notwithstanding Section 4.3(2), contiguous nonconforming lots of record under a common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for,

¹ Amended 03/10/10

or served by, a sewage treatment system consistent with the requirements of Minnesota Rules, section 115.55 and Minnesota Rules, chapter 7080, or connected to a public sewer.

4.4 Non-conforming Structures and Uses.

Any structure or use legally existing upon the effective date of the adoption of this Ordinance and which does not conform to the provisions of the Ordinance may be continued subject to the following:

1. No such structure or use shall be expanded, enlarged or intensified except in conformity with the provisions of this Ordinance and Section 4.4(2), with consideration for variances thereto and consideration given for previously approved Planned Unit Developments.
2. If a non-conforming structure is damaged, by any cause, to an extent where the repair costs exceed 50% of its assessed value immediately prior to damage, the structure may be replaced with a structure of exact dimensions provided a permit is applied for within 180 days of when the property was damaged. Where no land use permit has been applied for within 180 days of when the property was damaged, then the structure or its replacement shall thereafter conform to this Ordinance.
3. Any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of this Code, may be continued, including through repair, replacement, restoration, maintenance or improvement so long as the structure or use is not expanded. Replacement of a non-conforming structure will not be allowed where the nonconformity or occupancy has been discontinued for a period of one year or more. Any structural repairs or replacement of non-conforming structures shall require a land use permit.
4. A lawful, non-conforming use may be changed to lessen the non-conformity of use. Once a non-conforming use has been changed, it shall not thereafter be altered to increase the non-conformity.
5. Sewage treatment systems shall be upgraded to a conforming status in conformance with the following schedule:
 - A. Upon availability of a community sewer system to the property, connection to that system shall be made regardless of the conformance or non-conformance of the individual system.
 - B. Upon issuance of any permit or variance for any improvement on, or use of, the property.
 - C. Upon determination that leakage to the surface or lake or into an adjacent well is occurring, or determination that the system is discharging into the ground at an elevation less than 3 feet above the highest known watertable.
 - D. Upon determination by Zoning Administrator that a system is inadequate for a change in occupation or use in the structure.
 - E. Upon notice by the Zoning Administrator that the City's records indicate the system is non-conforming.
6. In evaluating all variances, zoning and building permit applications, or conditional use requests, the zoning authority shall require the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.²

4.5 Building Standards.

1. All structures, structural appurtenances and architectural projections shall be constructed in accordance with the general standards of the building industry. The City does not examine plans nor

² Amended 03/10/10

assume liability for the structural stability or quality of any structures.

2. All principle structures, all dwelling units, and all structures joined to a principle structure or dwelling unit, shall be a minimum of 18 feet wide and shall be placed on a foundation.
 - a. A full basement shall be considered an acceptable foundation for all principle structures and dwelling units.
 - b. An exterior foundation that completely surrounds the building and penetrates the ground a minimum of five feet shall be an acceptable foundation for all principle structures and dwelling units.
 - c. A combination of (a) and (b) is acceptable for all principle structures and dwelling units.
 - d. A concrete slab, whether heated, insulated, thickened or otherwise, when designed by a Professional Engineer or Licensed Soil Scientist for the soil conditions of the site where it is to be constructed, is an acceptable foundation for all dwelling units.
 - e. Concrete pillars may be used as a foundation for manufactured homes so long as the installation is done to the manufacturer's specifications, the concrete pillars penetrates the ground a minimum of five feet, and block skirting is provided around the perimeter to provide the look of a completely enclosed foundation.
3. Any new dwelling unit constructed or placed after the date of this Ordinance and not on a foundation shall be considered a temporary structure.
4. Accessory structures are not required to be placed on a foundation.
5. New manufactured homes shall be installed by a licensed installer and a copy of the installation compliance certificate shall be submitted to the City prior to occupancy of the dwelling.
6. Individual sewage treatment systems shall conform to Minnesota Pollution Control Agency Standards - Chapter 7080.
7. Any private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the MPCA.
8. Plumbing and electrical facilities installed after the date of this ordinance in all structures shall conform to the State Plumbing Code and State Electrical Code, respectively.

4.6 Other Standards

The provisions of this Ordinance do not take precedent over other Federal, State or Local laws that may be more restrictive. In the case of a more restrictive standard applied by a governing body that has land use authority within the City, the non-local standard would apply, unless authorization from the more restrictive governing agency has been received. In the case where this Ordinance is the most restrictive standard, the provisions of the Ordinance shall apply.

SECTION V - ZONING DISTRICTS AND DISTRICT PROVISIONS

5.1 General

1. The Blackduck is hereby divided into Zoning Districts as shown on the official Zoning District map, which may be subsequently amended by the procedures of Section 13.4.
2. The boundaries are generally on the center of the streets, on lot lines, on shorelines, on the center of

streams or rivers, and following the contour of the land.

3. The following Districts are hereby established:

Open Space.....	O
Residential	RES
Agricultural.....	AG
Central Business	B-1
Highway Business	B-2
General Business	B-3
Industrial.....	I

4. The jurisdiction of this Ordinance shall include all land within the municipal boundaries of the City of Blackduck.

5. Land Annexed. All land annexed to the City shall be zoned Open Space unless otherwise specified during the annexation process.

6. Criteria for land use categories:

- A. Preservation of natural sensitive areas.
- B. Present ownership and development.
- C. Soil types and their engineering capabilities.
- D. Topographic characteristics.
- E. Vegetative cover.
- F. Road and service center accessibility.
- G. Socio economic development needs of the public.
- H. Availability of public sewer and water utilities.
- I. The necessity to reserve and restore certain areas having significant historical or ecological value.
- J. Conflicts between land uses and impacts of commercial uses or higher densities on adjacent properties.
- K. Alternatives available for desired land use.
- L. Prevention of spot zoning.
- M. Conformance to the City of Blackduck Comprehensive Plan.
- N. Conformance to the City of Blackduck Future Land Use Map and any other official maps of the City.

7. Interpretation of Zoning Map. Regardless of existence of purported copies of the Official Zoning Map which may from time to time be made or published, the official Zoning Map, which shall be located in the office of the City Clerk, shall be the final authority as the current zoning status of land and water areas, building and other structures in the city.

- A. District Boundaries: The location and boundaries of the districts established by this ordinance are set forth on the official Zoning Map. District boundary lines as indicated on the Zoning Map follow lot lines, property lines, right-of-way or center lines of streets or alleys, right-of-way center lines of streets or alleys projected, the city limit lines, shorelines, all as they exist upon the effective date of this ordinance. If said boundary lines do not follow any of the above, the district boundary lines are established as drawn on the Zoning Map.
- B. Vacated Ways: Whenever any street, alley or other public way is vacated in the manner authorized by law, the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation and all included in the

vacation shall then and henceforth be subject to all regulations of the extended districts.

- C. Appeals: Appeals concerning the exact location of a zoning district boundary line shall be heard by the Board of Adjustment.

5.2 Open Space (O)

- 1. Purpose and Intent: To provide a zoning classification for preservation of sensitive areas, unique resources and designated non-developable property. Areas such as wetlands, bluffs, threatened and endangered species habitat, historic sites and lands set-aside as part the development process should be zoned as Open Space.
- 2. Lot, Use and Density Requirements.

There is no minimum lot size associated with the Open Space zoning classification. Setbacks established for the adjacent zoning district shall apply.

- 3. Mixed Zone Lots.

For a lot crossing an Open Space zoning boundary into another zoning classification, the minimum buildable lot area shall be the same as the non-open space zoning classification with no area credit given for areas zoned Open Space.

5.3 Agricultural (AG)

- 1. Purpose and Intent: To preserve areas for agricultural use, low density residential development and outdoor recreational uses without allowing uses of such intensity that the provision of urban facilities and services would be necessary.

- 2. Lot, Use and Density Requirements.

Lot Width - feet, minimum	150
Lot Area – acre, minimum	10
Rural Conservation Subdivision Maximum Density, units/acre.....	1
Setback, right-of-way, local streets - feet, minimum	20
Setback, right-of-way, collector and arterial streets - feet, minimum.....	50
Setback, side - feet, minimum.....	15
Maximum impervious coverage.....	25%
Maximum building height, feet.....	35
Maximum animal unit per acre	0.5

- 3. Performance Standards. The following performance standards apply to all development in this zone:

- A. Fences. Fences not exceeding 72 inches in height may be constructed. Under no circumstances shall a fence be constructed closer than 10 feet from the surface of a public road. Materials shall consist of usual fencing materials with posts and fence of metal, wood, concrete, brick or smooth wire. Barbed or electrified wire is not to be used where frequent human contact is anticipated.

5.4 Residential (RES)

- 1. Purpose and Intent: To establish and preserve residential neighborhoods, free from other land uses

except those that are compatible with single family dwelling units and duplexes.

2. Lot, Use and Density Requirements.

Lot Width - feet, minimum	75
Lot Area – square feet, minimum	
Unsewered, Single-Family	20,000
Sewered, Single-Family	9,000
Unsewered, Duplex	35,000
Sewered, Duplex	14,000
Setback, right-of-way, local streets - feet, minimum	20
Setback, right-of-way, collector and arterial streets	
- feet, minimum	30
Setback, side - feet, minimum	8
Maximum impervious coverage	40%
Maximum building height, feet	35
Maximum animal unit per acre	0.5

3. Performance Standards. The following performance standards apply to all development in this zone:

- A. Multi-Family Lot Area. For sewer lots, multi-family dwelling units may be constructed where an additional 1,000 square feet of lot area is provided for each additional unit beyond two. A three-unit development would require 15,000 square feet of area.
- B. Fences. Fences not exceeding 72 inches in height may be constructed. Under no circumstances shall a fence be constructed closer than 10 feet from the surface of a public road. Materials shall consist of usual fencing materials with posts and fence of metal, wood, concrete, brick or smooth wire. Barbed or electrified wire is not to be used where frequent human contact is anticipated.
- C. Connection to Municipal Utilities. Where municipal utilities are provided or reasonably close in the opinion of the City Engineer, the property shall be connected to the municipal system. All other properties shall be designed and constructed so as to facilitate future connection to the municipal utility systems.

5.5 Central Business (B-1)

- 1. Purpose and Intent: The preserve a central business district convenient and attractive for a wide variety of retail uses, businesses, government, professional offices and places of amusement in a setting conducive to, and safe for, a high volume of pedestrian traffic.
- 2. Lot, Use and Density Requirements.

Lot width– feet, minimum	25
Buildable lot area (sewered) – square feet, minimum	2,500
Setback, right of way, City road- feet, minimum	0
Setback, right of way, County or State road, feet, minimum	0
Setback, between buildings – feet, minimum	0
Setback, side next to residential district – feet, minimum	8
Setback, side yard – feet, minimum	0
Setback, rear – feet, minimum	0
Impervious surface – percent, maximum	50%

Building height – feet, maximum	45
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3. Performance Standards. The following performance standards apply to all development in this zone:
 - A. Impervious Coverage. Impervious coverage may be increased to 100% where municipal storm sewer facilities are available.
 - B. Pedestrian Amenities. Proposed developments shall provide for safe and comfortable sidewalks, paths, and resting areas for pedestrians. Sidewalks and paths shall connect the development to adjacent land uses and provide connections through the development to the public street right-of-way.
 - C. Fences. Fences not exceeding 72 inches in height may be constructed. Materials shall consist of usual fencing materials with posts and fence of metal, wood, concrete, brick or smooth wire. Barbed or electrified wire is allowed only with the permission of the Planning Commission.
 - D. Lighting. Lighting shall be downward directional and shall be compatible with the surrounding development.

5.6 Highway Business (B-2)

1. Purpose and Intent: To accommodate commercial activities that will be convenient to motorists, and to accommodate those businesses requiring substantial off-street parking or commercial storage areas, or which generate a significant amount of traffic originating from outside the community.
2. Lot, Use and Density Requirements.

Lot width– feet, minimum	150
Buildable lot area (sewered) – square feet, minimum	10,000
Buildable lot area (unsewered) – square feet, minimum	20,000
Setback, right of way, City road- feet, minimum	30
Setback, right of way, County or State road, feet, minimum	40
Setback, side next to residential district – feet, minimum	10
Setback, side yard – feet, minimum	0
Setback, rear – feet, minimum	10
Setback, parking from lot line – feet, minimum	10
Setback, sign – feet, minimum	1
Impervious surface – percent, maximum	40%
Building height – feet, maximum	35

3. Performance Standards. The following performance standards apply to all development in this zone:
 - A. Impervious Coverage. Impervious coverage may be increased by up to 20%, not to exceed 60% of the property, through a conditional use permit if the following is provided and approved by the City:
 - i. A storm water retention plan showing containment of the 10-year, 24-hour storm event on the parcel.
 - ii. Direct runoff of stormwater to adjacent properties and wetlands shall be eliminated through the use of berms, infiltration ponds, swales, filtration strips or other permanent means.

- B. Compatibility of Use. Use shall be compatible with the surrounding neighborhood. Uses shall not present noise, odor, light nuisances or any other nuisances.
- C. Parking. Off-street parking shall be provided as per Section 7.9. On-street parking may be allowed by the Planning Commission. Suitable trees and shrubs shall be planted between parking lots and all adjacent sidewalks, roads, lots and buildings.
- D. Fences. Fences not exceeding 72 inches in height may be constructed. Fencing shall only be constructed closer than 10 feet from the surface of a public road with the permission of the Planning Commission. Materials shall consist of usual fencing materials with posts and fence of metal, wood, concrete, brick or smooth wire. Barbed or electrified wire is allowed only with the permission of the Planning Commission.
- E. Screening. All sites shall be landscaped to provide 50% screening to adjacent residential parcels. Percentage shall be determined by amount of structure that can be seen during leaf-on conditions. A landscaping and screening plan must be submitted and approved by the Planning Commission with each conditional use permit.
- F. Lighting. Lighting shall be minimal. Lighting shall be downward directional and shall be compatible with the surrounding development.

5.7 General Business (B-3)

- 1. Purpose and Intent: To preserve a general business district convenient and attractive for a wide range of retail uses, businesses, places of amusement and other commercial activities that will be convenient to motorists, and accommodate businesses requiring substantial off-street parking.
- 2. Lot, Use and Density Requirements.

Lot width– feet, minimum	75
Buildable lot area (sewered) – square feet, minimum	5,000
Buildable lot area (unsewered) – square feet, minimum	20,000
Setback, right of way, City road- feet, minimum	30
Setback, right of way, County or State road, feet, minimum	30
Setback, side yard – feet, minimum	8
Impervious surface – percent, maximum	40%
Building height – feet, maximum	35

- 3. Performance Standards. The following performance standards apply to all development in this zone:
 - A. Impervious Coverage. Impervious coverage may be increased to 60% where municipal storm sewer facilities are available.
 - B. Compatibility of Use. Use shall be compatible with the surrounding neighborhood. Uses shall not present noise, odor, light nuisances or any other nuisances.
 - C. Pedestrian Amenities. Proposed developments shall provide for safe and comfortable sidewalks, paths, and resting areas for pedestrians. Sidewalks and paths shall connect the development to adjacent land uses and provide connections through the development to the public street right-of-way.
 - D. Fences. Fences not exceeding 72 inches in height may be constructed. Fencing shall only be

constructed closer than 10 feet from the surface of a public road with the permission of the Planning Commission. Materials shall consist of usual fencing materials with posts and fence of metal, wood, concrete, brick or smooth wire. Barbed or electrified wire is allowed only with the permission of the Planning Commission.

- E. Lighting. Lighting shall be downward directional and shall be compatible with the surrounding development.

5.8 Industrial (I)

1. Purpose and Intent: To preserve areas for industrial and related uses, and for commercial uses of such a nature that they are most appropriately located in the vicinity of industrial uses.
2. Lot, Use and Density Requirements.

Lot width– feet, minimum	50
Lot area – square feet, minimum	6,000
Setback, right of way, City road- feet, minimum	30
Setback, right of way, County or State road, feet, minimum	30
Setback, side yard – feet, minimum	8
Setback, parking from lot line – feet, minimum	10
Setback, sign – feet, minimum	1
Impervious surface – percent, maximum	40%
Building height – feet, maximum	45

3. Performance Standards. The following performance standards apply to all development in this zone:
 - A. Impervious Coverage. Impervious coverage may be increased by up to 20%, not to exceed 60% of the property, through a conditional use permit if the following is provided and approved by the City:
 - i. A storm water retention plan showing containment of the 10-year, 24-hour storm event on the parcel.
 - ii. Direct runoff of stormwater to adjacent properties and wetlands shall be eliminated through the use of berms, infiltration ponds, swales, filtration strips or other permanent means.
 - B. Compatibility of Use. Use shall be compatible with the surrounding neighborhood. Uses shall not present noise, odor, light nuisances or any other nuisances.
 - C. Parking. Off-street parking shall be provided as per Section 7.9. On-street parking may be allowed by the Planning Commission. To reduce the visual impacts and amount of surface parking, shared parking and surface parking shall be located behind or to the side of a building. Additionally, suitable trees and shrubs shall be planted between parking lots and all adjacent sidewalks, roads, lots and buildings.
 - D. Screening. All sites shall be landscaped to provide 50% screening to adjacent residential parcels. Percentage shall be determined by amount of structure that can be seen during leaf-on conditions. A landscaping and screening plan must be submitted and approved by the Planning Commission with each conditional use permit.
 - E. Lighting. Lighting shall be minimal. Lighting shall be downward directional and shall be compatible with the surrounding development.

- F. Fences. Fences not exceeding 84 inches in height may be constructed. Under no circumstances shall a fence be constructed closer than 10 feet from the surface of a public road. Materials shall consist of usual fencing materials with posts and fence of metal, wood, concrete, brick or smooth wire. Barbed or electrified wire is prohibited, except where specific approval has been given by the Planning Commission.

5.9 Land Use Matrix

1. The land use matrix shown in Table 1 establishes the allowable, permitted, accessory, conditional and excluded uses within the City of Blackduck.
2. All uses are considered prohibited unless specifically allowed in this Code, even if they are not listed specifically under excluded uses.
3. All accessory uses require a permit, unless otherwise indicated.

Table 1 - Land Use Matrix

A- allowed w/o a permit, P - permitted, C- conditional use, AC - accessory use, E - excluded

<u>USE</u>	<u>Open Space</u>	<u>Residential</u>	<u>Agriculture</u>	<u>Central Business</u>	<u>Highway Business</u>	<u>General Business</u>	<u>Industrial</u>
Abandoned Building	E	E	E	E	E	E	E
Abandoned Motor Vehicle	E	E	E	E	E	E	E
Accessory Structure	E	AC	AC	AC	AC	AC	AC
Addition	AC	AC	AC	AC	AC	AC	AC
Adult Book and/ or Media Store	E	E	E	E	E	C	C
Adult Cabaret	E	E	E	E	E	C	C
Adult Establishment	E	E	E	E	E	C	C
Adult Hotel or Motel	E	E	E	E	E	C	C
Adult Mini-Motion Picture Theater	E	E	E	E	E	C	C
Adult Motion Picture Arcade	E	E	E	E	E	C	C
Adult Motion Picture Theater	E	E	E	E	E	C	C
Adult Novelty Business	E	E	E	E	E	C	C
Adult Use	E	E	E	E	E	C	C
Agricultural Use	A	A	A	A	A	A	A
Airport	E	E	C	E	E	E	E
Animals, Domestic	E	A	A	A	A	A	A
Animals, Food	A	A	A	E	E	E	E
Animals, Wild or Exotic	E	E	E	E	E	E	E
Animal Boarding Facility	E	E	C	E	C	E	E
Animal Grooming Establishment	E	C	C	C	C	C	E
Animal Husbandry	E	A	A	E	E	E	E
Antenna	E	A	A	A	A	A	A
Apartment	E	C	E	C	E	C	E
Arbor	E	AC	AC	AC	AC	AC	AC
Artist's Studio	E	AC	AC	P	P	P	C
Auto Salvage Yard	E	E	E	E	E	E	E
Bed and Breakfast Dwelling	E	C	C	E	E	E	E
Campground	E	E	C	E	E	E	E
Camping	E	A	A	E	E	E	E
Car Wash	E	E	E	C	C	C	C
Child Care, Center	E	E	E	P	P	P	P
Child Care, Family Home	E	A	A	AC	AC	AC	AC
Church	E	P	P	C (4)	C (4)	C (4)	E

<u>USE</u>	<u>Open Space</u>	<u>Residential</u>	<u>Agriculture</u>	<u>Central Business</u>	<u>Highway Business</u>	<u>General Business</u>	<u>Industrial</u>
Clinic	E	E	E	P	P	P	C
Commercial Use, Other - Not Listed	E	E	E	C	C	C	C
Commercial Wireless Telecommunication Services	E	E	C	E	C	E	C
Community Park	A	A	A	A	A	A	A
Deck	E	AC	AC	AC	AC	AC	AC
Dormitory	E	C	E	C	E	C	E
Dwelling, Multi-Family	E	P (1)	E	E	E	E	E
Dwelling, Single Family	E	P	P	C	E	C	E
Exterior Storage	E	AC (2)	AC (2)	AC (2)	AC (2)	AC (2)	AC (2)
Extractive Use	E	E	E	E	E	E	E
Feedlot	E	E	E	E	E	E	E
Fence	A	AC	A	AC	AC	AC	AC
Forest Land Conversion	E	E	C	A	A	A	A
Garage, Attached	E	P	P	P	P	P	P
Garage, Detached	E	AC	AC	AC	AC	AC	AC
Grading, Less than 50 cubic yards	P	A	A	A	A	A	A
Grading, Between 50 cubic yards and 250 cubic yards	C	P	P	C	P	C	P
Grading, Greater than 250 cubic yards	E	C	C	C	C	C	C
Group Care Facilities	E	P	E	P	P	P	E
Home-Based Business	E	P	P	P	P	P	P
Hotel	E	E	E	C	C	C	E
House of Worship	E	P	P	C (4)	C (4)	C (4)	E
Industrial Use, Other - Not Listed	E	E	E	E	E	E	C
Interim Use (5)	C	C	C	C	C	C	C
Junk Yard	E	E	E	E	E	E	E
Kennel	E	E	C	E	C	E	E
Landfill	E	E	E	E	E	E	E
Laundromat	E	E	E	P	P	P	C
Logging	E	A	A	A	A	A	A
Manufactured Home	E	P	P	C	E	C	E
Motel	E	E	E	C	C	C	E
Nursery	E	E	P	P	P	P	C
Nursing Home	E	C	E	C	C	C	E
Planned Unit Development, Commercial	E	E	E	C	C	C	C
Planned Unit Development, Residential	E	C	E	E	E	E	E

<u>USE</u>	<u>Open Space</u>	<u>Residential</u>	<u>Agriculture</u>	<u>Central Business</u>	<u>Highway Business</u>	<u>General Business</u>	<u>Industrial</u>
Porch	E	AC	AC	AC	AC	AC	AC
Restaurant	E	E	E	P	P	P	E
Rural Conservation Subdivision	E	P (3)	C (3)	E	E	E	E
School	E	C	E	E	E	E	E
Sewage Treatment System, Individual	E	P	P	P	P	P	P
Sign	E	P	P	P	P	P	P
Temporary Structure	E	A	A	A	A	A	A
Tower	E	E	C	E	C	E	C
Trellis	E	AC	AC	AC	AC	AC	AC
Vegetation Removal, Clear Cutting	C	E	E	A	E	A	A
Vegetation Removal, Intensive	A	A	A	A	A	A	A
Warehousing	E	AC	AC	AC	AC	AC	AC
Warehousing, Commercial	E	E	E	E	C	E	E

- (1) Subject to density requirements
- (2) This is an allowable, accessory use - no permit is required
- (3) Requires a subdivision application
- (4) As an interim use
- (5) Must be consistent with the underlying zoning district

SECTION VI - OVERLAY DISTRICTS AND DISTRICT PROVISIONS

6.1 General.

1. Purpose and Intent. To establish and maintain districts that overlay existing zoning districts to better manage significant areas with specific needs, such as encouraging growth in areas with existing public facilities or preserving areas with valued resources and amenities. All sites within an overlay district shall continue to bear their original zoning but with the provisions of the overlay district appended.
2. Boundaries. The boundaries are established based on district-specific criteria and may not be aligned with roads, lot lines, or other man-made boundaries. The boundaries are designated on overlay maps. Overlay maps are considered part of the official Zoning Map and are therefore approved and amended following procedures in Section 13.4.
3. Permits. No subdivision, rezoning, reconstruction, alteration, or addition shall be made to any existing structure, nor shall any additional structure be constructed upon a site in any overlay district, except in accordance with the provisions of the overlay district.
4. Districts. The following overlay districts are hereby established:
 - A. Shoreland Overlay District
5. Supremacy. If a provision of an overlay district conflicts with a provision or provisions of the underlying zoning district, the more restrictive provision shall apply.

6.2 Shoreland Overlay.

All lands within the Shoreland Overlay District shall conform to the minimum standards of Minnesota Rules Chapter 6120, Shoreland and Floodplain Management. The City of Blackduck shall administer the standards as per Section XI of this Ordinance.

SECTION VII - PERFORMANCE STANDARDS

7.1 Signs.

1. Purpose. The purpose of these standards is to protect the general welfare and safety of the City by providing a policy of aesthetic development to prevent signs from intruding on the character of the City; to provide adequate signs for direction and property identification purposes; and to provide adequate and effective signs for commercial use.
2. Each parcel of land shall be allowed one sign without a permit. Total sign area on residential parcels shall not exceed 32 square feet. Total sign area on commercial parcels shall not exceed 64 square feet. Property owners seeking to display more than one sign and exceed the maximum square footage allowance shall be required to obtain a permit.
3. Sign permit applicants shall submit, for Planning Commission review, a sign concept plan for the entire parcel. The Planning Commission shall, as the basis of approval or denial, review the concept plan to ensure compatibility with the Conditional Use criteria outlined in Section 11.6.
4. During the time 90 days prior and 30 days following an election recognized by the County Auditor, the sign limit in 7.1(2) shall be increased to five and the allowed sign area shall be increased by five times.
5. For properties for sale or under construction, an additional sign shall be allowed. The sign area for the additional sign shall not exceed 15 square feet.

7.2 Nuisance Standards.

1. Performance Standards.
 - A. Compliance Required. Every use permitted by this Ordinance shall be so established and maintained as to comply with the provisions of this section. The Planning Commission may require the complaining party to provide such tests or investigations by an independent testing organization satisfactory to the Planning Commission as are necessary to show non-compliance with these standards. The entire cost of such investigations and tests shall be paid for by the complaining party unless the results disclose non-compliance with these standards; in that event, the entire cost shall be borne by the owner or operator. This provision does not preclude the City from making any investigations and tests it finds appropriate to determine compliance with these standards.
 - B. Noise. Noise shall be measured on any property line of the tract on which the source of the noise is located. Noise shall be muffled so as not to become objectionable due to intermittence, beat frequency, shrillness, or intensity. At the property line of the tract on which the source of noise is located, the sound pressure level of noise radiated shall not exceed the following limits measured for 10% (L10) and 50% (L50) of a one hour period, using a sound level meter having the characteristics as specified in standards endorsed by the American National Standards Institute, specification for sound level meters, and using procedures approved by the State of Minnesota Pollution Control Agency. Noises emanating from any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulations NCP 7010.

In addition, no persons shall make or cause to be made, any impulsive and loudly audible noise that injures or endangers comfort, repose, health, peace, safety or welfare of any persons or precludes their enjoyment of property or affects their property value.

Adjoining Property Zone - Time				
	Day, 7AM – 10PM		Night, 10PM -7AM	
	L10	L50	L10	L50
Decibels, Residential Zones	60	55	50	45
Decibels, Commercial Zones	65	60	65	60

- C. Odor. No use shall cause the discharge of toxic, noxious or odorous matter beyond the limits of the site where it is located in such concentrations as to be obnoxious or otherwise detrimental to the public health, safety, comfort or welfare or cause injury to property or business.
- D. Glare. Direct or reflected glare, such as from floodlights, spotlights or high temperature process, and as differentiated from general illumination, shall not be visible beyond the sight of origin at any property line. Any lights used for exterior illumination shall be hooded or controlled in some manner so as not to light adjacent property. Bare incandescent light bulbs shall not be permitted where in view of adjacent property or public right-of-way. Except for public street lights, any light or combination of lights which cast light on a public street shall not exceed one foot-candle as measured from the property line of said street. Any light or combination of lights which cast light on residential property shall not exceed one foot-candle as measured from the property line of said property.
- E. Vibration. Vibration at any property line shall not be discernible to the human sense of feeling for three (3) minutes or more duration in any one (1) hour period. Vibration of any kind shall not produce at any time an acceleration of more than one-tenth (1/10) gravities or result in any combination of amplitudes and frequencies beyond the "safe" range of Table VII United States Bureau of Mines Bulletin No. 442, "Seismic Effects of Quarry Blasting" on any structure. The methods and equations of that bulletin shall be used to compute all values for the enforcement of this provision.
- F. Smoke. The emission of smoke by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulations APC 7017. Open burning shall require a City burning permit.
- G. Dust and Other Particulate Matter. The emission of dust, fly ash or other particulate matter by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulation APC 7011.
- H. Fumes or Gases. Fumes or gases shall not be emitted at any point in concentrations that are noxious, toxic or corrosive. The values given in Table I (Industrial Hygiene Standards - Maximum Allowable Concentration for eight hour day, five days per week), Table III (Odor Thresholds), Table IV (Concentrations of Substances Causing Pain in the Eyes), and Table V (Exposure to Substances Causing Damage to Vegetation) in the latest revision of Chapter 5, "Physiological Effects" that contains such tables, in the "Air Pollution Abatement Manual" published by the Manufacturing Chemists' Association, Inc., Washington D.C., are hereby established as guides for the determination of permissible concentration and amounts. The City may require detailed plans for the elimination of fumes or gases before the issuance of a Zoning Permit.
- I. Fire Hazards. Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire-fighting and fire prevention equipment and by such safety devices as are normally used in the handling of such materials. Such hazards shall be kept removed from adjacent activities to a distance that is compatible with the potential danger involved.

- J. Wastes.
- i. All waste generated shall be disposed of in a manner consistent with all Minnesota Pollution Control Agency rules.
 - ii. Any accumulation of waste generated on any premises not stored in containers which comply with Minnesota Pollution Control Agency rules, or any accumulation of mixed solid waste generated on any premises which has remained thereon for more than one week, or any accumulation of infectious, nuclear, pathological, or hazardous waste which is not stored or disposed in a manner consistent with Minnesota Pollution Control Agency rules, is a nuisance and may be abated and the cost of abatement may be addressed against the property where the nuisance is found.
 - iii. The accumulation, storage, processing, and disposal of waste on any premises, which is not generated on that premises, is prohibited, except as specifically provided in this Ordinance.
- K. Air Pollution. Every activity shall conform to State regulations relating to air quality standards and air pollution control.
- L. Erosion and Drainage.
- i. No land shall be developed and no use shall be permitted that results in water runoff causing flooding, erosion, or deposit of sediment on adjacent properties.
 - ii. All storm sewer inlets and drainage ways that are functioning during construction shall be protected so that sediment laden water does not enter the conveyance system without first being filtered or otherwise treated to remove sediment.
 - iii. All on-site storm water conveyance systems must be designed and constructed to withstand the design volume of storm water with appropriate stabilization to prevent scour and erosion. Erosion controls must be provided at the outlets of all storm sewer pipes or drainage ways.
 - iv. All temporary and permanent erosion and sediment control practices shall be maintained and repaired to assure the continued performance of their intended function.
 - v. All disturbed ground left inactive for seven or more days shall be stabilized by seeding or sodding or by mulching or covering or other equivalent control measure.
 - vi. All temporary erosion control devices, including silt fence, gravel, hay bales or other measures shall be removed from the construction site and properly disposed of or recycled. This removal and disposal must occur within 60 days of the establishment of permanent vegetative cover on the disturbed area.
- M. Radioactivity or Electrical Disturbance. No activity shall emit dangerous radioactivity at any point or any electrical disturbance adversely affecting the operation of any equipment at any point other than that of the creator of such disturbance. Adverse effects shall be measured by FCC standards.
- N. Fertilizers, herbicides and pesticides. No person shall place, spread or store fertilizers, herbicides and/or pesticides in any manner other than that recommended by the manufacturer or in any manner which allows any escape of nutrients or toxins into the air, ground water or surface water of the City.
- O. Abandoned Buildings. No person shall allow a building, mobile home/manufactured house, or other structure to be abandoned, deteriorated or a safety hazard. All abandoned, deteriorated or unsafe structures shall be removed. If the owner fails to remove the structure, the City shall do so and assess the cost against the property through the County taxation method.

7.3 **Fences.**

1. Safety Hazards. Fences shall not be erected where they create a visual safety hazard in the opinion of the Zoning Administrator. Fences shall not be electrified or contain barbed wire except in areas where contact with the general public is not anticipated.
2. Location and Orientation. All boundary line fences shall be entirely located upon the property of the person constructing such fence unless the owner of the property adjoining agrees, in writing, that such fence may be erected on the division line of the respective properties. Fences on property lines will require a survey to determine location. Fences may not be placed within a shore or bluff impact zone.
3. Construction. The “good side” of the fence shall face abutting properties, meaning that the posts shall face in toward the property on which the fence sits and the finished face of the fence shall face abutting properties.
4. Height. Height is regulated for each district in Section V. An increase in height from the current limit may be obtained through the Conditional Use Permit process.
5. Maintenance. Fences shall be maintained to retain their aesthetic quality, screening abilities, and function. Missing boards, rusting wire and posts, and peeling paint shall be taken care of at the owner’s expense as they occur. If the fence is within two feet of a property line, the adjoining property owner abutting the fence is allowed to finish the side of the fence facing their property.

7.4 **Maintenance**

All structures shall be properly maintained in a clean and acceptable manner so as not to constitute a menace to the public health, safety, convenience, general welfare, property values, and aesthetics. All landscaping shall be properly maintained so as to preserve planting in a live state and free of noxious weeds.

7.5 **Storage.**

1. Exterior Storage.
 - A. There shall be no exterior storage allowed on lots that do not contain a principle or accessory structure.
 - B. Where there is a principle or accessory structure, all materials and equipment shall be stored within a building or fully screened so as not to be visible from adjoining properties, except for the following: laundry drying, licensed recreational equipment, construction landscaping materials and equipment currently being used for construction of the premises, woodpiles, agricultural equipment and materials if these are used or intended for use on the premises, off-street parking except as otherwise regulated herein.
 - C. No more than two fish houses and one recreational vehicle are permissible if they are currently licensed. Fish houses and recreational vehicles must be stored at least 10 feet distance from any property line and outside of the OHW setback.
 - D. Abandoned motor vehicles shall be stored within a structure or completely screened from view from adjacent properties and right-of-way.
2. Bulk Storage.
 - A. All uses associated with the bulk storage of oil, gasoline, liquid propane, liquid fertilizer, chemicals and similar liquids shall comply with the requirements of the Minnesota State Fire Marshall, the Minnesota Pollution Control Agency and Minnesota Department of Agriculture. When in excess of normal domestic allowances, the property owner shall have documents from

those offices stating that the use is in compliance. No storage facility shall be constructed or placed where spillage from the facility would drain to a drainageway or public waters without providing complete containment.

7.6 Visual Standards – Screening.

1. General. No use shall create, maintain or continue any activity or structure which has a strong negative visual impact or offends the morals or violates the standards of the City.
2. Standards. Screening requirements for each district are contained in Section V.

7.7 Sanitation Standards.

1. Solid Waste. All solid waste shall be disposed of in accordance with the standards of Beltrami County.
2. Domestic Sewage.
 - A. All plumbing shall discharge into a municipal sanitary system, if available.
 - B. All dwellings or structures with plumbing shall be served by an individual or common sewage disposal system meeting the requirements of Minnesota Rules Chapter 7080 or Chapter 7081.
 - C. All non-conforming systems shall be brought into conformance.
 - D. Sewage tanks being abandoned shall be thoroughly pumped and filled with soil.
3. Water Supply.
 - A. All potable water systems shall be connected to a municipal water supply, if available.
 - B. All domestic and agricultural wells shall conform to the Minnesota Department of Health Standards for wells.
 - C. All water systems shall meet the requirements of the Minnesota Department of Health Standards for water systems.
 - D. All wells being abandoned shall be sealed according to Minnesota Department of Health Standards and report to Minnesota Department of Health and the City.

7.8 Animal Husbandry.

1. Pets. Pets shall be properly cared for, shall not be allowed to create problems for neighbors or the City, or become a nuisance, and shall have sanitary standards maintained consistent with 7.7(2).
2. Wild Animals.
 - A. The keeping of wild animals as pets - including but not limited to primates and large carnivores - is not allowed.
 - B. Wildlife rehabilitation uses shall require a Conditional Use Permit and must meet the minimum standards established by the State of Minnesota Department of Natural Resources Rules Chapter 6244.

7.9 Parking.

1. General. Onsite parking or garage space shall be provided in all Districts, except as specifically exempted. There shall be adequate drive access to prevent the need to back onto collector streets or County Highways. Onsite parking spaces shall not be used for storage.
2. Dimensions. Standard parking sites shall be a minimum of 20 feet long and 10 feet wide. On street parking and irregular parking configurations shall meet the dimensional standards proscribed by the

Minnesota Department of Transportation in its Standard Manuals for Traffic Control.

3. Parking Ratios. Adequate parking shall be required, with the following standards to be guidelines subject to site specific review by the Planning Commission:
 - A. Dwelling: two (2) parking spaces for each unit.
 - B. Multiple Dwellings: One and one-half (1 ½) spaces per dwelling unit
 - C. Tourist Accommodations: one-and-one-half (1 ½) parking spaces for each room or unit.
 - D. Senior and/or Physically Handicapped Housing: One (1) space per dwelling unit.
 - E. Business and Professional Offices: One (1) space for each three hundred (300) sq. ft. of gross floor area.
 - F. Medical and Dental Clinics: Two (2) spaces per examining room plus one space for each employee.
 - G. Schools: One (1) space per seven (7) students and one (1) space for each two (2) employees.
 - H. Hospital/Nursing Homes: One (1) space for every three (3) beds plus one (1) space for each two (2) employees
 - I. Retail Stores: One (1) space for each 100 sq. ft. of gross floor area.
 - J. Furniture and appliance stores, household equipment, carpet sales, furniture repair shop or antique shop: One (1) space for each four hundred (400) sq. ft. of gross floor area.
 - K. Theater, stadium, auditorium, church or other places of public assembly: one (1) parking space for each three (3) seats, based on maximum seating capacity.
 - L. Office Building: one (1) parking space for each three hundred (300) square feet of office floor area.
 - M. Funeral Homes: One (1) space for each four (4) seats based on maximum capacity.
 - N. Eating and Drinking Establishments: one (1) parking space for each of three (3) seats based upon maximum seating capacity.
 - O. Industrial, manufacturing or wholesale establishments: one (1) parking space for each two (2) workers, based on peak employment and adequate space for loading and unloading all vehicles used incidental to the operation of the industrial or manufacturing establishment or one (1) space for each two thousand (2,000) sq. ft. of gross floor area, whichever is larger
 - P. Other Uses Not Described: As determined by the Planning & Zoning Commission and City Council.
4. Onsite Parking. Onsite parking shall not be closer than 10 feet from a lot line, except in the DMU District.
5. Parking Surfaces. All parking areas shall be adequately drained to a pervious surface designed to allow entrapment of silts and nutrients prior to discharge to a public water.
6. Landscaping. More than 5 parking stalls contiguously located and any commercial parking adjacent to residential shall be landscaped according to a plan approved by the Zoning Administrator with review by the Planning Commission.
7. Lighting. Any lighting used to illuminate off-street parking areas shall be directed away from residential properties in such a way as to not interfere with residential use. Lighting will be designed to eliminate glare from adjacent roadways to ensure safe vehicular traffic.
8. Loading – General. All required loading berths shall be off street and shall be located on the same lot as the principal use served. Loading shall not occupy front yard space. Berths shall not be used for storage.

7.11 Loading and Unloading Requirements

There shall be adequate loading and unloading areas established for each property based on the use. It shall be the property owner's responsibility to ensure that their loading and unloading operations do not interfere with the flow of traffic, create a nuisance or pose a safety hazard. Operations are subject to review by the Planning Commission.

7.12 Drainage.

1. General.
 - A. When possible, existing natural drainage ways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.
 - B. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities and methods used to retain sediment on the site.
 - C. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds must be used. Preference must be given to designs using surface drainage, vegetation and infiltration rather than buried pipes and man-made materials and facilities.
2. Natural Drainage. All development shall provide for the continuance of natural drainageways, and structures shall be so constructed as to be 1 foot above the water level in the drainageway created by a storm of a 100 year return period or a 1% chance of occurrence.
3. Drainage Storage Areas. The use of natural or manmade stormwater storage areas is encouraged. These areas should be vegetated and designed to naturally lower after a storm.
4. Filling. No filling of areas inundated by the 100-year, 24-hour storm along drainageways shall be allowed, except by Conditional Use Permit.
5. Impervious Areas. All parking areas, heavy soil areas, storage areas and impervious areas shall be designed to allow entrapment of silts and nutrients prior to discharge to a natural drainage way or public water.
6. Public Waters. Newly constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming or surface debris before discharge.
7. Erosion. Erosion control measures shall be provided in all areas disturbed during any grading or construction. All areas disturbed shall be covered with topsoils and seeded. Areas subject to concentrated runoff or steeper than 3:1 shall be sodded, planted with appropriate deep-rooted vegetation, or protected with an appropriate mulch cover as directed by the City Engineer.

7.13 Grading.

1. Wetlands. Grading or filling in any protected wetland is prohibited unless authorized by Federal, State, County and Local permitting agencies.
2. Roads, Driveways, and Parking Areas. Public and private roads, driveways and parking areas must be

designed to take advantage of natural vegetation and topography to achieve maximum screening from public waters.

- A. Roads, driveways and parking areas shall meet structure setbacks and shall not be placed within bluff and shore impact zone, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and shall be designed to minimize adverse impacts.
- B. Private watercraft access ramps, approach roads and access-related parking areas are prohibited on lakes with public access or more than one privately-owned but public access. On lakes with no public access, private watercraft access ramps, approach roads and access-related parking areas may be placed by permit within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met.

SECTION VIII - SPECIAL PROVISIONS

8.1 Planned Unit Development (PUD).

1. **Purpose and Intent.** The purpose of this Ordinance is to maximize the use of developable land with the provision of urban services, to protect and preserve the natural environment, and to take full advantage of the existing urban infrastructure by promoting infill development. The City encourages and promotes the efficient use of land, flexibility in design, and new development concepts. The design of these developments should provide a quality of life equal to or greater than that provided in developments built under the standard zoning codes, be aesthetically pleasing, provide for more efficient land use, and reduce the impact of development on the natural environment and surrounding neighborhood.
2. **General.**
 - a. **Planned Unit Development (PUD).** A Planned Unit Development requires the assistance of professional planning and usually involves the approval of multiple agencies or other governmental bodies. Where circumstances are favorable, PUDs provide more latitude in land use than normal development in order to allow for planning, clustering facilities, and consolidating green spaces and internal recreation amenities. While greater flexibility is allowed in these types of development than what is required in the underlying zoning district, they must be justified by the significant improvements and design features beneficial to the residents, neighbors, and the general public. These benefits may include, but are not limited to, open space protection, provision of affordable or lifecycle housing, and re-development of blighted areas.
 - b. **Mixed Use PUDs.** Mixed uses may be allowed where appropriate, provided that the use not normally allowed in the underlying zoning district does not exceed 25% of the building floor area.
 - c. **Zoning Provision.** Provisions of each zoning district shall govern within that district except where addressed by this Section.
 - d. **Density.** A plan may provide for a greater number of dwelling units than would otherwise be permitted by the regulations otherwise applicable to the site; however, the applicant has the burden to show that such excess will not have an adverse effect on existing public facilities and on the reasonable enjoyment of neighboring property. Further the Planning Commission and the City Council, in determining the reasonableness of the increase in the authorized dwelling units density, shall recognize that increased density may be compensated for additional measures that serve the public interest, which may be achieved by the inclusion of: the location, amount, and proposed use of common open space; the location,

design, and type of dwelling units (energy efficiency, life-cycle housing, affordability); and the physical characteristics of the site, among others.

3. Design Criteria. All PUDs shall abide by the following design criteria:
 - a. Minimum Size. A PUD shall contain a minimum of three units or sites.
 - b. Minimum Development Size. The development shall be placed on property consisting of one or more parcels that together meet the minimum lot size for the underlying zoning district, as a minimum.
 - c. Urban Services. All PUDs shall have access to, and shall be required to connect to, available urban service utilities for the provision of sewer and water. All proposed developments must be adjacent to existing infrastructure for urban services, or be within an area identified for urban service extension within the next two years in the City's Capital Improvement Plan.
 - d. Setbacks. Setbacks from the exterior boundary of the site shall be the same as those required in the underlying district. Side setback requirements shall be waived to allow flexibility in design, but the following shall apply:
 - i. Individual buildings shall be separated by a minimum of ten (10) feet.
 - ii. The Planning Commission may establish setbacks, as necessary, to buffer agriculture, forestry, and water-use activities from residential uses.
 - e. Parking. 1.5 spaces per unit are required as a minimum, unless modified by the Conditional Use Permit, with evidence to support the modification.
 - f. Stormwater management.
 - i. All PUDs must develop and maintain a stormwater management plan indefinitely.
 - ii. Capacities of existing drainage ways shall be maintained and shall not be adversely impacted by the development.
 - iii. Unless specifically allowed by the City, inlets and outlets to adjacent parcels shall be maintained. Flows from outlets shall be maintained unless allowed by the City.
 - iv. All PUDs shall contain the volume of stormwater resulting from a 10-year, 24-hour storm event within the development.
 - v. Runoff from the parcel shall not be concentrated unless part of a City stormwater management plan.
4. Density Calculations. The overall density of the development shall not exceed the density limits established herein.
 - a. The density shall be computed by dividing the total number of dwelling units by the acreage of the project, including land dedicated to the public. Fractional portions of the final answer, after bonus point calculations, shall not apply towards the total density. Base density for each zoning district is calculated by dividing the total acreage of the project by the minimum lot size in that district.
 - b. All developments with a density of five (5) units or greater shall be required to provide a minimum of 5% of the total lot area in Open Space that is not subject to bonus point calculations. Open Space shall be optional for all developments of less than five (5) units.
 - c. Bonus Point Calculations. The permitted base density may be increased by the percentage gained through bonus points. In no case shall the density exceed that allowed as the maximum density in the underlying zoning district. The following bonuses may be awarded:
 - i. Provision of common open space, which may be provided in the form of natural areas, wetlands, playgrounds, active or passive recreational areas, and similar areas held in common ownership. All areas set aside for common open space may be counted for base density, unless otherwise excluded by the Land Use Ordinance. The purpose of the density bonus for common open space is to permit areas which could otherwise be developed, or sold as individual lots, to be retained in their natural state or to be developed as a recreational amenity. It is not the purpose of

this provision to permit density bonuses for incidental open spaces which have no realistic use by project residents on a day-to-day basis.

- ii. Provision of major recreational facilities. Points may be awarded for the provision of major recreational facilities, such as tennis courts, swimming pools, playgrounds, and other similar facilities.
 1. For each percent (1%) of total project cost devoted to recreational facilities, a 5% density bonus may be awarded. Total project cost shall be defined as the estimated sale price or value of each residential unit times the total number of units in the project. Estimated value shall include the total market value for the structure and the land. The cost of the recreational facility shall be prepared by a qualified architect or engineer using the current costs of recreational facilities.
 - iii. Affordable housing. For every percent of units that are affordable, an equivalent percentage of density bonus shall be allowed. Affordable housing bonus shall be for residential units that are affordable for low to moderate income households in accord with the standards established by the U.S. Housing and Urban Development.
5. PUD operating and maintenance requirements for PUD Common Facilities. In the event that certain land areas or structures are provided within the PUD for private recreational use or as service facilities, the owner of such land and buildings shall enter into an agreement with the City to assure the continued operation and maintenance to predetermined reasonable standards. Common areas may be placed under the ownership of one of the following:
- a. Dedicated to the public where a community-wide use would be anticipated
 - b. Landlord control
 - c. Homeowner's Association, provided all of the following conditions are met:
 - i. The Homeowner's Association must be established prior to any sale.
 - ii. Membership must be mandatory for each owner, and any successive buyer.
 - iii. The open space restrictions must be permanent, not for a given period of years
 - iv. The association must be responsible for liability insurance, local taxes, and the maintenance of residential and other facilities.
 - v. Landowners must pay their pro rata share of the cost and the assessment levied by the Association that can become a lien on the property in accordance with Minnesota Statutes.
 - vi. The association must be able to adjust the assessment to meet changed needs.

8.2 Rural Conservation Subdivision (RCS).

1. General. Rural Conservation Subdivision (RCS) is to provide for residential development in rural areas in a way that maintains or enhances the city's rural character; is sensitive to the physical characteristics of the site; retains large, undivided parcels of land that provide opportunities for compatible agricultural, forestry and other rural land uses; protects sensitive environmental resources; facilitates creation of open space corridors; and minimizes impacts of road and utility systems. Rural conservation subdivisions must be completed by plat.
2. Establishment of a Conservation Parcel.
 - A. Each RCS development shall contain a contiguous Conservation Parcel comprising a minimum of 40% of the land area to be subdivided.
 - B. The Conservation Parcel may be owned by a homeowners association, corporation, partnership, land trust, individual, or other legal entity.
 - C. The following uses of the Conservation Parcel are permitted, subject to any land use limitations in the underlying district:
 - i. Agriculture,

- ii. Forestry,
 - iii. Passive recreation,
 - iv. Natural areas including, but not limited to, critical areas and associated buffers, and wildlife corridors.
 - v. Single family dwelling with a conservation easement is placed over the Conservation Parcel restricting further development.
 - D. The Conservation Parcel shall contain any significant resource identified within the property to be subdivided including but not limited to wetlands, historical sites and wildlife corridors.
 - E. In order to retain large, undivided parcels of land that provide opportunities to compatible agricultural and forestry uses and protection of sensitive environmental resources, the Conservation Parcel shall, to the greatest extent possible, be a single contiguous parcel and shaped so as to be usable for resource uses. Where the Conservation Parcel is intended for other uses, more flexibility is allowed in the shape of the parcel; however, the conservation parcel may not include strips located between dwellings.
 - F. Conservation Parcels that are used for agriculture, forestry or sensitive resource protection shall not be bisected by roads or easements.
 - G. Where consistent with other provisions of this chapter, the Conservation Parcel shall be contiguous with any abutting conservation parcel, open space, greenbelt, agricultural lands, commercial forestry lands, public preserves, parks, or schools. Wildlife corridors shall be linked with other wildlife corridors abutting the proposed subdivision.
- 3. Design Criteria.
 - A. Minimum Lot Size. None, subject to compliance with applicable standards for sewage disposal and provision of water.
 - B. Setbacks. Setbacks from the exterior boundary of the site shall be the same as required in the underlying district. Side setback requirements shall be waived to allow flexibility in site design. However:
 - i. Individual buildings shall be separated by a minimum of ten feet.
 - ii. The Planning Commission may establish setbacks, as necessary to buffer agricultural, forestry and water-use activities from residential uses.
 - C. Maximum Coverage by Structures. Same as underlying district as applied to the entire parcel prior to subdivision.
- 4. Subdivision Design – Residential Lots.
 - A. The configuration and size lots shall be varied and blend with the natural features of the site in order to retain the natural, rural character of the site, particularly as viewed from public roadways.
 - B. Windfirm trees shall be retained where they would screen residences from collector roads, arterials or state highways, unless they would unduly impede site development, be incompatible with the intended use of the conservation parcel, or pose a risk to public safety for motorists on those roadways and to private utilities.
 - C. A lot created for any existing residence on the property may be discontinuous from the remaining residential lots in the proposed subdivision.
 - D. Residential lots shall be grouped and not assembled in a linear configuration. A linear configuration refers to a site design for the residential portion of a development which may be described as long and narrow. Exceptions shall be granted at the discretion of the Planning Commission where unusual site conditions, such as wetlands or steep slopes, warrant a linear configuration. The reason for minimizing linear configurations is to retain the natural, rural character of the site, particularly as viewed from public roadways.
- 5. Administration and Maintenance Requirements. Prior to final approval of any Rural Conservation Subdivision, the City will require adequate provisions developed for preservation and maintenance in

perpetuity of the conservation parcel and for the continued existence and functioning of the development as a community.

8.2 Manufactured and Pre-Built Housing Development.

New manufactured and pre-built housing developments shall not be allowed. Existing manufactured and pre-built housing developments shall be allowed to continue, including replacement of units in locations meeting all setback requirements, so long as the overall density of the development is not increased.

8.3 Home Occupation.

1. General. Each home occupation in the City shall require a permit. Home occupation permits are not transferable to a new owner/renter/occupant, thus the permit will not run with the property, nor be transferable to a different property.
2. Standards.
 - A. All business activities, including storage, shall be inside buildings or completely screened from adjacent properties.
 - B. All activities shall be clearly incidental to the use of the property for residential purposes. Not more than twenty-five percent (25%) of the gross floor area of the residence or 50% of the gross floor area of a garage or storage building shall be used for commercial purposes.
 - C. No home occupation shall be conducted between the hours of 10:00 p.m. and 7:00 a.m. unless said occupation is contained entirely within the principal building and will not require any on-street parking facilities.
 - D. Not more than two non-residents may be employed on the premises by the home occupation.
 - E. On the premises, retail sales will be allowed only of products manufactured on those premises unless specifically authorized by Conditional Use Permit.
 - F. No articles for sale shall be displayed so as to be visible from the street.
 - G. All activities will be controlled to prevent nuisance problems of noise, vibration, smoke, dust, fumes or litter.
 - H. The home occupation shall not generate more than two (2) customer vehicles at one time. Off-street parking shall be provided, but no more than two (2) spaces.
 - I. No mechanical or electrical equipment shall be used if the operation of such equipment interferes unreasonably with the desired quiet residential environment of the neighborhood or if the health and safety of the residents is endangered. No equipment shall be used in the home occupation which will create electrical interference to surrounding properties.
 - J. A person having a home occupation shall provide proof of meeting the above requirements upon request by the City.
3. Yard Sales/Garage Sales. Yard sales and garage sales do not require a home occupation permit so long as they do not exceed seven cumulative days in one calendar year.
4. Private Automobile Sales. One automobile displayed for sale on a property shall not require a home occupation permit so long as not more than two automobiles are sold over thirty cumulative days per calendar year.

8.4 Auto Salvage Yards/Junk Yards.

Auto salvage yards are to be allowed only as a service to the community. No more than two (2) will be allowed within the City limits. Such facilities are subject to the following, in addition to CUP criteria and conditions:

1. On site sales are allowed along with parts salvage.
2. Fencing/screening sufficient to prevent the facility and all salvaged materials from being seen from a public roadway or adjacent property shall be provided.
3. A defined perimeter must be approved and maintained.
4. The facility shall not be located within a drainageway or wetland.
5. Landscaping, in addition to the required screening, may be required by the Planning and Zoning Commission.

8.5 Telecommunication Towers

1. Purpose and Intent.
 - A. To establish predictable and balanced regulations that protect the public health, safety, and general welfare of the City.
 - B. Facilitate the provision of telecommunications services and facilities including commercial wireless telecommunication services in Blackduck.
 - C. Minimize adverse visual effects of towers through careful design standards.
 - D. Avoid potential damage to adjacent properties from tower or antenna failure and weather related occurrences through structural standards, careful siting, and setback requirements;
 - E. Encourage the use of existing towers and buildings to accommodate commercial wireless telecommunication service antennas in order to minimize the number of towers needed to serve the City.
2. Permits Required. It shall be unlawful for any person, firm or corporation to erect, construct in place, place or re-erect any tower, unless it shall replace a like tower, without first making application to the City and securing a permit. A change in construction, dimension, lighting design or design type shall also require a permit. The placement of antennae on previously approved towers may be administratively approved by the City.
3. Tower and Antenna Design Requirements. Proposed or modified towers and antennas shall meet the following design requirements:
 - A. Towers and antennas shall blend into the surrounding environment through the use of color and camouflaging architectural treatment except in instances where the color is dictated by federal or state authorities.
 - B. No tower shall have constructed thereon, or attached thereto, in any way, any platform, catwalk, crow's nest, or like structure, except during periods of construction or repair.
 - C. Towers and their antennas shall be certified by a qualified and licensed professional engineer to conform to applicable state structural building standards.
 - D. Towers and their antennas shall be designed to conform with accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.
 - E. Metal towers shall be constructed of, or treated with, corrosive resistant material.
4. Tower Setbacks. Towers and all accessory structures or buildings shall conform to the following minimum setback requirements:
 - A. Towers shall be set back from all property lines and existing structures an amount equal to the height of the structure.
 - B. Guy wires for towers shall be located no closer than twenty-five (25) feet to any property line and shall meet the setback of the underlying land use district with respect to the public road right of way.
 - C. Suitable protective anti-climbing fencing, with a minimum height of six (6) feet shall be provided around any tower and guy wires.

5. Tower Location. Towers less than two hundred (200) feet in height shall be located a minimum of one-half mile from the end of an airport clear zone as measured from the center point of the base of a free-standing tower. Towers that are 200 feet or more in height shall be located a distance of at least three miles from any public or private airport.
6. Co-Location Requirements. All commercial wireless telecommunication towers erected, constructed, or located within the City shall comply with the following requirements:
 - A. Documentation of the area to be served including maps demonstrating the size of communication cells and a search ring for the antenna location. A narrative describing a search ring for the request, with not less than one (1) mile radius clearly explaining why the site was selected, what existing structures were available and why they are not suitable as locations or co-locations.
 - B. Documentation that the communications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within the search ring of the service area due to one or more of the following reasons:
 - C. 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, modified, or replaced to accommodate planned equipment at a reasonable cost.
 - D. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer or qualified radio frequency engineer and the interference cannot be prevented at a reasonable cost.
 - E. Existing or approved towers and buildings within the search radius that are sixty (60) feet or over in height that cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.
 - F. Other unforeseen reasons that make it unfeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.
 - G. Any proposed tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the tower is over 99 feet in height, or for at least one additional user if the tower is between 35 and 99 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept mounting at varying heights.
 - H. An agreement stating that the site will be designed for not less than three users with applicant and property owner commitment to co-location, whereby, any prohibition of additional users on a tower will be considered a violation of the permit and city policy. The agreement shall also include a statement that any unused or abandoned tower shall be removed by the property owner and/or applicant. Said agreement shall be signed by the applicant and the property owner and shall be attached to and become a part of the permit.
7. Antennas Mounted on Existing Buildings or Towers. The placement of telecommunication antennas including wireless telecommunication antennas on existing buildings, towers or structures, shall meet the requirements of the underlying land use district and this section. A site plan and building plan must be submitted to the City as part of the land use permitting process. Where a tower is non-conforming due to the requirements of this section additional telecommunication antennas may be permitted to be placed on the tower after being reviewed by the Zoning Administrator.
8. Accessory Utility Buildings. All buildings and structures accessory to a tower shall:
 - A. Be architecturally designed to blend in with the surrounding environment and shall meet the height and setback limitations as established for each land use district.

- B. Have ground mounted equipment screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.
9. Tower Lighting. A tower shall not be illuminated by artificial means and shall not have affixed or attached to it in any way except during time of repair or installation, any lights, reflectors, flashers, or other illuminating device, except as required by the Federal Aviation Administration or the Federal Communications Commission or state agency. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower.
 10. Abandoned or Unused Towers. Abandoned or unused towers and associated facilities shall be removed within twelve (12) months of the cessation of operations at the site unless a time extension is approved by the Zoning Administrator. In the event that a tower is not removed within the 12 months of the cessation of operations at a site, the tower and associated facilities may be removed by the City and the costs of removal assessed against the property.
 11. Public Safety Telecommunications Interference. Commercial wireless telecommunications services shall not interfere with public safety telecommunications. All applications shall include adequate information that will be reviewed by the Planning & Zoning Commission before a permit may be issued. Before the introduction of new service or changes in existing service, telecommunication providers shall notify the City at least ten (10) calendar days in advance of any changes and allow the City to monitor interference levels during the testing process.
 12. Signs and Advertising. The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.
 13. Non-conforming Towers. In order to avoid requiring new towers and to minimize the number of towers needed to serve the city, the following provisions shall apply to non-conforming towers. Telecommunication towers in existence at the time of this Ordinance may be permitted to increase tower height after being issued a conditional use permit. The Planning & Zoning Commission shall consider the following criteria as part of the conditional use permit process:
 - A. Tower safety concerns including tower collapse, falling ice, and airplane traffic.
 - B. Land use character and history of tower(s).
 - C. Comparative visual impact to the surrounding lands of the proposed tower height increase.
 - D. Disturbance or conflict with agricultural uses on the property.
 - E. Other factors which tend to reduce conflicts or are incompatible with the character and need of the area.
 14. Screening and Landscaping Requirement. A screening and landscaping plan designed to screen the base of the tower, accessory utility buildings, utility structures, and security fencing shall be submitted. The plan shall show the location, size, quantity, and type of landscaping materials. Landscape materials shall be capable of screening all year and must be six (6) feet in height by the end of the second growing season. Gravel or other durable surface or other weed prevention measures shall be applied within the fenced area to prevent the growth of weeds. A maintenance plan for landscaped materials shall also be submitted.
 15. Additional Submittal Requirements. In addition to the information required elsewhere, applications shall include the following information:
 - A. A report from a licensed professional engineer that describes the commercial wireless telecommunication service tower's capacity, including the number and type of antennas that it can accommodate.
 - B. A letter of intent from the commercial wireless telecommunication service tower owner committing the tower owner and successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.
 - C. The location of all public and private airports within a three (3) mile radius of the tower site.

- D. Applicant must obtain FAA approval and/or provide documentation that FAA approval is not needed.
 - E. Applicant must obtain FCC licensure and approval as required for various communications applications. No interference with local television and radio reception will be allowed.
 - F. An intermodulation study which provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems, only if that is the basis for not co-locating
 - G. The applicant must submit proof of Liability and Worker's Compensation.
 - H. For towers over five hundred (500) feet, an Environmental Assessment Worksheet (EAW) is required and the applicant shall be responsible to provide the city with all information required to complete the EAW prior to the issuance of a permit from the city.
 - I. The owner of the tower shall provide the city with an acceptable financial guarantee in an amount equal to one and one-half (1&1/2) times the cost to remove the tower and related infrastructure, including footings and other underground improvements to a depth of thirty-six (36) inches below existing grade, and to restore the site. Failure to remove the structure shall be cause for the City to remove the tower and associated equipment at the expense of the property owners.
16. Towers Not Requiring a Permit. Permits are not required for the following:
- A. A satellite earth station antenna four (4) feet in diameter or less, located in an industrial or commercial district, meeting required setbacks.
 - B. A satellite earth station antenna three (3) feet or less in diameter, meeting the required setbacks.
 - C. A tower less than fifty (50) ft. as measured from the ground.

8.6 Adult Use.

1. Purpose and Intent.
 - A. Findings. It is the purpose of this Ordinance to regulate Adult Oriented Businesses to promote the health, safety, morals and general welfare of the citizens of the City and to establish reasonable and uniform regulations to:
 - i. Prevent additional criminal activity within the City;
 - ii. Prevent deterioration of neighborhoods and its consequent adverse effect on real estate values of properties within the neighborhood;
 - iii. To locate Adult Oriented Businesses away from residential areas, schools, churches, and parks and playgrounds;
 - iv. Prevent concentration of Adult Oriented Businesses within certain areas of the City.
 - B. The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation of restriction on the content of any communicative material, including Adult oriented materials. Similarly, it is not the intent nor effect of this Ordinance to restrict or deny access by adults to Adult oriented materials protect by the First Amendment, or to deny access by distributors and exhibitors of adult oriented entertainment to their intended market.
2. Application.
 - A. Except as specifically provided in this Ordinance, no structure shall be erected, converted, enlarged, reconstructed, or altered, and no structure or land shall be used, for any purposed nor in any manner which is not in conformity with this Ordinance.
 - B. No Adult 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 establishment which is prohibited by and ordinance of the City of Blackduck, 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 which is prohibited or regulated by other statutes or ordinances, including but not limited to

statutes or ordinances prohibiting the exhibition, sale, or distribution of obscene material generally, or the exhibition, sale or distribution of specified materials to minors.

3. Location. During the term of this Ordinance, no Adult Oriented Businesses shall be located less than 500 feet from any residential zoning district boundary or site used for residential purposes, nor less than 500 feet from any church site, from any school site, from any day care facility, or from any park which is adjacent to property zoned residential. In addition, no Adult Oriented Business may be located within 300 feet of another Adult Oriented Business. For purposes of this Ordinance, this distance shall be a horizontal measurement from the nearest existing residential district boundary or site used for residential purposes, church site, school site, day care site, park site, or another Adult Oriented Business site to the nearest boundary of the proposed Adult Oriented Business site.
4. Hours of Operation. No Adult Oriented Business site shall be open to the public from the hours of 11:00 p.m. to 9:00 a.m.
5. Operation.
 - A. Off-site Viewing. An establishment operating as an Adult Oriented Business shall prevent off-site viewing of its merchandise, which if viewed by a minor, would be in violation of Minnesota Statutes Chapter 617 or other applicable Federal or State Statutes or local ordinances.
 - B. Entrances. All entrances to the business, with the exception of emergency fire exits which are not useable by patrons to enter the business, shall be visible from a public right-of-way.
 - C. Layout. The layout of the display areas shall be designed so that the management of the establishment and any law enforcement personnel inside the store can observe all patrons while they have access to any merchandise offered for sale or viewing including but not limited to books, magazines, photographs, video tapes or any other material.
 - D. Illumination. Illumination of the premises' exterior shall be adequate to observe the location and activities of all person on the exterior premises.
 - E. Signs. Signs for Adult Oriented Businesses shall comply with the City Code sign restrictions addressed in Chapter 8, and in addition signs for Adult Oriented Businesses shall not contain representational depiction of an adult nature of graphic descriptions of the adult theme of the operation.
6. Consumption or Sale of Alcoholic Beverages. Adult Oriented Business shall not be located on the same parcel as, on a parcel adjacent to or within 500 feet of an establishment that serves alcoholic beverages. Sale of alcoholic beverages on a parcel containing an adult use is prohibited. Consumption of alcoholic beverages on a parcel containing an adult use is prohibited.
7. Licenses.
 - A. Licenses Required. All establishments, including any business operating at the time this Ordinance becomes effective, operating or intending to operate Adult Oriented Business, shall apply for and obtain a license from the City of Blackduck. A person is in violation of the City Code if he or she operates an Adult Oriented Business without a valid license issued by the City.
 - B. Applications. An Application for a license must be made on a form provided by the City.
 - i. The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.
 - ii. The applicant must be qualified according to the provisions of this section and the premises must be inspected and found to be in compliance with the appropriate state, county, and local law and codes by the health official, fire marshal, and building official.

- iii. Application for license shall contain the address and legal description of the property to be used; the names, addresses, phone numbers, dates of birth of the owners, lessee, if any, the operator or manager, and all employees; the name, address, and phone number of two persons, who shall be residents of the State of Minnesota, and who may be called upon to attest to the applicant's, manger's, or operator's character; whether the applicant, manager, or operator has ever been convicted of a crime or offense other than a traffic offense and, if so, complete and accurate information detailing the disposition thereof; the names and addresses of all creditors of the applicant, owner, lessee, or manager regarding credit which has been extended for the purposes of constructing, equipping, maintaining, operating, furnishing, or acquiring the premises, personal effects, equipment, or anything incident to the establishment, maintenance and operation of the business.
 - iv. If the application is made on behalf of the corporation, joint business venture, partnership, or any legally constituted business association, it shall submit along with its application, accurate and complete business records showing the names, addresses, and dates of birth of all individuals having an interest in the business, including partners, officers, owners, and creditors furnishing credit for the establishment, acquisition, maintenance, and furnishings of said business, in the case of a corporation, the names, addresses, and dates of birth off all officers, general managers, members of the board of directors as well as any creditors who have extended credit for the acquisition, maintenance, operation, or furnishing of the establishment, including the purchase or acquisition of any items of personal property for use in said operation.
 - v. All applicants shall furnish to the City, along with their applications, complete and accurate documentation establishing the interest of the applicant and any other person having an interest in the premises upon which the building is proposed to be located or the furnishings thereof, personal property thereof, or the operation or maintenance thereof. Documentation shall be in the form of a lease, deed, contract for deed, mortgage deed, mortgage credit arrangement, loan agreements, security agreements, and any other documents establishing the interest of the applicant or any other person in the operation, acquisition or maintenance of the enterprise.
- C. Application/Applicant Disqualification.
- i. The license fee required by this ordinance has not been paid.
 - ii. An applicant has been convicted of a crime involving any of the following offenses:
 - iii. Any sex crimes as defined by Minn. Stat. 609.29 through 609.352 inclusive, or as defined by any ordinance or statute in conformity therewith;
 - iv. Any obscenity crime as defined by Minn. Stat. 617.23 through 617.299 inclusive, or as defined by any ordinance or statute in conformity therewith, for which:
 - a. less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense.
 - b. less than five years have elapsed since date of the last conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is a felony offense; or
 - c. less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the conviction is two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24 hour period.
 - v. The fact that a conviction is being appealed from shall have no effect on disqualification of the applicant or applicant's spouse.
- D. Requalification. An applicant who has been convicted of an offense listed in Section 5.31, Subdivision 3(b), may qualify for an Adult Oriented Business license only when the time period required by Section 5.31, Subdivision 3(b) has elapsed.

- E. Posting. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the Adult Oriented Business. The license shall be posted in a conspicuous place at or near the entrance to the Adult Oriented Business so that it may be easily read at any time.
 - F. Council Action. The City Council shall act to approve or disapprove the license application within 120 days from the date the application was submitted, provided that the application contains all of the information required by this ordinance. If the application is deficient, the Council shall act on the application within 120 days from the date that the deficiency has been corrected. The City Clerk shall notify the applicant of the deficiencies in the application.
 - G. Appeals. Within 90 days after the decision by the Council, the applicant may appeal to the District Court by serving a notice upon the Mayor or City Clerk of the Municipality.
8. Investigation and Issuance. The City Council shall direct the Police Department or County Sheriff to investigate all facts set forth in the application. An advance fee of \$500 shall be submitted with the application to defray the City's costs and expenses with the background investigation. After the background investigation has been completed and all information required by the application has been submitted to the City, the City Council shall determine whether to grant or deny the license application.
9. License Fees. Fees shall be established by City Council resolution on the fee structure.
10. Inspection.
- A. Access. An applicant or licensee shall permit health officials, representatives of the police department, county sheriff's office, fire department, zoning administrator and building inspection division, to inspect the premises of an Adult Oriented Business for the purpose of ensuring compliance with the law and City Code, at any time it is occupied or open for business.
 - B. Refusal to Permit Inspections. A person who operates an Adult Oriented Business or his agent or employee commits an offense if she or he refuses to permit a lawful inspection of the premises by health officials, representatives of the police department, county sheriffs department, fire department, zoning administrator or building inspection division at anytime it is occupied or open for business. Refusal to permit inspections may result in the suspension of the license as provided in Section 5.36.
 - C. Exceptions. The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for uses as a permanent or temporary habitation.
11. Expiration and Renewal.
- A. Expiration. Each license shall expire at the end of the calendar year and may be renewed only by making application as provided in Section 5.31, Subdivision 1. Application for renewal must be made at least 60 days before the expiration date, and when made less than 60 days before the expiration date, the expiration of the license will be unaffected.
 - B. Denial of Renewal. When the City denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the City finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date denial became final.
12. Suspension.
- A. Causes of Suspension. The City may suspend a license for a period not to exceed 30 days if it determines that a licensee or an employee of a licensee has:
 - i. Violated or is not in compliance with any provision of this Ordinance.
 - ii. Engaged in the use of alcoholic beverages while on the Adult Oriented Business premises.

- iii. Refused to allow an inspection of the Adult Oriented Business Premises as authorized by this chapter.
 - iv. Knowingly permitted gambling by any person on the Adult Oriented Business premises.
 - v. Demonstrated inability to operate or manage an Adult Oriented Business in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.
- B. Notice. A suspension by the City shall be preceded by written notice to the licensee and before a hearing. The notice shall give at least 10 days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensee's business premises with the person in charge thereof.

13. Revocation.

- A. Suspended Licenses. The City may revoke a license if a cause of suspension in Section 5.36 occurs and the license has been suspended within the preceding 12 months.
- B. Causes of Revocation. The City shall revoke a license if it determines that:
- i. A licensee gave false or misleading information in the material submitted to the City during the application process;
 - ii. A licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;
 - iii. A licensee or an employee has knowingly allowed prostitution on the premises;
 - iv. A licensee or an employee knowingly operated the Adult Oriented Business during a period of time when the licensee's license was suspended;
 - v. A licensee has been convicted of an offense listed in Section 5.31, Subdivision 3(b), for which the time period required in Section 5.31, Subdivision 3(b), has not elapsed;
 - vi. On two or more occasions within a 12-month period, a person or persons committed an offense occurring in or on the licensed premises of a crime listed in Section 5.31, Subdivision 3(b), for which a conviction has been obtained, and the person or person were employees of the Adult Oriented Business at the time the offenses were committed.
 - vii. A licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation or masturbation to occur in or on the licensed premises.
 - viii. A licensee has allowed the sale and/or consumption of alcoholic beverages at the Adult Oriented Business for which a license has been issued herein.
- C. Appeals. The fact that conviction is being appealed shall have no effect on the revocation of the license.
- D. Granting a License After Revocation. When the City revokes a license, the revocation shall continue for one year and the licensee shall not be issued an Adult Oriented Business license for one year from the date the revocation became effective. If, subsequent to revocation, the City finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective. If the license was revoked under Section 5.37, Subdivision 2(e), an applicant may not be granted another license until the appropriate number of years required under Section 8 have elapsed.
- E. Notice. A revocation by the City shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least 10 day's notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed premises with the person in charge thereof.
- F. Transfer of License. A licensee shall not transfer this license to another, nor shall a licensee operate an Adult Oriented Business under the authority of a license at any place other than the address designated in the application.

8.7 Solar Energy Systems

1. Purpose and intent

A. It is the purpose of this Ordinance to regulate Solar Energy Sources to promote a sustainable quality of life for the city's residents, making careful and effective use of available natural, human and economic resources and ensuring that resources exist to maintain and enhance the quality of life for future residents. In accordance with that goal, the city finds that it is in the public interest to encourage solar energy systems that have a positive impact on energy production and conservation while not having an adverse impact on the community. Therefore, the purposes of this ordinance include:

- i. To promote rather than restrict development of solar energy sources by removing regulatory barriers and creating a clear regulatory path for approving solar energy systems.
- ii. To create a livable community where development incorporates sustainable design elements such as resource and energy conservation and use of renewable energy.
- iii. To protect and enhance air quality, limit the effects of climate change and decrease use of fossil fuels.
- iv. To encourage alternative energy development in locations where the technology is viable and environmental, economic and social impacts can be mitigated.

3. Permitted Accessory Use - Active solar energy systems shall be allowed as an accessory use in all zoning classifications where structures of any sort are allowed, subject to certain requirements as set forth below. Active solar energy systems that do not meet the visibility standards in C. below will require a conditional use permit.

A. Height – Active solar energy systems must meet the following height requirements:

1. Building or roof-mounted solar energy systems shall not exceed the maximum allowed height in any zoning district. For purposes for height measurement, solar energy systems other than building-integrated systems shall be given an equivalent exception to height standards as building-mounted mechanical devices or equipment.
2. Ground or pole-mounted solar energy systems shall not exceed 20 feet in height when oriented at maximum tilt.

B. Set-back – Active solar energy systems must meet the accessory structure setback for the zoning district and primary land use associated with the lot on which the system is located.

1. Roof-mounted Solar energy systems – In addition to the building setback, the collector surface and mounting devices for roof-mounted solar energy systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built, unless the collector and mounting system has been explicitly engineered to safely extend beyond the edge, and setback standards are not violated. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side yard exposure.

2. Ground-mounted Solar energy systems – Ground-mounted solar energy shall be set back a minimum of 10 feet from rear property lines and a minimum of 30 feet from all dwellings located on adjacent lots.

C. Visibility – Active solar energy systems shall be designed to blend into the architecture of the building or be screened from routine view from public right-of-ways other than alleys. The color or the solar collector shall blend with the color of the roof or other structure. Reflection angles from collector surfaces shall be oriented away from neighboring windows. Where necessary, screening may be required to address glare.

D. Screening – Solar energy systems shall be screened from view to the extent possible without reducing their efficiency. Screening may include walls, fences or landscaping.

E. Location – In residential zoning districts, ground-mounted solar energy systems are limited to the rear yard. In non-residential zoning districts, ground-mounted solar energy systems may be permitted in the front yard of any lot or the side yards on corner lots but shall not encroach less than 30 feet to public rights-of-way.

F. Easements – Solar energy systems shall not encroach on public drainage, utility roadway, or trail easements

G. Exemptions – Both passive and building integrated solar energy systems are exempt from the standards of this ordinance based on the findings that these are site design principals or building components commonly part of other buildings.

H. Minimum Lot Size. In R-1, Residential Zoning District, a minimum lot size of 7000 square feet is required for ground-mounted solar energy systems.

I. Maximum Area. In R-1, Residential Zoning District, ground-mounted solar energy systems shall be limited to a maximum area of 120 square feet.

J. Feeder Lines – The electrical collection system shall be placed underground within the interior of each parcel.

K. Utility Connection – All grid connected systems shall have an agreement with the local utility prior to the issuance of a building permit. A visible external disconnect must be provided if required by the utility.

L. Certification – Solar energy systems shall meet be certified by Underwriters Laboratories, Inc. and the National Renewable Energy Laboratory, the Solar Rating and Certification Corporation or other body as determined by the appropriate authorizing agency. The City reserves the right to deny a building permit for proposed solar energy systems deemed to have inadequate certification.

M. Compliance with Other Codes – Solar energy systems shall meet approval with the Minnesota building, electrical and plumbing codes.

N. Deviations – Any deviation from the required standards of this ordinance would be through a variance.

O. Abandonment – If the Solar energy system remains nonfunctional or inoperative for a continuous period of one year, the system shall be deemed to be abandoned and shall constitute a public nuisance. The owner shall remove the abandoned system at their expense. Removal includes the entire structure including transmission equipment.

P. Permits – A building permit and interim conditional use permit, if required, shall be obtained for any solar energy system prior to installation.

4. Interpretation In interpreting this ordinance and its application, the provisions of these regulations shall be held to be the minimum requirements for the protection of public health, safety and general welfare. This ordinance shall be construed broadly to promote the purposes for which it was adopted.

5. Conflict – This ordinance is not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, statute or other provision of law except as provided herein. If any provision of this ordinance imposes restrictions different from any other ordinance, rule, or regulation, statute or provision of law, the provision that is more restrictive or imposes high standards shall control.

6. Separability - If any part or provision of this ordinance or its application to any developer or circumstance is judged invalid by any competent jurisdiction, the judgement shall be confirmed in its operation to the part, provision or application directly involved in the controversy in which the judgement shall be rendered and shall not affect or impair the validity of the remainder of these regulations or the application of them to other developers or circumstances.

8.8 Temporary Family Health Care Dwellings

Pursuant to authority granted by Minnesota Statutes, Section 462.3593, subdivision 9, the City of Blackduck opts-out of requirements and permitting of Minnesota Statutes §462.3593, which defines and regulates Temporary Family Health Care Dwellings. (*Ordinance 2016-02 adopted September 2016*)

SECTION IX - SUBDIVISION STANDARDS

9.1 Sketch Plan.

A sketch plan shall contain the following data:

1. Existing Conditions
 - A. Approximate exterior boundary drawn to a scale of not less than 1" = 100' with the scale and northerly direction shown thereon.
 - B. Indication of floodplains, wetlands, slopes over 12%, bluffs, tree cover and ordinary high water mark.
 - C. Use of adjoining properties including street locations, structure locations and property lines.
 - D. Significant historical sites.
 - E. Approximate locations of existing structures.
 - F. Approximate locations of existing wells and sewage treatment systems.
 - G. Location by Section, Town, & Range with small scale sketch showing location within the city.
 - H. The existing zoning classification and the zoning classification of adjacent parcels.
2. Proposed Design
 - A. Proposed roads and walkways.

- B. Proposed lots with building setbacks and bluff impact zones.
- C. Proposed Green Space.
- D. Proposed City sewer and water system connections or sewage treatment systems and well locations.

9.2 Preliminary Plat, Preliminary Condominium Plat or Metes and Bounds Subdivision resulting in at least one parcel less than 10 acres.

A Preliminary Plat, Preliminary Condominium Plat or Metes and Bounds Subdivision resulting in at least one parcel less than 10 acres shall contain the following data: (except as waived in advance by the Planning Commission); along with other reasonable information required by the Commission needed to make a proper evaluation of the proposal:

1. Existing Conditions
 - A. Boundary lines with lengths and bearings drawn to exact scale of no less than 1" = 100' taken from a boundary survey by a Registered Land Surveyor with the legal description of the property, total acreage, name of the fee owner, developer and surveyor. North arrow and scale.
 - B. Topography consisting of 2-foot contour intervals, or, at the discretion of the Planning Commission during the sketch plan review, 10-foot contour intervals taken from USGS mapping with additional field determined spot elevations added to define drainageways, 100 year floodplains, wetlands, slopes and the Ordinary High Water Mark. Near shore aquatic conditions, including depths, types of bottom, sediments and aquatic vegetation.
 - C. Tree cover limits, specimen tree locations.
 - D. Soils as determined by hand borings on a random basis, to determine depth to ground water at lower elevations and suitability for sewage treatment systems. At least one boring for each unit unless waived by the Planning Commission.
 - E. Location of adjoining streets, wetlands, structures and property lines within 200-feet of subject parcel, including acreage of any property owned by the developer not included in the preliminary plat.
 - F. Significant historical sites.
 - G. Significant wildlife habitat areas.
 - H. Endangered, threatened, rare or critical species, both flora and fauna.
 - I. Date of boundary survey, topography and proposed plat.
 - J. Layout of existing streets, walkways, driveways, blocks, lots, and structures drawn to the same scale.
 - K. Locations of existing wells and sewage treatment systems.
 - L. Location by Section, Town, & Range with small scale sketch showing location within the city.
 - M. The existing zoning classification and the zoning classification of adjacent parcels.
2. Proposed Design
 - A. Layout of proposed streets, walkways, driveways, blocks, lots, buildings if known, drawn to same scale as existing data.
 - B. Dimensions scaled to nearest 5 feet of all lot lines, street widths, easement widths and lakeshore lengths.
 - C. Buildable areas of proposed lots.
 - D. Structure setback lines from streets, lot lines and Ordinary High Water Mark and a designation of the buildable area on the parcel.
 - E. Proposed Green Space with area shown.
 - F. Proposed public dedication areas other than streets or walkways with the area shown.
 - G. Proposed City sewer or water system connections and extensions existing and proposed with grades shown.
 - H. Potential locations and estimated depth to water table for all proposed onsite sewage

- disposal systems, two per lot.
 - I. Information regarding adequacy of domestic water supply,
 - J. Proposed storm drainage system and erosion control, both during and after construction activities.
 - K. Proposed street standards and profiles.
 - L. Potential principal structure and accessory structure locations and elevations.
 - M. Extent of anticipated vegetation and topographic alterations.
 - N. Proposed covenants.
 - O. Name of subdivision and proposed street names, which shall not duplicate or be alike another plat previously recorded.
 - P. Stages of development proposed.
3. Evidence of Authority to subdivide the parcel consisting of fee ownership or written concurrence of fee owners.
 4. Cost/Benefit Analysis. An analysis of the ongoing cost to the City to provide services and maintenance to the development shall be prepared using a form provided by the City. This cost shall be compared on the same form to the estimated increased valuation of the property and the corresponding tax revenue. The development shall not be approved if public subsidy is required for ongoing services and maintenance.

9.3 Final Plat or Final Condominium Plat.

A Final Plat or Final Condominium Plat shall contain all elements required by this Ordinance and Minnesota Statutes 505, 515A or 515B respectively, and the State Plat Manual including but not limited to the following:

1. Conformance with approved Preliminary Plat or agreed upon portion thereof.
2. Design standards in conformance with the City of Blackduck Zoning and Subdivision Ordinance.
3. Preparation by a Registered Land Surveyor. Signatures of Mayor, Clerk, County Auditor, County Treasurer and all parties with legal interest in the fee ownership of the land.
4. Dedication to the public of easements, right-of-ways, walkways and land to become public.
5. Drainage and utility easements over natural drainageways and significant wetlands.
6. Reservation of private streets in Outlots.
7. Covenants: Covenants shall be filed concurrently with the plat and shall be required to create an association of homeowners if a privately maintained cluster sewer or water system is proposed for subdivision.
 - A. The Association shall consist of all benefited lot owners.
 - B. The Association shall be responsible for all costs of maintenance and replacement.
 - C. The costs shall be uniformly divided by lots served.
 - D. The costs shall be lienable against the lots by the Association if payment is not forthcoming.
 - E. The status of the facility shall be clearly stated as subject to perpetual private maintenance.
 - F. Provisions shall be made for emergency access or emergency maintenance by the City with subsequent reimbursement by the Association.
8. Concurrent documents
 - A. Title Opinion, less than 60 days old, acceptable to the City Attorney and showing conformance with those parties represented by signature on the plat as holding interest in the property being divided.
 - B. Financial security acceptable to the City Attorney in the amount of 125% of the cost estimated by the City Engineer for the uncompleted required improvements.
 - C. Development contract acceptable to the City Attorney, if required.

9.4 Design Layout Standards - Minimum.

The following design standards shall be considered minimum acceptable requirements in the review of the proposed subdivision by the Zoning Administrator, City Attorney, City Engineer, Planning Commission and Council, except as waived by variance approved by the Board of Adjustment.

1. The land shall be properly zoned and suitable in its natural state for the intended purpose with minimal alteration required. Land subject to flooding, land below the ordinary high water mark, wetlands, areas with high water table, bluffs, lands with slopes exceeding 12% or land containing other significant constraint(s) upon future intended usage, shall not be considered in the minimum size of a lot. The suitability analysis for each lot shall also consider soil and rock formations with severe limitations for development, severe erosion potential, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sights, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.
2. All non-conforming structures and uses shall be brought into conformity during the subdivision process, except as specifically waived by motion of the Planning Commission.
3. Each lot shall be adjacent to public sewer or shall have a minimum contiguous lawn area that is free of limiting factors sufficient for the construction of two standard soil treatment sewage systems.
4. Provisions for water based recreation where near shore aquatic conditions are unsuitable for direct access.
5. Lot areas and dimensions shall conform to the requirements of the Zoning Ordinance, without variance.
6. Lot layouts shall be compatible with the existing layout of adjoining properties and/or shall not constrain the future development of adjacent properties if those properties were to be developed as per the Blackduck Land Use and Subdivision Ordinance.
7. Side lot lines shall be substantially at right angles to straight road lines or radial to curved road lines, radial to lake or stream shores, and shall not contain bends or jogs unless topographic conditions necessitate a different arrangement. Existing structures shall not be construed to be a topographic condition.
8. Each lot shall have a minimum of 33 feet of frontage on a designated right of way. Commonly owned property or Green Space used for access in a Planned Unit Development shall have a minimum of 33 feet of frontage on a public right of way.
9. Proposed streets shall conform to the adopted road plan of the City of Blackduck, County and State highway plans and existing boundary conditions.
 - A. Streets shall be related to the topography so as to produce useable lots and reasonable gradients not in excess of 10% for collector roads and 12% for minor roads.
 - B. Public access shall be given to adjacent properties unless the topography clearly indicated future connection is not feasible.
 - C. When parcels abutting arterial or collector roads are subdivided, no new access points shall be created unless an equal number of access points are removed, unless access points are created not less than 500 feet apart in which case there shall be no limit on the number of accessed allowed.
 - D. Half streets or connections of half streets to partial streets without providing for the full required right-of-way will not be permitted.
 - E. Streets will be designed as collectors or local streets in accordance with the City of Blackduck Road Plan.
 - F. The number of streets that terminate without a through connection shall be minimized and the street connected to a cul-de-sac (turnaround) shall not exceed 1,200 feet in length.
 - G. Access shall be given to all adjacent properties when required by the Planning Commission. All streets intended to be extended to adjoining property, shall be

provided with a temporary cul-de-sac with the sides on a temporary easement, which will revert to the adjoining lot owner when released by the City. Landlocked areas shall not be created.

- H. Right of Way shall be dedicated to the public:
 - Cul-de-sac (turnaround) 68' radius
 - Arterials 100' or as determined by Beltrami Co
 - Collectors 66'
 - Local Streets..... 66'

Additional Right of Way may be required to promote public safety and convenience if special conditions require such as intersections, sight lines on corners or excessive cut or fill sections.

- I. Intersections
 - 1. Street centerlines shall intersect at not less than 75 degrees.
 - 2. Street jogs shall be no less than 200' from centerline to centerline.
 - 3. Gradients at intersections and for 50' approaching on each side of an intersection shall not exceed 2%. The approach shall contain no grades greater than 7% for 200' on each side of the intersection.
- J. Roads, driveways and parking areas shall meet structure setbacks and shall not be placed within bluff and shore impact zones.
- K. Street names shall conform to the pattern of the City and continue an existing name on the same alignment, where determined applicable by the Planning Commission. Street names shall be coordinated with the Beltrami County Surveyor's Office.

- 10. Easements shall be provided for public utilities or drainage where required by the Planning Commission and shall be following widths, minimum:
 - Watermain 20 feet
 - Sanitary Sewer..... 40 feet
 - Storm Sewer..... 20 feet
 - Electrical, telephone or cable television 10 feet
 - Drainageway..... 10 feet
- 11. Lots requiring variances to allow their use for the intended purposes or requiring holding tanks for sewage shall not be allowed.

9.5 Survey Standards.

Survey Standards shall be those required by Minnesota Statutes 505 including the placement of all monuments including block corners, lot corners, curve points and lake survey line points on lot lines. All US, State, County and other official bench marks, monuments or triangulation points in or adjacent to the proposed subdivision shall be preserved in position unless relocation is approved by the controlling agency.

9.6 Street Improvement Standards.

All streets within the subdivision shall be constructed by the subdivider or otherwise provided for by agreement in a Development Contract between the subdivider and the City Council with all expenses borne by the subdivider. Local streets and collector streets shall be constructed according to the established minimum standards and shall be approved by the City Engineer.

9.7 Sanitary Provision Standards.

No land shall be subdivided for building purposes unless two adequate sites are available on the newly created lot for a conforming onsite sewage treatment system, or the subdivider constructs a cluster system serving the lots to be owned and maintained by a property owner's association or the lot is provided with sanitary service by a municipal sewer system at the expense of the subdivider.

- 1. A municipal sewer system shall be extended to the lot at the subdivider's expense by agreement in a Development Contract between the subdivider and the City Council if the existing system is adjacent to the parcel being subdivided or reasonably close in the opinion of the Engineer and

Planning Commission or if the density of the proposed development necessitates a municipal sewer connection. The sewer shall also be extended to the exterior boundary of the subdivision at locations designated by the Engineer.

2. Onsite systems or cluster onsite systems shall conform to Minnesota Pollution Control Agency Standards, Individual Sewage Treatment Systems Standard, Chapter 7080, and provide for two (2) treatment sites for drainfields.
3. Municipal sewage facilities shall be designed by a Registered Engineer, approved by the City Engineer, approved by the Minnesota Pollution Control Agency, and installed according to “Standard Utilities Specifications”, City Engineer’s Association of Minnesota.

9.8 Water Supply Standards.

The subdivider shall be responsible to provide the proposed subdivision with adequate spacing between building sites, onsite sewage disposal sites, and potential well locations to allow the well installations in conformance with the City of Blackduck Zoning Ordinance requirements or the subdivider shall provide the lot with a cluster water supply system to be owned and operated by a property owner’s association or the subdivider shall provide municipal water service to the lot.

1. A municipal water system shall be extended to the lot at the expense of the subdivider by agreement in the Development Contract between the subdivider and the Council if the existing municipal system is adjacent to the parcel being subdivided or reasonably close in the opinion of the engineer and Planning Commission or if the density of the proposed development necessitates a municipal water connection. The watermain shall also be extended to the exterior boundary at locations designated by the Engineer.
2. Onsite wells or cluster water systems shall conform to the Minnesota Department of Health Rules and Regulations MHD 210-230 “Water Well Construction Code”, and the cluster system shall receive the approval of the City Engineer.
3. Municipal water facilities shall be designed by a Registered Engineer, approved by the City Engineer, approved by the Minnesota Department of Health and installed according to “Standard Utilities Specifications” City Engineer’s Association of Minnesota.

9.9 Drainage/Grading Standards.

The subdivider shall consider the retention of natural stormwater/snowmelt drainage patterns in the design of his proposed subdivision. The subdivider shall be responsible to provide adequate drainage facilities for his development and upstream properties.

1. Drainage Plan(s). All subdivisions shall demonstrate provisions for adequate surface or subsurface runoff of storm water and snow melt directed to natural drainageways.
2. All natural drainageways draining properties upstream from the subject property shall be identified and preserved, and no structures shall be less than one (1) foot above the water level in the drainageway created by a storm of a 100-year, 24-hour rain event. No filling of areas inundated by the 100-year, 24-hour rain event shall be allowed.
3. Additional runoff for a 100-year, 24-hour rain event from all streets and building sites at build-out shall be accounted for and maintained within the development.
4. Natural or manmade storage areas shall be utilized where needed and shall be designated by drainage and utility easement by the subdivider. All storage areas shall be vegetated and designed to lower naturally after a storm.
5. All drainage structures or improvements provided shall be sufficient in size to pass a 100-year, 24-hour storm event through the natural drainageway.
6. All areas disturbed by grading, street construction or structure installation shall be covered with a minimum of 3-inches natural topsoil and seeded. Drainageways over 2% in gradient shall, at a minimum, be sodded.
7. All parking areas, heavy use areas, storage areas and impervious area shall be diverted to a basin designed to allow entrapment of silts and nutrients prior to discharge to a natural drainageway.
8. There shall be no discharge of untreated stormwater to a water body.

9. Erosion control measures shall be provided as needed to prevent and/or contain erosion.

9.10 Dedication to the Public – Standards.

1. In accordance with the provisions of Section 462.358 of the Minnesota Statutes, or amendments thereto, the subdivider shall dedicate, to the public, lands for highway right of ways, street right of ways, utility easements, wetland easements and similar lands required for perpetual and public improvements.
2. All dedications shall be included in the dedicated portion of the plat, included in the development contract, or received by the City in Warranty Deed prior to the approval of the final plat, without further restrictions or reservations.

SECTION X - IMPROVEMENTS

10.1 Prior to the submission of a Final Plat application and prior to approval of a metes and bounds subdivision, the subdivider shall provide for the construction of the required improvements at their expense and shall have the work completed or shall enter a Development Contract and give bond or other financial assurance satisfactory to the Council in an amount equal to 125% of the estimated cost of the uncompleted improvements except as provided in 10.3. The bond shall be released by the City Council upon the recommendation of the City Engineer indicating the improvements are satisfactorily complete.

10.2 The required improvements shall conform to the standards of Sections IX of this Ordinance and shall include street cross section, signs and lighting in conformance with adopted City standards.

10.3 The subdivider may request the City to construct municipal sewage facilities, municipal water facilities or bituminous street surfacing with all costs to be assessed against the benefited properties. If the City Council agrees, the subdivider shall enter a Development Contract and give a bond or other financial assurance satisfactory to the Council in an amount equal to 50% of the estimated costs. The assessments shall be paid in full upon sale of the property.

10.4 All costs of the City Engineer, City Attorney, Bond Council, financial experts and other professional costs borne by the City in writing and/or executing Development Contracts, estimates of cost, inspectors, financial arrangements, assessments and pursuing legal remedies in event of default by the subdivider, shall be borne by the subdivider or their successors.

10.5 Before final release of the bond, record drawings shall be provided by the applicant documenting final locations of improvements.

SECTION XI - ADMINISTRATION

11.1 Zoning Administrator.

1. The Zoning Administrator shall be appointed by the City Council.
2. Duties of the Zoning Administrator:
 - A. Determine if applications are complete and comply with the terms of the Ordinance.
 - B. Direct or conduct inspections of building, sewage systems and other uses of the land to determine compliance with the terms of the Ordinance.
 - C. Maintain permanent and current records of the Ordinance including, but not limited to,

maps, amendments, Land Use or Use Permits, Conditional Use Permits, Variances, appeals and applications, and a separate file for future conditions or expiration of permits.

- D. Review, file and forward applications for appeals, Variances, Conditional Uses and Zoning amendments in a timely manner.
 - E. Enforce the provisions of this Ordinance by reviewing complaints and by pursuing contacts with any violator in accordance with standard procedures as adopted and modified from time to time.
 - F. Attend meetings and provide research and findings to the Board of Adjustment/Planning Commission.
 - G. Issue permitted Land Use Permits upon application for structures on lots conforming to this Ordinance when the conditions of the Ordinance are met; to issue Conditional Use Permits when directed; to issue notices of a Zoning change when directed.
 - H. To mail a copy of the findings to an applicant.
 - I. To file copies of Conditional Use Permits and Variances with the County Recorder.
 - J. To communicate with the DNR where required by the Ordinance or State Law.
 - K. To ensure that the City Council, Planning Commission and Board Adjustment review land use application or public hearing applications as prescribed by State Statutes.
 - L. To conduct periodic and final inspections with a member of the Planning & Zoning Commission, of property subject to conditions of approval relating to variances, conditional use permits and other land use applications.
 - M. To issue *Land Use Certificates of Compliance*, when applicable.
 - N. To review and act upon applications for the adjustment of a boundary line between two abutting properties, the combination of two or three abutting parcels, and the split of a single parcel into two parcels, as provided in this Chapter.
3. The Zoning Administrator and their duly authorized deputies shall have the right to trespass, consistent with state and federal laws and precedents, within the City of Blackduck in the pursuit of their duties.

11.2 Board of Adjustment.

- 1. The Board of Adjustment shall consist of the members of the Planning Commission, and shall hold its meetings concurrently with the Planning Commission meeting on an as-needed basis at the discretion of the Chairperson. The chairperson and vice-chairperson of the Planning Commission shall have the same duties on the Board of Adjustment.
- 2. Duties and responsibilities of the Board of Adjustment.
 - A. To consider appeals from the action of the Zoning Administrator wherein the Board will take the authority of the Administrator.
 - B. To hold hearings on Variances after proper public notice in the official newspaper and individual notice by regular mail to any property owners within a minimum of 350 feet distance of any Variance in question. Such notice shall be given at least 10 days before the hearing date.
 - C. To recommend to the City Council action on Variances within the required time frame with complete findings to justify the action.
 - D. To keep a record of it's proceedings, notifications and justifications for its actions.

11.3 Planning Commission.

- 1. Organization of the Planning Commission.
 - A. The Planning Commission shall consist of five members and one alternate member

appointed by the City Council. The alternate member shall be a non-voting member unless a regular member is absent, in which case the alternate member shall act as a regular voting member. A Council member shall be a non-voting additional member and shall act as a liaison to the City Council. Each member other than the council liaison shall hold office for 4 years and terms shall be staggered. The Mayor shall appoint the council liaison on an annual basis with the City Council concurrence. Vacancies shall be filled for the remainder of the term by action of the City Council.

- B. The Commission shall elect a chairperson and vice-chairperson from its members for a term of one year.
- C. The Commission shall meet on an as-needed basis at the discretion of the Chairperson. Special meetings shall be advertised in the official newspaper and posted in the City Hall at least 10 days in advance of the meeting.

2. Duties and responsibilities of the Planning Commission under this Ordinance.

- A. To hold hearings after proper public notice in the official newspaper and individual notice by regular mail of any property owners within a minimum of 350 feet of any land use in question. Such notices shall be given at least 10 days before the hearing date.
- B. To decide within the required time frame the following:
 - 1. Recommendations to the City Council regarding requested Zoning District boundary changes or amendments to the Ordinance.
 - 2. To review and provide recommendations to the City Council on proposed plats and to provide recommendations on final plats to the City Council.
 - 3. To review and approve all metes and bounds property divisions within the City that results in parcels that are under 10 acres.
 - 4. To review and provide recommendations to the City Council on requests for Conditional Use Permits with complete findings to justify the decision.
 - 5. To periodically review the Zoning map and Ordinances and consider their role in shaping the growth of the community and to recommend changes to the City Council of these documents to guide growth and current land use toward the goals of the Comprehensive Plan.
 - 6. To review past actions and direct future actions of the Zoning Administrator.
 - 7. To recommend on a timely basis that the City Council review the Comprehensive Plan when appropriate.
 - 8. To keep a record of it's proceedings, notifications and justifications for its actions.
- C. It shall be the duty of each individual member to be present at all meetings of the Planning Commission and Board of Adjustment. More than three absences in any one year period shall be grounds for replacement by the City Council.

11.4 City Council.

- 1. The City Council shall have the following duties under this Ordinance:
 - A. Appoint the Zoning Administrator by a majority vote, or terminate the Zoning Administrator by a 4/5 vote.
 - B. Confirm the appointments by the Mayor of members to the Board of Adjustment/Planning Commission members by a majority vote, or to remove members by a 4/5 vote.
 - C. To decide within the required time frame the following:
 - 1. Recommendations from the Planning Commission for changes in Zoning Ordinance and Zoning District boundaries.
 - 2. Recommendations from the Planning Commission for acceptance of

proposed plats, Conditional Use Permits, final plats, condominium plans and other matters directed to them.

3. Recommendations from the Board Adjustment for acceptance of Variances from this Ordinance.
4. To hear or initiate appeals from the actions of the Board of Adjustment and the Planning Commission where their action is normally final.
5. To direct enforcement of this Ordinance.

11.5 Conditional Use Permits.

1. Conditional Use Permits shall be issued to the property for structures or other specified uses after a public hearing and approval by the Planning Commission. All applications for a Conditional Use Permit shall be submitted to the Zoning Administrator **30** days ahead of the hearing date, accompanied by a certificate of survey (unless waived by the Zoning Administrator) showing the details of the proposal and an accurate legal description, along with the appropriate fee. The fee or contract owner of the property shall sign the application. The Zoning Administrator shall notify all property owners within a minimum of 350 feet by regular mail and shall advertise the hearing once in the legal section of the official newspaper at least 10 days ahead of the public hearing. The Zoning Administrator shall send the same notice 10 days in advance of this hearing to the DNR if the proposed is in shoreland. At the applicant's option, the applicant may request a sketch plan review with no action by the Planning Commission and with no fee by giving 14 days notice thereof to the Zoning Administrator, meeting time permitted.
2. Submissions for C.U.P. The applicant shall complete the Conditional Use Permit application approved by the City Council. The application shall contain submittal requirements, criteria for approval, procedure for consideration and City contact information. The City shall not accept applications where the applicant has past due fees or charges due to the City until the account is made current.
3. In permitting a new Conditional Use or alteration of an existing Conditional Use, the Planning Commission may impose, in addition to the standards and requirements expressly specified by this Ordinance, additional conditions that the Planning Commission considers necessary to protect the best interest of the surrounding area or the City as a whole. These conditions may include, but are not limited to the following:
 - A. Increasing the required lot size or yard dimension.
 - B. Limiting the height, size or location of buildings.
 - C. Controlling the location and number of vehicle access points.
 - D. Increasing the street width.
 - E. Increasing or decreasing the number of required off-street parking spaces.
 - F. Limiting the number, size, location or lighting of signs.
 - G. Requiring berming, fencing screening, landscaping or other facilities to protect adjacent or nearby property.
 - H. Designating sites for open space.
4. The Planning and Zoning Commission shall decide the issue with consideration to the following:
 - A. The following must be met:
 1. The use or development is an appropriate conditional use in the land use zone.
 2. The use or development, with conditions, conforms to the comprehensive land use plan.
 3. The use with conditions is compatible with the existing neighborhood.

4. The use with conditions would not be injurious to the public health, safety, welfare, decency, order, comfort, convenience, appearance or prosperity of the City.
- B. The following must be considered:
 1. The conditional use should not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose permitted on that property, nor substantially diminish or impair values in the immediate vicinity.
 2. The conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
 3. The conditional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
 4. The conditional use will have vehicular approaches to the property which are so designed as not to create traffic congestion or an indifference with traffic on surrounding public thoroughfares.
 5. Adequate measures have been taken to provide sufficient off-street parking and loading space to serve the proposed use.
 6. Adequate measures have been taken or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so none of these will constitute a nuisance and to control lights and signs in such a manner, that no disturbance to neighboring properties will result.
 7. The conditional use will not result in the destruction, loss or damage of a natural, scenic or historical feature of major significance.
 8. The conditional use will promote the prevention and control of pollution of the ground and surface waters including sedimentation and control of nutrients.
5. When costs to the City involved in processing and reviewing an application exceeds the original application fees, the applicant shall reimburse the City for any additional costs. Such expenses may include, but are not limited to, payroll, mailing costs, consultant fees and other professional services the City may need to retain in reviewing permits.
6. Conditional Use Permits may be transferable where requested by an applicant and approved by the Planning Commission.
7. Violations of the conditions of a Conditional Use Permit shall automatically suspend the permit. A review of the violation shall be conducted by the Planning Commission. The Planning Commission shall determine conditions for reinstating the permit or revocation, if applicable.
8. Failure by the owner to act on a Conditional Use Permit within 12 months, or failure to complete the work under a Conditional Use Permit within 2 years, unless extended by the Planning Commission, shall void the permit. A second extension shall require a new public hearing. This provision shall apply to any Conditional Use Permit outstanding at the time of the Ordinance adoption.
9. Appeals from the action of the City shall be filed with District Court within 30 days after City Council action.
10. The Conditional Use Permit shall be filed with the County Recorder within 45 days. The applicant need not wait for filing to proceed.

11.5 Variances.

1. Variances shall not create a use not provided for in a zoning district.

2. Variances shall be issued to the property and are not transferable.
3. Variances shall be issued to the property for structures or other specified uses only after a public hearing and approval by the Board of Adjustment. All applications for a Variance shall be submitted to the Zoning Administrator **30** days ahead of the hearing date, accompanied by a certificate of survey (unless waived by the Zoning Administrator) showing the details of the proposal and an accurate legal description, along with the appropriate fee. The fee or contract owner of the property shall sign the application. The Zoning Administrator shall notify all property owners within a minimum of 350 feet by regular mail and shall advertise the hearing once in the legal section of the official newspaper at least 10 days ahead of the public hearing. The Zoning Administrator shall send the same notice 10 days in advance of this hearing to the DNR if the proposed is in shoreland. At the applicant's option, the applicant may request a sketch plan review with no action by the Planning Commission and with no fee by giving 14 days notice thereof to the Zoning Administrator, meeting time permitted.
4. Submissions for Variances. The applicant shall complete the Variance application approved by the City Council. The application shall contain submittal requirements, criteria for approval, procedure for consideration and City contact information. The City shall not accept applications where the applicant has past due fees or charges due to the City until the account is made current.
5. Variances shall be decided within the required time frame with consideration for the following:
 - A. The strict interpretation of the Ordinance would create undue hardship, and
 - B. The strict interpretation of the Ordinance would be impractical because of circumstances relating to lot size, shape, topographic or other characteristics of the property not created by the land owner, and
 - C. The deviation from the Ordinance with any attached conditions will still be in keeping with the spirit and intent of the Ordinance, and
 - D. The variance will not create a land use not permitted in the zone, and
 - E. The variance will not alter the essential character of the locality, and
 - F. The variance is not for economic reasons alone, but reasonable use of the property does not exist under the Ordinance.
6. When costs to the City involved in processing and reviewing an application exceeds the original application fees, the applicant shall reimburse the City for any additional costs. Such expenses may include, but are not limited to, payroll, mailing costs, consultant fees and other professional services the City may need to retain in reviewing permits.
7. Failure by the owner to act within 6 months on a Variance unless extended by the Board of Adjustment shall void the Variance. A second extension shall require a new public hearing. This provision shall apply to any Variance outstanding at the time of the Ordinance adoption.
8. Appeals from the action of the City Council shall be filed with the District Court within 30 days after Council action.
9. The Variance shall be filed with the County Recorder within 45 days.

11.6 Land Use Permits.

1. Land Use Permits shall be issued for all new structures and any change in structure exterior, plumbing or number of bedrooms, any construction or repair of a sewage system and any

- grading and filling in shoreland not exempted by this ordinance. No person shall assemble, install, repair, remodel, remove or construct any structure prior to applying for and receiving a Land Use Permit.
2. Where a proposed use requires action of the Board of Adjustment, Planning Commission or Council or posting of financial security, said action shall occur and the Conditional Use Permit, Variance, Zoning District change, final plat plan approval, approval of metes and bound division shall be issued or security posted before the Land Use Permit is issued.
 3. Lot corners shall be visible on the lot. The Zoning Administrator may require a new survey when stakes are not visible or have been removed through erosion, construction or other action and require that a new certificate with existing and recorded dimensions shall be provided. If survey monuments are not clearly available to establish the property boundary, a survey shall be required when a structure is proposed to encroach within 150% of a side or front setback or within 110% of an OHW setback or bluff setback.
 4. The City shall not accept applications where the applicant has past due fees or charges due to the City or the County until the account is made current.
 5. No applications shall be accepted by the Zoning Administrator from a contractor or property owner having outstanding violations. Permits can only be issued to contractors or property owners with outstanding violations by majority vote of the Planning Commission after the violation has been resolved to the satisfaction of the Planning Commission.
 6. The Land Use Permit application shall contain the parcel number of the property and the signature of the fee or contract owner of the property or his authorized agent.
 7. Unless extended by the Zoning Administrator, where a Land Use Permit has been issued but no action has occurred within 12 months, the Land Use Permit shall be null and void. Exterior work on the structure shall be complete in 24 months from the issuance of the Land Use Permit. The time limit may be extended up to six months by the Zoning Administrator for good cause. A second extension shall be decided by the Planning Commission.
 8. Granting of a Land Use Permit shall occur when all requirements of the Ordinance have been met, but shall not be considered a statement of compliance with regional, State or Federal codes, statutes or laws or approval of the design of the structure or accessories, or description of the property. Subsequent actions of the Zoning Administrator shall not be considered acceptance of structural components or workmanship, but rather shall be for the purpose of determining general compliance with the Ordinance.
 9. If the Zoning Administrator determines that any violation of the permit or other section of the Ordinance has occurred, the permit shall become null and void.

11.7 Subdivisions

1. Pre-Application Meeting. At the sub divider's option, a pre-application meeting shall be held including the subdivider, City Zoning Administrator, City Planner, City Engineer, if requested by the Zoning Administrator, and the City Clerk. Discussion at this meeting shall be limited to procedure, Ordinance requirements and timing.
2. The City of Blackduck may require that an applicant establish an escrow account or other financial security for the purpose of reimbursing the City for direct costs relating to professional services provided during the review, approval and inspection of the project. The City may charge

- the applicant a rate equal to the value of the service to the City. Services provided by City staff or contract professionals will be billed at an established rate.³
3. Sketch Plan Review Meeting with Planning Commission. At the subdivider's option, a review of a sketch plan will be made by the Planning Commission prior to a public hearing. Discussion at this meeting shall be limited to procedure, Ordinance requirements and timing.
 - A. The subdivider shall submit 9 copies of the sketch plan, 14 days prior to the normal Planning Commission meeting, and request a position on the formal agenda.
 - B. The Planning Commission shall not take action on the proposal, but may make suggestions to facilitate the preparation of an approvable preliminary plat or plan.
 4. Metes and Bounds Subdivision Approval, Subdivisions 10 acres or greater in size and 500 feet or greater in width.
 - A. Shall be subject to approval by the Zoning Administrator if both of the resulting parcels are 10 acres or greater and 500 feet of width or greater.
 - B. Such subdivisions shall be limited to no more than one split of a parcel into two parcels in a three year period of time.
 - C. The proposed legal description for subdivision of land by metes and bounds shall be prepared and certified by a Registered Land Surveyor.
 - D. Approval by the City shall be indicated by the stamp of approval affixed by the City Clerk to said legal description. The County Recorder or Registrar of Deeds may accept each such Certificate for filing and recording upon compliance with these provisions.
 5. Metes and Bounds Subdivision Approval, Subdivisions less than 10 acres in size or less than 500 feet in width.
 - A. Where appropriate, under the provisions of this Ordinance, the subdivider shall submit documents containing the essential information of a proposed plat or plan and including dimensions computed to one hundredth (1/100th) of a foot and bearing computed to equivalent accuracy to the Planning Commission for approval.
 - B. The review of the Planning Commission need not include a public hearing.
 - C. The subdivider shall submit 9 copies of his proposal to the Zoning Administrator 30 days prior to the normal Planning Commission meeting and pay the corresponding fee.
 - D. The Zoning Administrator shall review the proposed lot split for compliance with the Zoning Ordinance including a field review at his discretion.
 - E. The Planning Commission shall decide on the subdivision within the required time based on the resulting lots complying with the Ordinance, the feasibility of the resulting lots for their intended purpose, and the provision for access to adjacent properties. Conditions may be attached to an approval requiring appropriate improvements. No more than one (1) split into two (2) parcels shall be allowed in a three (3) year period of time. An additional parcel for right of way or commonly owned driveway access may also be allowed.
 - F. The decision of the Planning Commission may be appealed to the City Council.
 - G. The resulting land descriptions shall be prepared and signed by a Registered Land Surveyor and shall comply with all provisions of this Ordinance.
 - H. Failure of the subdivider to act after an approval of a Metes and Bounds subdivision within one (1) year shall void the approval unless extended by the Planning Commission. A second extension shall require a new review by the Planning Commission.
 6. Preliminary Plat or Preliminary Condominium Plat Approval. The preliminary Plat or Preliminary Condominium plan approval constitutes formal approval of the concept and design of the subdivision. The Planning Commission review shall include a public hearing and may include a field review at their discretion. All reports of City staff, DNR and Road authorities shall be reviewed and included in the hearing record. Related variance requests, rezoning requests and conditional use requests shall be heard concurrently with a subdivision request.

³ Amended 03/10/10

- A. The subdivider shall submit 9 copies of his proposed plat or condominium plat to the Zoning Administrator 30 days prior to the normal Planning Commission meeting, pay the required fees and request a public hearing.
 - B. The Zoning Administrator shall notify all property owner's within 350 feet, by regular mail and shall advertise the hearing once in the legal section of the official newspaper at least ten (10) days ahead of the public hearing, including sufficient legal property description in the advertisement. The Zoning Administrator shall distribute one (1) copy to each Planning Commission member, if the proposal is adjacent to a County Highway, one (1) copy to the County Engineer, and if the plat is in shorelands, one (1) copy to the DNR postmarked at least ten (10) days before the public hearing for review and comment.
 - C. The Zoning Administrator shall review the proposed plat or plan as to content standards, necessary variances, from the Zoning Ordinance and this Ordinance, necessary rezoning or necessary conditional use permits, and advise the subdivider and the Planning Commission of his findings.
 - D. The subdivider shall make addition application for the necessary permits at least 30 days prior to the normal Planning Commission or Board of Adjustment meeting as applicable, if subdivider desires to have a concurrent public hearing for variance, conditional use or rezoning.
 - E. The Planning Commission shall hold the Public Hearing and may continue the hearing as it deems necessary to allow all factual input it deems necessary to allow a decision. Lack of submission of comments by outside agencies shall be construed to mean the agency has no objections.
 - F. The Planning Commission shall act on the Preliminary Plat or Preliminary Condominium Plat within the required timeframe, and the findings shall be sent to the subdivider. The Planning Commission shall consider the following in it's decision:
 - i. Is the property properly zoned?
 - ii. Does the proposal conform to the requirements of the Zoning Ordinance?
 - iii. Does the proposal conform to the requirements of the Subdivision Ordinance?
 - iv. Have the concerns of the affected agencies been addressed?
 - G. The City Council will hear any appeal within thirty (30) days of the Planning Commission action and will re-notify anyone noticed for the Public Hearing. Said appeals will be filed with the City Clerk within fifteen (15) days of the decision.
 - H. Failure of the subdivider to act after an approval of Preliminary Plat or Preliminary Condominium Plat within one (1) year shall void the approval unless extended by the Planning Commission. A second extension shall require a new public hearing.
7. Final Plat or Final Condominium Plat Approval. Upon approval by the Planning Commission, the subdivider shall cause the Final Plat or Final Condominium Plat, documents and concurrent documents to be prepared and submitted to the Planning Commission for recommendation to the City Council. All coincident variance requests, conditional use permit requests and/or rezoning requests shall either have been decided or be pending approval simultaneously with the Final Plat.
- A. The subdivider shall submit 9 paper copies of the Final Plat or Final Condominium Plat and concurrent documents to the Zoning Administrator 30 days prior to the Planning Commission meeting.
 - B. The Zoning Administrator shall distribute the information received to the City Attorney, the City Engineer and an independent Registered Land Surveyor, who shall review the submission for conformance with the standards and comment thereupon to the Planning Commission. The Zoning Administrator shall compare the Final Plat to the Preliminary Plat and comment thereupon. The Attorney shall ascertain that all parties with an interest in the parcel to be divided are indicated as signers of the documents. The Engineer shall determine that the improvements required have been completed or

- have been included in a development contract and that the required security has been posted with the City Council. The independent Registered Land Surveyor shall compare the approved Preliminary Plat with the Final Plat, provide a plat check of the Final Plat, and verify that the Final Plat meets the survey standards required by Minnesota Statutes.
- C. The Planning Commission shall review the reports of the Attorney, Engineer, Zoning Administrator and independent Registered Land Surveyor and act within the required timeframe. The Planning Commission shall consider the following:
 - i. Has the applicant complied with all conditions and requirements upon which the preliminary approval is expressly conditioned wither through performance or execution of appropriate agreements assuring performance?
 - ii. Does the Final Plat or Final Condominium Plat agree with the Preliminary Plat or Preliminary Condominium Plat?
 - iii. Does the City Attorney agree that all parties with an interest in the property are shown as signers of the document?
 - iv. Does the City Engineer agree that all improvements required are satisfactorily completed or are guaranteed by contract with adequate financial security?
 - v. Does an independent Professional Land Surveyor agree the final document meets the statutory requirements?
 - vi. Has financial security been posted in the appropriate amount?
 - D. Following approval by the Planning Commission, the subdivider shall submit to the Zoning Administrator, two (2) double mounted cloth backed prints on card stock (hard-shells) and two (2) mylar prints of the Final Plat or Final Condominium Plat for signature by the Mayor and Clerk.
 - E. Upon signature, the subdivider shall file all pertinent documents with the County Recorder. Failure to file a Final Plat or Plan, within two (2) years shall void the approval unless extended by the Planning Commission.

11.8 Boundary Line Adjustment.

1. A boundary line adjustment is the exchange of abutting land between owners through the relocation of the boundary line between two abutting, existing parcels of property, which does not result in the creation of a new parcel or the complete removal of an existing parcel.
2. No boundary line adjustment may result in a lot that is substandard for the applicable zoning district in which it lies or may expand the substandard character of an existing substandard lot.
3. No boundary line adjustment shall create a need for a new road.
4. To initiate a boundary line adjustment, two abutting property owners shall jointly submit a signed application to the Zoning Administrator on a form provided by the Zoning Administrator and submit the required fee. Included with the application shall be a certificate of survey prepared by a licensed surveyor identifying the following:
 - a. Scale at not larger than one inch equals 100 feet.
 - b. Name, address and phone number of property owners.
 - c. North point indication.
 - d. Boundaries, dimensions and area of existing lots and the lots after the proposed line adjustment.
 - e. Legal descriptions of the existing and new lots.
 - f. Easements of record.
 - g. Water courses.
 - h. All encroachments, easements and rights-of-way.
 - i. Existing buildings within the two parcels and those within 25 feet of the boundaries.
 - j. Locations and names of all public streets, rights-of-way, and railroad rights-of-way within 100 feet of the outside boundaries of the parcels.
 - k. Location of any abandoned wells.

1. Additional data as required by the Zoning Administrator.
5. The Zoning Administrator is authorized to request additional information or waive the submission of required information in the Zoning Administrator's discretion.
6. The Zoning Administrator shall reach a decision on the application within 60 days of receipt of a complete application unless the applicants agree to an extension.
7. If approved, the applicants shall record the deed effectuating the boundary adjustment in the County Recorder's Office within 90 days of the date of approval, along with the accompanying survey. Failure to record the deed within said timeline shall render the Zoning Administrator's decision void.

11.9 Parcel Combination.

1. For purposes of this section, a parcel combination is the consolidation of two or three parcels resulting in a single parcel conforming to zoning standards, or a single parcel that is more conforming than the conditions existing prior to the combination.
2. All parcels to be combined must be in common ownership.
3. To initiate a parcel combination, the property owner shall submit a signed application to the Zoning Administrator on a form provided by the Zoning Administrator and submit the required fee. Included with the application shall be a certificate of survey prepared by a licensed surveyor identifying the information set forth in Section 11.8(4) above.
4. The Zoning Administrator is authorized to request additional information or waive the submission of required information in the Zoning Administrator's discretion.
5. The Zoning Administrator shall reach a decision on the application within 60 days of receipt of a complete application unless the applicants agree to an extension.
6. If approved, the applicant shall record the Zoning Administrator's approval effectuating the parcel combination in the County Recorder's Office within 90 days of the date of approval, along with the accompanying survey. Failure to record said documents within the timeline shall render the Zoning Administrator's decision void.

11.10 Parcel Split.

1. For purposes of this section, a parcel split is the division of a single parcel into two parcels, each of which conforms to existing zoning standards, including access to an improved public street. Splitting a non-conforming parcel under this procedure is prohibited.
2. To initiate a property split, the property owner shall submit a signed application to the Zoning Administrator on a form provided by the Zoning Administrator and submit the required fee. Included with the application shall be a certificate of survey prepared by a licensed surveyor identifying the information set forth in Section 11.8(4) above.
3. The Zoning Administrator is authorized to request additional information or waive the submission of required information in the Zoning Administrator's discretion.
4. The Zoning Administrator shall reach a decision on the application within 60 days of receipt of a complete application unless the applicants agree to an extension.
5. If approved, the applicant shall record the Zoning Administrator's approval effectuating the property split in the County Recorder's Office within 90 days of the date of approval, along with the accompanying survey. Failure to record said documents within the timeline shall render the Zoning Administrator's decision void.

11.11 Fees.

The Council shall adopt a schedule of fees from time to time for all permits. No permit shall be issued, or request brought before the Board of Adjustment or Planning Commission until the fees are paid. All late applications shall require the payment of an after-the fact fee as outlined in the fee schedule.

The City shall not accept applications where the applicant has any past due fees or charges due to the City until the account is made current.

11.12 Financial Requirements

Applications will not be accepted as complete where an applicant has any utility charges, delinquent taxes, delinquent assessments or other fees past due with the City or County. The past due account must be paid to bring the account current before an application will be accepted.

When costs associated with processing or reviewing an application exceed the original application fees, the applicant shall reimburse the City for any additional costs. Such expenses may include, but are not limited to, payroll, mailing costs, consultant fees and other professional services the City may need to hire in reviewing permits. Outstanding fees shall be paid before issuance of the permit and any construction of the project begins.

11.13 Required Decision Making Time Frames.

The City will do everything in its power to expedite the application review process and provide applicants with timely feedback on their requests.

Pursuant to Minnesota Statutes, Chapter 15.99, as amended, the City of Blackduck establishes the following time frames for decisions made on all land use requests before the City, including Variances, Conditional Use Permits, Zoning District Boundary Changes, Zoning Ordinance Amendments, Appeals of Decisions by the Zoning Administrator or Planning Commission and Land Use Permits.

It shall be the applicant's responsibility to submit a completed application packet, which shall by definition include the application forms approved by the City, site plan with all information required by this ordinance and remit proper fees for the land use application. Once the Zoning Administrator or appointee has received the completed application packet, the review time frame shall commence. The Zoning Administrator shall notify applicants in writing when a completed application has been received.

The City shall within sixty (60) days of the receipt of a completed application, make a decision on the request. A determination shall be either a recommendation to another body or a final action approving or denying a request. Time frames for other reviews required by statutes or other government units shall not be counted as time during the local decision making process. Once the other agency or governmental unit has made their determination, the time frame for local review shall again commence.

If the City is unable to make a proper determination within the prescribed sixty (60) day time frame, it shall have the right to extend the time frame another sixty (60) days. The City shall, in writing, notify the applicant that it is unable to complete the review process and state the specific reasons why the process must be extended.

If the City is unable to make the final determination within 120 days of the original application date, it shall, in writing, request an extension from the applicant. The applicant shall have the authority to approve or deny the request for an extension.

SECTION XII - ENFORCEMENT

12.1 Violations and Penalties.

The violation of any provision of this ordinance or the violation of the conditions or provisions of any permit issued pursuant to the Ordinance shall be a misdemeanor, and upon conviction thereof, the violation shall be subject to a fine designated on the fee schedule or imprisonment for a term not to exceed 90 days or both. Each act of violation and every calendar day on which such violation occurs or continues shall be a separate offense.

12.2 Liability of City Officials.

The failure of any officer of the City or Board or employees of the City to act pursuant to this Ordinance, except as an individual acting in his own behalf, shall not be an offense and shall not subject the officer, Board or employee to any penalty except those provided under the City personnel policies.

12.3 Equitable Relief.

In the event of a violation or threatened violation of any provision of this ordinance or the conditions of any permit issued pursuant to the ordinance, the City, in addition to other remedies, may act or institute action to prevent, restrain, correct or abate such violation or threatened violation.

SECTION XIII - SEPARABILITY, SUPREMACY, EFFECTUATION, AMENDMENTS, NOTICES

13.1 Separability.

Every section, provision or part of this Ordinance or any permit issued pursuant to this Ordinance is declared separable from every other section, provision or part thereof to the extent that if any section, provision or part of this Ordinance or any permit issued pursuant to this Ordinance shall be held invalid by a court of competent jurisdiction, it shall not invalidate any other section, provision, or part thereof.

13.2 Supremacy.

When any condition implied by this Ordinance on the use of land or buildings is more restrictive or less restrictive than applicable conditions imposed by statute, rules and regulations, other City ordinance or regulation or other jurisdiction, the more restrictive shall apply. The Ordinance does not abrogate any easements, restriction or covenants imposed on the land by private declaration or agreement, but where such provisions are less restrictive than an applicable of this Ordinance, the Ordinance shall prevail.

13.3 Effectuation.

This Ordinance shall be in full force and effect from and after its passage by the City Council and subsequent publication.

13.4 Amendment.

The City Council may adopt amendments by 4/5 vote to either the Zoning Ordinance, Zoning Map or Overlay Maps in relation to the land uses within a District or the boundaries of the District(s). Such amendments shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals of the community or changes in the conditions of the City.

1. Procedure.

- A. An amendment may be initiated by the Planning Commission or by any property owner.
- B. The Zoning Administrator shall review the proposed changes and make a recommendation to the Planning Commission.
- C. The Planning Commission shall make a reasonable attempt to cause all property owners within a minimum of 350 feet of proposed Zoning District change to be notified by regular mail and shall publish a hearing notice for either a Zoning District change or Zoning Ordinance change in the legal section of the official newspaper and shall provide notice to the DNR at least 10 days ahead of the public hearing. The Planning Commission shall hold the hearing and make a timely recommendation to the City Council. Adoption of a new Zoning map shall require published notice only. The Planning Commission shall consider the criteria for land use categories, Sec 5.1(7), in its decision.
- D. The City Council shall review the recommendations and shall make a timely decision. An amendment requires a 4/5 vote to be enacted.
- E. The City Clerk shall publish a summary of the text of the change or description of boundary change or a new Zoning map, whichever is appropriate, in the official newspaper within 30 days after action by the Council.

13.5 Notices.

Failure to receive notice called for by this Ordinance shall not invalidate any action taken by the City so long as the City acted reasonably in its attempt to provide such notice.