

SECTION 21. OFF-STREET LOADING

Subdivision

- 21.01 Purpose
- 21.02 Design
- 21.03 Number of Loading Spaces Required
- 21.04 Landscaping and Screening of Loading Spaces
- 21.05 Location

21.01 PURPOSE: The purpose of the regulation of loading spaces in these zoning regulations is to alleviate or prevent congestion of the public right-of-way so as to promote the safety and general welfare of the public, by establishing minimum requirements for off-street loading and unloading from motor vehicles in accordance with the specific and appropriate utilization of various parcels of land or structure.

21.02 DESIGN:

- A. Dimensional Requirements:
 - 1. Non-Residential Uses: Required off-street truck loading or unloading spaces for non-residential uses shall be at least twelve (12) feet in width, fourteen (14) feet in height, and sixty (60) feet in length, in accordance with the requirements of Subd. 21.02.2.B of this Ordinance. Where a loading space parallel to a building is to be utilized, such area shall not be less than twelve (12) feet in width nor less than sixty-five (65) feet in length. In no instance shall any designated side loading space encroach upon a fire lane or driving aisle or parking spaces.
 - 2. Reductions: Reductions to loading space size may be granted by the Zoning Administrator upon demonstration of facility need.
- B. All maneuvering for off-street loading shall be accomplished on private property.
- C. In addition to the required loading space, all loading spaces shall include a maneuvering area. The maneuvering area shall not use any of that portion of the site containing parking stalls or customer service areas. Maneuvering areas shall be of such size as to permit the backing of truck tractors and coupled trailers into the loading space, without blocking the use of other loading spaces, drives, parking spaces, or maneuvering areas on public right-of-way.
- D. The construction and setback standards listed in Section 20 of this Ordinance shall apply to all loading spaces.

- E. Customer drop off spaces shall not constitute off-street loading spaces as may be required by Section 20 of this Ordinance.

21.03 NUMBER OF LOADING SPACES REQUIRED: The number of required off-street loading spaces shall be as follows:

GROSS FLOOR AREA OF NON-RESIDENTIAL USE (SQUARE FEET)	REQUIRED NUMBER OF LOADING SPACES*
Less than 10,000	1
10,001 to 20,000	2
20,001 to 50,000	3
50,001 to 75,000	4
75,001 to 100,000	5
For each additional 50,000 over 100,000	1

* Reductions to loading space quantity requirements may be granted by the Zoning Administrator upon determination of facility need.

21.04 LANDSCAPING AND SCREENING OF LOADING SPACES: Loading spaces shall be screened from all property lines. Said screening shall be accomplished by a solid wall or fence and shall be so designed as to be architecturally harmonious with the principal structure and in conformance with Section 15.06 of this Ordinance. Screening plantings may be substituted, provided such plantings are in conformance with Section 15.07 to this Ordinance.

21.05 LOCATION:

- A. Off-Street: All required loading spaces for a non-residential use shall be off-street and located on the same lot as the building or use to be served.
- B. Distance from Intersection: All loading space curb cuts shall be located at minimum fifty (50) feet from the intersection of two (2) or more street rights-of-way. This distance shall be measured from the property line.
- C. Distance from Residential Use: Loading areas established after _____ shall be prohibited within three hundred (300) feet of residentially zoned or guided property excluding public rights-of-way, unless completely screened by an

intervening building. Loading areas not requiring screening by an intervening building shall be screened from adjacent residentially zoned or property or property designated for such use by the Comprehensive Plan by the use of berms, fences, or walls to provide one hundred (100) percent opacity to a height of at least ten (10) feet.

- D. Pedestrians: Loading spaces shall not conflict with pedestrian movement.
- E. Visibility: Loading spaces shall not obstruct the view of the public right-of-way from off-street parking access.
- F. General Compliance: Loading spaces shall comply with all other requirements of this section.
- G. Traffic Interference: Each loading space shall be located with appropriate means of vehicular access to a street or public alley in a manner which will cause the least interference with traffic.
- H. Accessory Use, Parking, and Storage: Required loading spaces shall not be used for the storage of goods, inoperable vehicles or snow and shall not be included as part of the space requirements to meet off-street parking requirements.

SECTION 22. LAND FILLING AND LAND EXCAVATION/GRADING OPERATIONS

Subdivision

- 22.01 Permit Required
- 22.02 Application and Required Information
- 22.03 Technical Reports
- 22.04 Issuance of Permit
- 22.05 Conditions of Permit
- 22.06 Security
- 22.07 Failure to Comply
- 22.08 Completion of Operation
- 22.09 Operations in Process

22.01 PERMIT REQUIRED:

- A. Except for City landfilling and land excavation/grading operations, and in cases where a grading and drainage plan for a private development has been approved as part of a subdivision or other development plan approved by the City, or as may be otherwise stipulated by this Ordinance, any person who proposes to add landfill or extract sand, gravel, black dirt, or other natural material from the land or grade land in excess of fifty (50) cubic yards within the City limits, shall apply to the City for a permit as specified below:

CUBIC YARDS OF LANDFILL OR LAND TO BE EXCAVATED/ GRADED	PERMIT REQUIREMENT
Less than 50	No permit required
51 - 250	Administrative permit as provided in Section 6 of this Ordinance
Greater than 250	Interim use permit as provided in Section 5 of this Ordinance

- B. Notwithstanding the requirements of this section, no permit will be required for depositing landfill or excavation/grading on a lot for which a building permit has been issued for construction thereon provided that such activity is in accordance with an approved grading plan.
- C. Activities which qualify as mining operations shall be subject to this section.

- D. Except for mining activities, landfilling and land excavation/grading operations are an allowable activity within all zoning districts.

22.02 APPLICATION AND REQUIRED INFORMATION:

- A. Any person desiring a permit hereunder shall file an application on such forms as shall be provided by the Zoning Administrator. Such application shall be accompanied by a fee as established by City resolution and one (1) large scale copy and one (1) reduced scale (not less than 11 inches by 17 inches) copy of detailed written and graphic materials fully explaining the proposed land filling or land excavation operation. If, in the opinion of the Zoning Administrator, reduced scale drawings (11 inches by 17 inches) are determined to be illegible, the submission of larger scale materials shall be required. The scale of such materials shall be the minimum necessary to ensure legibility. The request shall be considered as being officially submitted and complete when the applicant has submitted and complied with all the following required information, as applicable and specified by the Zoning Administrator:
 - 1. The name and address of the applicant.
 - 2. The name and address of the owner of the land.
 - 3. The address and legal description of the land involved.
 - 4. The purpose of the landfill or excavation/grading activity.
 - 5. A description of the type and amount of material to be placed upon or excavated/graded from the premises.
 - 6. The source of fill material.
 - 7. The highway, street or streets, or other public ways in the City upon and along which any material is to be hauled or carried.
 - 8. An estimate of the time required to complete the landfill or excavation/grading.
 - 9. A site plan showing present topography (with a minimum interval of two (2) feet) and also including boundary lines for all properties, water courses, wetlands and other significant features within three hundred fifty (350) feet.
 - 10. A site plan showing the proposed finished grade (with a minimum interval of two (2) feet) and landscape plan. Erosion control measures shall be provided on such plan. Final grade shall not adversely affect the surrounding land or the development of the site on which the landfill is being conducted.

Top soil shall be of a quality capable of establishing normal vegetative growth.

11. A plan and/or statement demonstrating the proposed activity will in no way jeopardize the public health, safety and welfare or is appropriately fenced to provide adequate protection.
12. A statement that the applicant will comply with all conditions prescribed by the City.
13. A written right-of-entry is provided to the Zoning Administrator to enter the land for the purpose of determining compliance with all applicable conditions imposed on the operation.
14. Other information as may be specified by the Zoning Administrator.

22.03 TECHNICAL REPORTS: The Zoning Administrator shall immediately, upon receipt of a completed application, as determined by preliminary staff review, forward a copy thereof to the City Engineer and the City Building Official. Where protected watersheds, floodplains, and/or protected wetlands are in question, the Minnesota Department of Natural Resources and Army Corps of Engineers shall also be contacted. These technical advisors shall be requested to prepare reports, as applicable, for the City Council and/or Zoning Administrator.

22.04 ISSUANCE OF PERMIT: Upon receiving information and reports from the City staff and other applicable agencies, as applicable, the City Council or the Zoning Administrator shall make its determination as to whether, and when, and under what conditions such permit for a landfill or excavation/grading activity is to be issued to the applicant.

22.05 CONDITIONS OF PERMIT:

A. Landfill Operations:

1. Under no circumstances shall any landfill operation be conducted or permitted if the contents of the landfill or any part thereof shall consist of garbage, animal or vegetable refuse, poisons, contaminants, chemicals, decayed material, filth, sewage or similar septic or biologically dangerous material deemed to be unsuitable by the City.
2. Unless expressly extended by permit, the hours of operation shall be limited to 7:00 AM to 7:00 PM, Monday through Saturday.

B. Land Excavation/Grading Operations:

1. The City, as a prerequisite to the granting of a permit, or after a permit has been granted, may require the applicant to whom such permit is issued, or the owner or user of the property on which the excavation/grading is located to:
 - a. Properly fence the excavation.
 - b. Slope the banks, and otherwise properly guard to keep the excavation in such condition as not to be dangerous from caving or sliding banks.
 - c. Properly drain, fill in or level the excavation, after it has been created, so as to make the same safe and healthful as the City shall determine.
 - d. Keep the excavation/grading within the limits for which the particular permit is granted.
 - e. Remove excavated/graded material from the excavation, away from the premises upon and along such highways, streets or other public ways as the City shall order and direct.
 - f. Retain and store top soil from the site in question and to utilize such materials in the restoration of the site.
2. Unless expressly extended by permit, the hours of operation shall be limited to 7:00 AM to 7:00 PM, Monday through Saturday.

22.06 SECURITY: The City shall require either the applicant or the owner or user of the property on which the landfill or excavation/grading is occurring to post a security in such form and sum as determined by the Zoning Administrator. The amount of the security shall be sufficient to cover the extraordinary costs of the City or any other Road Authority for the expense of repairing, from time to time, any highways, streets or other public ways where such repair work is made necessary by the special burden from hauling and travel in transporting fill or excavated material. The amount of the security shall also be sufficient to insure compliance with all requirements of this section, and the particular permit, and to pay the expense the City or any other Road Authority may incur as a result of the permit.”

22.07 FAILURE TO COMPLY: The City may, for failure of any person to comply with any requirement made of them in writing under the provisions of such permit, as promptly as same can reasonably be done, proceed to cause said requirement to be complied with, and the cost of such work shall be certified as an assessment against the property whereon the landfill or excavation/grading operation is located, or the City may at its option

proceed to collect such costs by an action against the person to whom such permit has been issued, and their superiors if a bond exists. In the event that landfilling or excavation/grading operations requiring a permit are commenced prior to City review and approval, the City may require work stopped and all necessary applications filed and processed. In such cases, application fees shall be double the normal charge.

22.08 COMPLETION OF OPERATION:

- A. All landfill and excavation operations shall be completed within three hundred sixty five (365) days of the issuance of the permit. Upon completion the permit holder shall notify the Zoning Administrator in writing of the date of completion. If additional time beyond the three hundred sixty five (365) days is need for completion, the permit holder may apply to the Zoning Administrator and upon a satisfactory showing of need, the Zoning Administrator may grant an extension of time. If such extension is granted, it shall be for a definite period. Extensions shall not be granted in cases where the permit holder fails to show that good faith efforts were made to complete the landfill or excavation/grading operation within three hundred sixty five (365) days and that failure to complete the operation was due to circumstances beyond the permit holder's control such as shortage of fill or excavated material, labor strike, unusually inclement weather, illness or other such valid and reasonable excuse for non-completion. In the event a request for an extension is denied, the permit holder shall be allowed a reasonable time to comply with other provisions of this section relating to grading, leveling and seeding or sodding. What constitutes such "reasonable time" shall be determined by the Zoning Administrator after inspecting the premises.

- B. At the completion of a landfill or excavation/grading operation, the premises shall be graded, leveled or sodded with grass and/or otherwise returned to previous use or condition. The grade shall be such elevation with reference to any abutting street or public way as the City shall prescribe in the permit. The site shall also conform to such prerequisites as the City may determine with reference to storm water drainage runoff and storm water passage or flowage so that the landfill or excavation cannot become a source of, or an aggravation to, storm water drainage conditions in the area. The Zoning Administrator shall inspect the project following completion to determine if the applicant has complied with the conditions required thereof. Failure of such compliance shall result in the withholding of any building permits for the site and notice of such withholding shall be filed in the office of the Stearns County Recorder for the purposes of putting subsequent purchasers on notice.

22.09 OPERATIONS IN PROCESS: All landfill and excavation/grading operations for which a permit has previously been issued shall terminate such operations on the date specified by the permit.

SECTION 23. FARMS

Subdivision

- 23.01 Allowed Use
- 23.02 Building Permits
- 23.03 Irrigation Systems
- 23.04 Accessory, Second Residential Dwellings (Temporary)
- 23.05 Animals
- 23.06 Temporary, Seasonal Sale of Products Produced on Site
- 23.07 Animal Feedlots

23.01 ALLOWED USE: Farms, farmsteads, and farming shall be allowed pursuant to respective zoning district provisions.

23.02 BUILDING PERMITS: The construction of any building or applicable structure on a farm, unless specifically exempted shall require a building permit and be in compliance with the Uniform Building Code.

23.03 IRRIGATION SYSTEMS: All proposed irrigation systems shall require a permit from the Minnesota Department of Natural Resources and shall be subject to the approval of the City Engineer.

23.04 ACCESSORY, SECOND RESIDENTIAL DWELLINGS (TEMPORARY):

- A. Such structures and uses are classified as an interim use and regulated pursuant to Section 5 of this Ordinance.
- B. Such structures may only be manufactured (mobile home) housing units which can be readily removed from the site.
- C. Such structures may only be allowed for and occupied by a family, one (1) member of which is an employee of the farm on which it is located.
- D. Conditions of approval shall include, but not be limited to:
 - 1. The structure meets all applicable zoning district performance standards.
 - 2. The established property access is jointly utilized by the interim use and the

principal residence on the farmstead unless specifically exempted by the City Council.

3. The existing on site sewer system and well is used by the temporary dwelling, unless specifically exempted by the City Council.
 4. Before the temporary dwelling is located on the site, it shall be inspected by and subject to the approval and requirements of the City Building Official.
 5. The manner in which and the requirements for securing the temporary dwelling on the site shall be subject to the review and approval of the City Building Official.
 6. Upon termination of occupancy by a qualified individual or family, the temporary dwelling shall be removed within ninety (90) days of such date unless a time extension, requested in writing by the property owner is approved by the City Council.
- E. The occupant of the temporary dwelling or the property owner shall provide proof of employment of the occupant of the temporary dwelling by the farm on which the interim use is located by submitting a federal income tax 1040 form each year between the dates of 1 January and 15 April. Failure of the occupant to qualify as an employee of the farm shall constitute a termination of the interim use permit and shall require the removal of the temporary dwelling within ninety (90) days from such date unless a time extension, requested in writing by the property owner, is approved by the City Council.

23.05 ANIMALS: The keeping of animals on farms shall be regulated by Sections 23.07 and 24 of this Ordinance as may be applicable.

23.06 TEMPORARY, SEASONAL SALE OF PRODUCTS PRODUCED ON SITE:

- A. A-1, Agricultural Zoning District: Within the A-1 Zoning District, the temporary seasonal sale of products produced solely on site of the respective farm is a permitted accessory use, provided that:
1. Only members of the family occupying the residence on the farmstead are engaged in such activity.
 2. Only temporary, unenclosed display facilities are used to exhibit such items.
 3. Adequate off-street parking is provided and no parking related to such sales occurs on the public right-of-way.

4. Signs:
 - a. Are located only on the private property of the farm owner/operator and are no more than one hundred (100) feet from the point of sale.
 - b. Are limited to no more than two (2) structures totaling no more than sixteen (16) square feet.
 - c. Are erected and removed daily and are not to be displayed at times when the sales operation is closed.

- B. Other Zoning Districts: The temporary, seasonal sale of products produced solely on the site of the respective farm may be allowed in zoning districts other than Agriculture A-1 Districts subject to the approval of an administrative permit, provided that:
 1. The standards and requirements are specified in Subd. 23.06.A are complied with.
 2. The provisions of Section 6 of this Ordinance are considered and determined to be satisfied.

23.07 ANIMAL FEEDLOTS:

- A. Purpose: The purpose and intent of this section is to:
 1. Establish a procedure for the allowance of feedlots within the City.
 2. Regulate the location, development, and expansion of feedlots.
 3. Promote best farm management practices.
 4. Protect valuable ground water and surface water resources.
 5. Protect human and animal health.
 6. Promote compatibility of uses.
 7. Coordinate and assist state agencies in the administration of state-wide statutes and regulations governing livestock operations.

- B. Minnesota Pollution Control Agency (MPCA) Feedlot Permit Requirements: The owner of an existing animal feedlot of greater than ten (10) animal units shall make

an application to the Minnesota Pollution Control Agency (MPCA) for an animal feedlot permit when any of the following conditions exist:

1. A new feedlot is proposed where a feedlot did not previously exist.
2. A change in operation of an existing animal feedlot is proposed.
3. A National Pollutant Discharge Elimination System (NPDES) permit is required under state or federal rules and regulations.

C. Allowed Feedlots: Those feedlots which do not constitute a potential pollution hazard and meet the applicable requirements of this Ordinance shall be allowed within the City on the condition that they obtain a certificate of compliance by the MPCA, as required.

D. Prohibited Feedlots:

1. New feedlots located within the urban service area, urban service reserve area, or long range urban service area, as defined by the Comprehensive Plan.
2. New feedlots located within the agriculture preserve-rural service area, defined by the Comprehensive Plan, that exceed seven hundred (700) animal units.
3. Expansions of existing feedlots that exceed the following cumulative number of animal units:

	<u>District Designation</u>	<u>Max No. of Animal Units</u>
a.	Urban Service Area	10
b.	Long Range Urban Service Area	250
c.	Urban Service Reserve Area	400
d.	Agricultural Preserve-Rural Service Area	700

NOTE: See St. Augusta Comprehensive Plan for District Boundary Designations.

E. Destruction of Animal Feedlots: Notwithstanding Section 14.04.A of this Ordinance, any animal feedlot lawfully existing as a non-conforming use and any structures or buildings lawfully existing and which are used for the purpose of containing animals associated with a non-conforming animal feedlot use, which are destroyed or partially destroyed to the extent of more than fifty (50) percent of its fair market value, may be restored and the same use resumed (if such use was lawfully existing

as a non-conforming use prior to such damage and destruction) or any conforming use established, provided that such reconstruction be completed within twelve (12) months after the date of such damage or destruction.

F. Pollution Control Requirements:

1. Purpose: The purpose of this Section is to provide restrictions on feedlot operations as restrictive as, or more so, than existing State regulations regarding pollution or potential pollution hazards.
2. General Requirement: No animal feedlot or manure storage area shall be constructed, located, or operated so as to create or maintain a potential pollution hazard unless a certificate of compliance or an animal feedlot permit has been issued by the MPCA.
3. Vehicles and Spreaders: All vehicles used to transport animal manure on City, County, State, and interstate highways shall be leak-proof. Manure spreaders with end gates shall be in compliance with this provision provided the end gate works effectively to restrict leakage and the manure spreader is leak-proof. This shall not apply to animal manure being hauled to fields adjacent to feedlot operations or fields divided by roadways provided the animal manure is for use as domestic fertilizer.
4. Manure Storage: Animal manure, when utilized as domestic fertilizer, shall not be stored for longer than one (1) year and shall be applied at rates not exceeding local agricultural crop nutrient requirements except where allowed by permit. Local agricultural crop nutrient requirements can be obtained at the Stearns County Soil Conservation Service office or local Agricultural Extension Service office.
5. Animal Manure: Any animal manure not utilized as domestic fertilizer shall be treated or disposed of in accordance with applicable State rules.
6. Owner's Duties: The owner of any animal feedlot shall be responsible for the storage, transportation, and disposal of all animal manure generated in a manner consistent with the provisions herein.
7. Odors: Feedlot operations shall take responsible measures to minimize odors.
8. Variance: Any feedlot may request a variance in accordance with Section 7 of this Ordinance where rules may not apply or create a unique hardship due to conditions not created by the feedlot operator or owner.

G. Information Requirement:

1. A map or aerial photograph indicating dimensions of feedlot, showing all existing homes, buildings, lakes, ponds, water courses, wetlands, dry runs, rock outcroppings, streets, wells, contour and surface water drainage encompassing the maximum setback distances of Section 23.06 of this Ordinance.
2. A description of the geological condition, soil types and seasonal high water table.
3. A plan indicating operational procedure, the location and specifics of proposed animal waste facilities. The quantity and type of effluent to be discharged from the site.
4. Method/plan for disposal of dead animals shall be consistent with the Minnesota Board of Animal Health regulations.
5. Manure Utilization Plan which will include the location of all manure application sites, crop types, application rate in gallons/acre or tons/acre, and the resulting application rate of N, P and K in pounds/acre. Manure application shall not exceed agronomic rates or to build N, P and K levels beyond the soil capability of holding and utilizing them for crop use, for the prevention of leaching and potential non-point pollution problems, as determined by the Stearns County Extension Educator and the Minnesota Extension Service.
6. Land spreading agreements shall be provided if the applicant does not own the minimum acreage to apply animal waste and the land application agreement must be signed by all owners of the property.
7. Methods used to control or mitigate odor impact upon neighboring properties.
8. A plan for proper closure of the facility including an estimated cost of the same.
9. In cases of feedlot expansions, certification of existing animal units upon the property.
10. Any other additional information as contained in the application and requested by the City or MPCA.

H. Feedlot Setbacks:

1. Existing Feedlots: Lawfully established feedlots existing prior to (effective date of ordinance) may be continued in the location existing on such date and are exempt from the setback requirements of this Ordinance.

Expansions to existing feedlots shall be in compliance with the setback provisions as established by Section 23.07.G.2 below. Legal non-conforming feedlots may be expanded provided the degree of setback non-conformity is not increased and all other applicable standards of operation specified in this Ordinance are satisfactorily met.

2. New Feedlots and Feedlot Expansions: All new feedlots and feedlot expansions shall comply with each and every one of the following setback requirements:

Category	Required Setback
Shorelands as defined by the Stearns County Shoreland Management Ordinance	Prohibited unless otherwise allowed by the MPCA
100 year floodplains as established on insurance rate maps and the flood insurance study for Stearns County	Prohibited
Public Parks	2,640 feet (1/2 mile)
Public Wells	1,000 feet
County, City and private drainage ditches	100 feet
Private Residences and Wells	500 feet*

* Setbacks may be reduced to 150 feet upon the City's receipt of written permission of affected property owners.

- I. Manure Stockpile/Application Setbacks: The following manure stockpile and application setbacks are required for all new and expanded feedlots:

1. SEPARATION DISTANCE (FEET)			
	Surface Spreading	Incorporation or Injection	Irrigation
Streams or Rivers	*	50	200
Lakes	*	100	300

Water Wells	200	200	200
Sink Holes	100	50	200
Individual Dwelling**	100	50	2,000
Public Roadways	25	10	300
* See Section 23.07.1.2 below for surface water setbacks. ** Distance may be reduced with permission of owner.			

2. SEPARATION DISTANCES FROM SURFACE WATERS FOR SURFACE APPLICATION			
Slope (%)	Soil Texture	Time of Year	Minimum Separation (feet)
0-6	Coarse	May-October	100
0-6	Coarse	November-April	200
0-6	Medium to fine	May-October	200
0-6	Medium to fine	November-April	300
Over 6	Coarse	May-October	200
Over 6	Medium to fine	May-October	300
Over 6	All soils	November-April	Not recommended

J. Conditional Use Permits:

1. Requirement: A conditional use permit shall be obtained in a manner described in Section 4 of this Ordinance whenever:
 - a. A new feedlot within the agriculture preserve-rural service area that exceeds three hundred fifty (350) animal units.
 - b. Feedlot expansions that exceed the following cumulative number of animal units:

	<u>District Designation</u>	<u>Animal Units</u>
1)	Long Range Urban Service Area	140
2)	Urban Service Reserve Area	200
3)	Agricultural Preserve-Rural Service Area	350

NOTE: See St. Augusta Comprehensive Plan for district boundary designations.

- c. The proposed expansion, or modification of an existing feedlot located within a Shoreland or Floodplain Overlay District.
 - d. A lagoon system, an earthen basin or any other outdoor liquid storage structure is proposed for the storage or treatment of animal waste.
 - e. An abandoned feedlot located within the long range urban service area or urban service reserve area (defined by the Comprehensive Plan) area is re-established subject to the following conditions:
 - 1) The abandoned feedlot was legally established.
 - 2) The feedlot has been abandoned for a period greater than five (5) years.
 - 3) The re-established feedlot expansion takes place solely within feedlot-related buildings and facilities existing on the site on the effective date of this Ordinance.
 - 4) The number of animals units is limited to that previously allowed by the MPCA as part of the facility's legal establishment.
 - 5) The conditions of Section 23.07.J.2 of this Ordinance are considered and determined to be satisfied.
2. Standards for Conditional Use Permits: To protect public health, safety and welfare, the City shall impose (but not be limited to) the following conditions:
- a. Trees and/or shrubs are planted, as determined necessary by the City Council, for use as a wind break but not so as to interfere with the design and functioning of the feedlot operation.
 - b. All provisions of the Manure Utilization Plan as outlined in Section 23.07.G.5 of this Ordinance are satisfactorily met.

- c. All pollution control measures outlined in Section 23.07.F of this Ordinance are satisfactorily met.
 - d. As required by State regulations, the applicant shall provide adequate security to ensure compliance with any or all conditions of the permit, proper handling and storage of manure, and proper closure of the facility. The amount of said security shall be contained in a written agreement between the permittee and the City.
 - e. All applicable setback requirements of Sections 23.07.F and 23.07.I of this Ordinance are satisfactorily met.
 - f. All feedlots shall be operated in a nuisance-free manner consistent with the regulations of the City and Minnesota Pollution Control Agency (MPCA).
 - g. Approval of the conditional use permit shall be contingent upon the successful acquisition of a Minnesota Pollution Control Agency (MPCA) permit.
 - h. The use is consistent with applicable provisions of Section 23, 24, and 45 of this Ordinance.
 - i. The provisions of Section 4.02.F of this Ordinance are considered and determined to be satisfied.
 - j. All conditions of approval of the conditional use permit shall be recorded against the property.
- K. Standards for Earthen Storage Basins, Lagoons and Other Manure Storage Areas. Earthen basins, lagoons and other manure storage areas shall be constructed in compliance with Minnesota Pollution Control Agency (MPCA) requirements.
- L. Facility Closure:
- 1. Responsible Parties: The landowner, owner and operator of any animal feedlot shall be responsible for the ongoing management of manure and the final closure of the facility include the cleaning of buildings and the emptying and proper disposal of manure from all manure holding facilities.
 - 2. Environmental Financial Assurance: Financial security shall be posted with the City in the form of escrow, bond, or letter of credit in an amount established by State Rules or Regulations, or as amended, in order to assure

proper closure of the facility.

3. Closure Plan: If a permitted feedlot operation using a manure storage system ceases operation, the owner shall submit to the City and MPCA a closure plan.
 - a. The plan shall be submitted at least sixty (60) days prior to the final day of operation of the manure storage system. The plan shall be prepared by a professional engineer registered in the State of Minnesota, or a person recognized as qualified for such work by the MPCA.
 - b. Closure of the operation may be postponed for a period of twelve (12) months if the property is posted for sale or lease.
 - c. Manure storage system closure shall include the removal of the sludge in the facilities and its disposal by proper land application at agronomic rates or by other legally permissible method.
 - d. Manure storage system closure shall also include filling in a basin with material from the dikes or other earthen material that may be available. Only material allowed to be buried under federal, state and local regulations may be used as fill. It is necessary to fill in the basin to prevent it from being a safety hazard when it fills in with rain and snow-melt waters.
 - e. All wastes from the feedlot operation and its waste control system shall be removed and disposed of on land or in some other manner which is legally permissible as soon as practical, but no more than six (6) months, and in accordance with the approved plan in order to promote and protect public health.
 - f. Each time ownership to the facility changes, the new owner must notify the MPCA and the City in writing within sixty (60) days of the transfer of ownership that the approved plan has been read and is understood and that all provisions of the plan will be implemented. The new owner must also provide the City with written assurance that they have assumed all obligations undertaken by previous operators or owners, including posting of any necessary security.
 - g. If the new ownership is to continue to operate the facility, closure shall not be necessary.
- M. Closure: Owners and operators of feedlots, either at the time of abandonment or after, shall have joint and several liability for clean up, closure or remediation of

abandoned feedlot sites and shall be subject to the enforcement and penalty requirements of Section 12 of this Ordinance.

SECTION 24. ANIMALS

Subdivision

- 24.01 General Regulations
- 24.02 Domestic Animals
- 24.03 Dog Kennels and Cat Shelters
- 24.04 Farm Animals
- 24.05 Commercial Stables
- 24.06 Wild or Exotic Animals

24.01 GENERAL REGULATIONS:

- A. The size, number, species, facilities for and location of animals kept shall be maintained so as not to cause a nuisance or endanger the health, safety, or general welfare of the community and shall be in compliance with this Ordinance and all other applicable City regulations.
- B. Animals may only be kept for commercial purposes if such activities are authorized in the zoning district where the animals are to be located.
- C. Facilities for housing animal(s) shall be:
 - 1. Constructed of such material as is appropriate for the animal(s) involved.
 - 2. Maintained in good repair.
 - 3. Controlled as to temperature, ventilated and lighted compatible with the health and comfort of the animal(s).
 - 4. Of sufficient size to allow each animal to make normal postural and social adjustments with adequate freedom of movement. Inadequate space may be indicated by evidence of malnutrition, poor condition of debility, stress or abnormal behavior patterns.
 - 5. Cleaned as often as necessary to prevent contamination of the animal(s) contained therein and to minimize disease hazards and reduce odors.
 - 6. Excepting farm related facilities, subject to approval of a building permit by the City Building Official.
 - 7. In accordance with applicable Humane Society or State requirements regarding the leasing of animals.
- D. Animals kept in pet shops or kennels shall be kept in accordance with regulations for pet shops and kennels in addition to the regulations provided by this Ordinance.

24.02 DOMESTIC ANIMALS: The keeping of domestic animals, as defined in Section 2.2 of this Ordinance, is an allowed use in all zoning districts.

24.03 DOG KENNELS AND CAT SHELTERS:

- A. No person shall maintain or operate any kennel or shelter without a license.
- B. A minimum lot size of one (1) acre is required to be licensed for operation of a kennel or shelter.
- C. Every kennel or shelter shall be enclosed or fenced in such manner as to prevent the running at large or escape of animals confined therein.
- D. Both dog kennels or cat shelters shall be open for inspection by the City authorities at any time.
- E. It shall be unlawful for any person to own or keep four (4) or more dogs and/or cats (excluding farm cats) over six (6) months of age on his/her premises in the City without obtaining a kennel license pursuant to this Section.

24.04 FARM ANIMALS:

- A. The keeping and maintaining of farm animals, including livestock and horses, shall be an allowed use within the A-1 Zoning District and on sites qualifying as farms in all other zoning districts.
- B. The keeping and maintaining of farm animals, including livestock and horses, shall be allowed by administrative permit in the A-2 Zoning District, provided:
 - 1. The provisions of Section 6 of this Ordinance are considered and determined to be satisfied.
 - 2. The minimum lot size upon which animals are to be located shall be two and one-half (2 ½) acres.
 - 3. Farm animals may not be confined in a pen, feedlot, or building within two hundred (200) feet of any residential structure not owned or leased by the operator.

4. The keeping and care of animals is provided by City regulations.
5. The density per acre of farm animals specifically allowed must not exceed the maximum densities, as specified below, unless permitted by conditional use permit:

<u>Animals</u>	<u>Number/Acre</u>
a. Cattle, horses mules, donkeys	1
b. Goats, sheep	5
c. Swine	10
d. Turkeys, ducks, geese	25
e. Chickens, rabbits, guinea pigs, hamsters, pigeons	50

6. A shelter or stabling facility shall provide a minimum of one hundred (100) square feet per acre of enclosed area per animal, or fractions thereof, as based upon the number of animals per acre listed above (example: 100 square feet divided by five goats/acre = 20 square feet of enclosed area per goat).
- C. Manure application and stockpiling activities shall comply with applicable provisions of Section 23.07 of this Ordinance.
 - D. No manure or waste shall be deposited, stored, kept, or allowed to remain in or upon any site without reasonable safeguards adequate to prevent the escape or movement of such manure, waste, or a solution thereof from the site which may result in pollution of any public waters or any health hazard.
 - E. All regulations imposed by the Minnesota Pollution Control Agency (MPCA) relating to the keeping of farm animals shall be adhered to and animal feedlots shall comply with the applicable provisions of Section 23.07 of this Ordinance.

24.05 COMMERCIAL STABLES:

- A. Commercial stables (operations involving the boarding and care of ten (10) or more horses) shall be allowed only in the City's A-1 Zoning District by conditional use permit.
- B. The minimum lot size for a commercial stable shall be ten (10) acres.
- C. The density of equine allowed on a commercial riding stable shall be in accordance with Section 24.04.B.5.
- D. Manure and other waste materials shall be removed and distributed so as to

minimize unsightly odors, insect, and rodent problems or any condition which otherwise operates as a public or private nuisance. The storage of manure and other waste materials must be located a minimum of two hundred (200) feet from the property line of any residential structure, or any lake, pond, river, stream, or other body of water, well, or property line.

- E. All areas designated for equine sheltering shall be located at least two hundred (200) feet from the property line. Any agricultural building or shelter which was being used in a commercial stable prior to the effective date of this Section is not required to comply with the requirements of this subparagraph, provided, however, that such agricultural building or shelter does not constitute a public nuisance as determined by the City Council.
- F. Fences as regulated by Section 15.06 of this Ordinance shall be constructed and maintained so as to adequately and safely contain equine at all times.
- G. One (1) agricultural building upon the commercial stable property shall be permitted to contain no more than one (1) caretaker's unit, subject to a demonstrated need and to the approval of a conditional use permit as regulated by Section 4 of this Ordinance.
- H. All equine shall be provided shelter sufficient to protect against potentially injurious weather. All such shelters shall be structurally sound, provide sufficient ventilation, and be maintained in good repair.
- I. Equine stalls shall provide sufficient space for the equine to lie or roll with a minimum danger of injury to itself. Stalls shall be cleaned and kept dry to the extent that the animal is not required to lie or stand in fluids. Bedding shall be provided in all stalls, kept reasonably clean, and periodically changed. The nature of the bedding shall not pose a health hazard to the animal.
- J. The Zoning Administrator shall inspect every commercial stable as frequently as the City may deem necessary to ensure compliance with the terms of this Section and any conditions of the license for such commercial stable. Any person who operates a commercial stable shall, upon request of the Zoning Administrator and/or City Building Official, permit access to all parts of the commercial stable for the purpose of inspection. The Zoning Administrator shall prepare a report of every inspection of a commercial stable. A copy of such report shall be mailed to the person operating the commercial stable and forwarded to the City Council.

24.06 WILD OR EXOTIC ANIMALS:

- A. Conditional Use Permit.

1. Other than may be herein exempted, wild or exotic animals, as defined in Section 2.2 of this Ordinance shall require a conditional use permit prior to its being kept in the City.
 2. Determination of acceptability shall include but not be limited to:
 - a. The potential health or safety hazard posed.
 - b. The provisions of Section 4 of this Ordinance are considered and determined to be satisfied.
 3. Conditions and limitations governing wild or exotic animals shall include but not be limited to:
 - a. Full compliance with State Statutes and federal regulations governing such species.
 - b. Provisions for the adequate and safe confinement of such animal, as may be warranted by the potential adverse impact upon neighboring properties and by safe consideration of the property residents and neighboring uses.
 - c. Adequate screening, noise, and visual controls as deemed necessary by the City Council to maintain compatibility and protect the health, safety, and general welfare of the public.
 - d. Additional requirements and limitations as may be deemed necessary by the City Council so as to insure compatibility and maintain the health, safety and general welfare of the public.
- B. Zoological Programs. Wild or exotic animals being kept as part of the Minnesota Zoological Gardens, St. Paul Como Zoo, or similar institutional teaching programs are an allowed use in all zoning districts by administrative permit. Prior to permit issuance, the participant in the program shall notify the Zoning Administrator in writing of their participation in the program and identify all animals being kept.

SECTION 25. HOME OCCUPATIONS

Subdivision

- 25.01 Purpose
- 25.02 Application
- 25.03 Procedures and Permits
- 25.04 Requirement; General Provisions
- 25.05 Non-Conforming Uses
- 25.06 Inspection
- 25.07 Revocations

25.01 PURPOSE: The purpose of this Section is to provide a means through the establishment of specific standards and procedures by which home occupations can be conducted without jeopardizing land use harmony and compatibility, and the health, safety and general welfare of the surrounding neighborhood. In addition, this Section is intended to provide a mechanism enabling the distinction between permitted home occupations and interim or customarily "more sensitive" home occupations, so that permitted home occupations may be allowed through an administrative process rather than a legislative hearing process.

25.02 APPLICATION: Subject to the Non-Conforming Use Section and other applicable provisions of this Ordinance, all occupations conducted in the home shall comply with the provisions of this Ordinance. This Section shall not be construed, however, to apply to home occupations related to farming.

25.03 PROCEDURES AND PERMITS:

A. Permitted Home Occupations:

1. "Permitted home occupations", as defined in this Ordinance, shall be considered permitted accessory uses in the City's agricultural and residential zoning districts and shall comply with the provisions of Section 25.04.A and 25.04.B of this Ordinance.

B. Interim Home Occupations:

1. Qualification: Any home occupation which does not meet the specific requirements for a "permitted home occupation" as defined in this Section shall require an "interim home occupation permit" which shall be applied for, reviewed and disposed of in accordance with the procedural provisions of

Section 5 of this Ordinance.

2. Declaration of Conditions: The City Council may impose such conditions on the granting of an "interim home occupation permit" as may be necessary to ensure compatibility and to carry out the purpose and provisions of this Section.
3. Effect of Permit: An "interim home occupation permit" may be issued for a period of one (1) year after which the permit may be reissued for periods of up to three (3) years each. Each application for permit renewal shall be processed and subject to the approval of the Zoning Administrator, except in cases where written complaints have been received concerning the operation or where there has been a change in conditions or violation, a renewal shall be processed in accordance with the procedural requirements of the initial interim home occupation permit.
4. Transferability: Home occupation permits shall not run with the land and shall not be transferable.
5. Renewal of Permit: An applicant shall not have a vested right to a permit renewal by reason of having obtained a previous permit. In applying for and accepting a permit, the permit holder agrees that the monetary investment in the home occupation will be fully amortized over the life of the permit and that a permit renewal will not be needed to amortize the investment. Each application for the renewal of a permit will be reviewed without taking into consideration that a previous permit has been granted. The previous granting or renewal of a permit shall not constitute a precedent or basis for the renewal of a permit.

25.04 REQUIREMENT; GENERAL PROVISIONS: All home occupations shall comply with the following general provisions and according to definition, the applicable requirement provisions.

A. General Provisions:

1. No home occupation shall produce light, glare, noise, fumes, odor, or vibration that will in any way have an objectionable effect upon adjacent or nearby property.
2. No equipment shall be used in the home occupation which will create electrical interference to surrounding properties. No equipment shall be used which creates visual or audible interference in any radio or television

receivers off the premises or causes fluctuations in the voltage off the premises.

3. Except in the case of State licensed day care facilities, any home occupation shall be clearly incidental and secondary to the residential use of the premises, not more than ten (10) percent of the floor area of the dwelling unit shall be permanently set aside to be used in the conduct of the home occupation. The home occupation shall not change the residential character of the premises nor result in incompatibility or disturbance to the surrounding residential uses.
4. No home occupation shall require internal or external alterations or involve construction features not customarily found in dwellings except where required to comply with local and state fire and police recommendations.
5. There shall be no exterior storage of equipment or materials used in the home occupation, except personal vehicles used in the home occupation which comply with applicable provisions of this Ordinance may be parked on the site.
6. The home occupation shall meet all applicable fire and building codes.
7. There shall be no exterior display or exterior signs or interior display or interior signs which are visible from outside the dwelling with the exception of directional and identification/business signs to the extent authorized by the provisions of Section 31 of this Ordinance.
8. All home occupations shall comply with all City regulations related to nuisances.
9. No home occupation shall be conducted between the hours of 10:00 PM and 7:00 AM unless approved by the City Council.
10. Home occupations shall not create a parking demand in excess of that which can be accommodated in an existing driveway, where no vehicle is parked closer than fifteen (15) feet from the curb line or edge of paved surface.
11. No home occupation (permitted or interim) shall involve any of the following: body shops, welding, ammunition manufacturing, flea markets, motor vehicle sales or repairs, massage or escort business or other sexually oriented

businesses as defined by this ordinance, or other objectionable uses as determined by the City Council.

12. Excepting incidental materials, no commodities shall be sold on the premises.

B. Requirements, Permitted Home Occupation:

1. No person other than those who customarily reside on the premises shall be employed.
2. On-street parking facilities shall not be utilized to accommodate parking demand.
3. Examples of permitted home occupations include: art studio, dressmaking, secretarial services, family day care, foster care, offices, teaching with musical, dancing and other instructions which consist of no more than two (2) pupils at a time, and similar uses.
4. The permitted home occupation shall not involve any of the following: repair service or manufacturing which requires equipment other than customarily found in a home; teaching which customarily consists of more than two (2) pupils at a time; over the counter sale of non-residential merchandise produced off the premises.

C. Requirements, Interim Home Occupation:

1. A maximum of one (1) full time employee or equivalent, other than those persons who customarily reside on the premises, shall be employed. This provision shall not apply where the interim home occupation is a meeting place for employees and the work is done off-premises.
2. Examples of interim home occupations include: massage therapy, barber and beauty services, day care, group nursery, photography studio, lessons, saw sharpening, small appliances, and small engine repair and the like.
3. The interim home occupation may involve any of the following: stock-in trade incidental to the performance of the service, repair service or manufacturing which requires equipment other than customarily found in a home, the teaching with musical, dancing and other instruction of more than two (2) pupils at a time.
4. Interim home occupations may be allowed to accommodate their parking

demand through utilization of on-street parking. In such cases where on-street parking facilities are necessary, however, the Zoning Administrator shall maintain the right to establish the maximum number of on-street spaces permitted and increase or decrease that maximum number when and where changing conditions require additional review.

25.05 NON-CONFORMING USE: Existing home occupations lawfully existing on June 2, 1998 may continue as non-conforming uses. Any existing home occupation that is discontinued for a period of more than one hundred eighty (180) days, or is in violation of the provisions of the Ordinance under which it was initially established, shall be brought into conformity with the provisions of this Section.

25.06 INSPECTION: With reasonable cause and documentation, the City hereby reserves the right to inspect any home occupation during reasonable hours, with reasonable notice, the premises in which the occupation is being conducted to ensure compliance with and provisions of this Section or any conditions additionally imposed.

25.07 REVOCATIONS:

- A. Permitted and interim home occupations may continue to exist until:
1. Such time as the business is not in compliance with any portion of this ordinance, any other applicable City ordinance, or any applicable state or federal statute, rule or regulation.
 2. Such time as there is any violation of the terms and conditions of permit approval.
 3. Such time as there is any change in the conditions of operation of the business as it was originally approved; including any change in the nature of the business, any substantial change in the extent of business, any substantial change in the extent of business operations, any significant expansion of business facilities, or any other circumstances related to the business which have the potential to significantly effect surrounding properties, or which may pose a threat to the health, welfare or safety of the general public.
 4. Such time as License Expires: At such time that the City has cause to believe that any of the events listed in 1, 2 or 3 above have taken place, the City shall immediately notify the permit holder of the allegations of violation and the necessary corrections required to bring the license into compliance.

SECTION 26. DAY CARE NURSERY FACILITIES

Subdivision

- 26.01 Purpose
- 26.02 Application
- 26.03 Declaration of Conditions
- 26.04 General Provisions
- 26.05 Inspection

26.01 PURPOSE: The purpose of the regulation of day care nursery facilities in this section is to establish standards and procedures by which day care facilities can be conducted within the City without jeopardizing the health, safety and general welfare of the day care participants and/or the surrounding neighborhood. This section establishes the City's minimum requirements for the establishment and operation of day care facilities which are not defined as permitted uses by State Statute or which are not located in single family homes. Day care facilities other than those defined as permitted uses by State Statutes which operate in a single family dwelling as an accessory use shall be subject to Section 25 of this Ordinance and processed as a home occupation.

26.02 APPLICATION: Day care nursery facilities shall be considered a permitted conditional use within all residential, commercial and industrial zoning districts of the City and shall be subject to the regulations and requirements of Section 4 of this Ordinance. In addition to the City regulation, all day care facility operations shall comply with the minimum requirements of the Minnesota Department of Human Services, as may be amended.

26.03 DECLARATION OF CONDITIONS: The Planning Commission and City Council may impose such conditions on the granting of a day care facility conditional use permit as may be necessary to carry out the purpose and provisions of this section.

26.04 GENERAL PROVISIONS: Day care facilities shall be allowed as a principal use or as an accessory use, provided that the day care facilities meet all the applicable provisions of this section.

- A. Lot Requirements and Setbacks: The proposed site for a day care facility as a principal use shall have a minimum lot area as set forth in the respective zoning district. The City Council may increase the required lot area in those cases where such an increase is considered necessary to ensure compatibility of activities and

maintain the public health, safety and general welfare. The day care facility shall meet the setback requirements of the respective zoning district.

- B. Sewer and Water: All day care facilities shall have access to municipal sewer and water or have adequate private sewer and water to protect the health and safety of all persons who occupy the facility.
- C. Buffering: Unless exempted by the Zoning Administrator, where an outdoor play area of a day care facility which abuts any commercial or industrial use or zone, or public right-of-way, the day care facility shall provide screening along the shared boundary of such uses, zones, or public rights-of-way. All of the required fencing and screening shall comply with the fencing and screening requirements of Section 15.07 of this Ordinance.
- D. Parking:
 - 1. There shall be adequate off-street parking which shall be located separately from any outdoor play area and shall be in compliance with Section 20 of this Ordinance. Parking areas shall be screened from view of surrounding and abutting residential uses in compliance with Section 15.07 of this Ordinance.
 - 2. When a day care facility is an accessory use within a structure containing another principal use, parking for each use shall be calculated separately for determining the total off-street parking spaces required. An exception to this requirement may be granted by the Zoning Administrator in instances where no increase in off-street parking demand will result.
- E. Off-Street Loading: Off-street loading space in compliance with Section 21 of this Ordinance shall be provided.
- F. Signage: All signing and informational or visual communication devices shall be in compliance with Section 31 of this Ordinance.
- G. Compliance with State Requirements: The structure and operation shall be in compliance with State of Minnesota Department of Human Services regulations and shall be licensed accordingly.

26.05 INSPECTION: The City hereby reserves the right upon issuing any day care facility conditional use permit to inspect the premises in which the occupation is being conducted to insure compliance with the provisions of this section or any conditions additionally imposed.

SECTION 27. SEXUALLY ORIENTED USES

Subdivision

- 27.01 Purpose
- 27.02 Sexually Oriented Use-General
- 27.03 Sexually Oriented Use-Principal
- 27.04 Sexually Oriented Use-Accessory

27.01 PURPOSE: The purpose of this subdivision is to establish provisions for the opportunity as well as controls of sexually oriented uses within St. Augusta.

27.02 SEXUALLY ORIENTED USE - GENERAL: Sexually oriented uses, as defined in this Ordinance, shall be subject to the following general provisions:

- A. Activities classified as obscene under Minnesota State Law are not permitted and are strictly prohibited.
- B. Sexually oriented uses, either principal or accessory, shall be prohibited from locating in any building which is also utilized for residential purposes.
- C. Sexually oriented uses, either principal or accessory, shall be prohibited from locating in any place which is also used to dispense or consume alcoholic beverages.
- D. Sexually oriented uses-principal which are defined in this Ordinance as sexually oriented stores, and which deal solely in the retail sales of novelties, shall be exempt from the requirements of Subd. 27.03 of this Ordinance.
- E. A sexually oriented use which does not qualify as an accessory use shall be classified as an sexually oriented use-principal.

27.03 SEXUALLY ORIENTED USES - PRINCIPAL:

- A. Sexually oriented use-principal shall be located at least two hundred (200) radial feet, as measured in a straight line from the closest point of the property line of the building upon which the sexually oriented use-principal is located to the property line of:
 - 1. Residentially zoned property.
 - 2. Residential uses within Agricultural Zoning Districts.

3. A licensed day care center.
 4. A public or private educational facility classified as an elementary, junior high or senior high.
 5. A public library.
 6. A public park.
 7. Another sexually oriented use-principal.
 8. An on-sale liquor establishment.
- B. Sexually oriented use-principal activities, as defined by this Ordinance, shall be classified as one use. No two (2) sexually oriented uses-principal shall be located in the same building or upon the same property and each use shall be subject to Subd. 27.03.A of this Ordinance.

27.04 SEXUALLY ORIENTED USES - ACCESSORY:

- A. Sexually oriented uses-accessory shall:
1. Comprise no more than ten (10) percent of the floor area of the establishment in which they are located; and
 2. Comprise no more than two thousand (2,000) square feet of floor area in total; and
 3. Comprise no more than twenty (20) percent of the gross receipts of the entire business operation; and
 4. Not involve or include any activity except the sale or rental of merchandise.
- B. Sexually oriented business-accessory shall be restricted from and prohibit access to minors by the physical separation of such items from areas of general public access:
1. **Movie Rentals:** Display areas shall be restricted from general view and shall be located within a separate room, the access of which is in clear view and under the control of the persons responsible for the operation or shall be in catalogs under the direct control and distribution of the operator.
 2. **Magazines:** Publications classified or qualifying as sexually oriented shall not be physically accessible to minors and shall be covered with a wrapper or

other means to prevent display of any material other than the publication title.

- C. Sexually oriented business-accessory activities shall be prohibited at any public show, movie, caravan, circus, carnival, theatrical or other performance or exhibition presented to the general public where minors are admitted.

SECTION 28. ESSENTIAL SERVICES

Subdivision

28.01 Purpose

28.02 Special Permit Required

28.03 Conditional Use Permit Required

28.01 PURPOSE: The purpose of this section is to provide for the installation of essential services such as telephone lines, pipelines, electric transmission lines and substations in such a manner that the health, safety, and welfare of the City will not be adversely affected. Essential services shall also be installed in recognition of existing and projected demands for such services.

28.02 SPECIAL PERMIT REQUIRED: All underground communication lines, pipelines for distribution to individual properties within the City, and all, underground electric transmission lines, overhead utility lines, electric transmission lines, and substations less than 33 KV, when installed in any location in the City, shall require a permit subject to review by the City Engineer and approval by the City Council and shall be processed according to the following:

- A. Prior to the installation of any of the essential services defined above, the owner of such service shall file with the City Engineer, all maps and other pertinent information as deemed necessary by the City Engineer for review the proposed project.
- B. The City Engineer shall document in writing the findings as to the compliance of the proposed project with the Comprehensive Plan and any other applicable City regulations.
- C. In considering applications for the placement of essential services, as regulated in this section, the aforesaid City Engineer and City Council shall consider the effect of the proposed project upon the health, safety and general welfare of the City, as existing and as anticipated, and the effect of the proposed project upon the Comprehensive Plan.
- D. Upon approval of the City Council, a permit for the installation and operation of the applicant's essential services shall be issued. If the City Council denies the permit, the applicant may appeal said decision to Stearns County District Court under the rules and procedures set forth in Section 8 of this Ordinance."

28.03 CONDITIONAL USE PERMIT REQUIRED: All transmission pipelines (i.e., pipelines

not required for the St. Augusta local distribution network), and overhead and underground transmission and substation lines in excess of 33 KV shall require a conditional use permit.

SECTION 29. ANTENNAS

Subdivision

- 29.01 Purpose and Intent
- 29.02 General Standards
- 29.03 Tower Design
- 29.04 Co-Location Requirement
- 29.05 Setbacks
- 29.06 Accessory and Secondary Use Antennas
- 29.07 Personal Wireless Service Antennas
- 29.08 Satellite Dishes
- 29.09 Commercial and Public Radio and Television Transmitting Antennas,
and Public Utility Microwave Antennas

29.01 PURPOSE AND INTENT: The purpose of this section is to establish predictable, balanced regulations for the siting and screening of wireless communications equipment in order to accommodate the growth of wireless communicating systems within St. Augusta while protecting the public against any adverse impacts on the City's aesthetic resources and the public welfare. The provisions of this Ordinance are intended to maximize the use of existing towers, structures, and buildings to accommodate new wireless telecommunication antennas in order to minimize the number of towers needed to serve the community or area.

29.02 GENERAL STANDARDS: The following standards shall apply to all personal wireless service, public utility, microwave, radio and television broadcast transmitting, radio and television receiving, satellite dish and short-wave radio transmitting and receiving antenna.

- A. All obsolete and unused antenna shall be removed within twelve (12) months of cessation of operation at the site, unless an exemption is granted by the Zoning Administrator.
- B. All antenna shall be in compliance with all City building and electrical code requirements and as applicable shall require related permits.
- C. Structural design, mounting and installation of the antenna shall be in compliance with manufacturer's specifications and as may be necessary, as determined by the Zoning Administrator, shall be verified and approved by a professional engineer.
- D. When applicable, written authorization for antenna erection shall be provided by the property owner.

- E. No advertising message shall be affixed to the antenna structure.
- F. The height of the antenna shall be the minimum necessary to function satisfactorily, as verified by an electrical engineer or other appropriate professional.
- G. Antennas shall not be artificially illuminated unless required by law or by a governmental agency to protect the public's health and safety.
- H. When applicable, proposals to erect new antenna shall be accompanied by any required federal, state, or local agency licenses.
- I. If a new tower is to be constructed, it shall be designed structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least one (1) additional user, including but not limited to other cellular communication companies, local police, fire and ambulance companies. Towers shall be designed to allow for future re-arrangement of antennas upon the tower and to accept antennas mounted at varying heights.
- J. Antenna support structures under two hundred (200) feet in height shall be painted a non-contrasting color consistent with the surrounding area, such as blue, gray, brown or silver, or have a galvanized finish to reduce visual impact.
- K. Except as may be applicable in cases where a conditional use permit is required, antennas and support structures for federally licensed amateur radio stations and used in the amateur radio service are exempt from sub-paragraphs C, F, and I above, and must comply with Subd. L. below.
- L. Amateur radio towers must be installed in accordance with the instructions furnished by the manufacturer of that tower model. Because of the experimental nature of the amateur radio service, antennas mounted on such a tower may be modified or changed at any time so long as the published allowable load on the tower is not exceeded and the structure of the tower remains in accordance with the manufacturers specifications.

29.03 TOWER DESIGN: Wireless communication towers shall be of a monopole design unless the City Council determines that an alternative design requested by the applicant would better blend into the surrounding environment. This provision does not apply to amateur radio towers or commercial and public radio or television towers.

29.04 CO- LOCATION REQUIREMENT: A proposal for a new tower shall not be approved unless the Zoning Administrator finds that the antennas cannot be accommodated on an existing or approved tower, building, or structure within a one mile search radius (one-half mile search radius for towers under one hundred (100) feet in

height) of the proposed tower due to one (1) or more of the following reasons:

- A. The planned equipment would exceed the structural capacity of the existing or approved tower, building or structure as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned for equivalent equipment at a reasonable cost.
- B. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified engineer and interference cannot be prevented at a reasonable cost.
- C. Existing or approved towers, buildings, or structures within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.
- D. Other unforeseen reasons that make it unfeasible to locate the antennas upon an existing or approved tower or structure.
- E. Existing or approved towers, buildings, or other structures do not exist in the service area, or do not meet the needs of the user. Documentation shall be provided at the time of application clearly demonstrating why existing structures do not meet the needs of the users.
- F. The applicant shall demonstrate that a good faith effort to co-locate on existing towers or structures was made, but an agreement could not be reached.

29.05 SETBACKS: All towers shall comply with each of the minimum setback requirements:

- A. Towers shall meet the setbacks of the underlying zoning district with the exception of industrial zoning districts, where the tower may encroach into the rear setback area, provided that the rear property line abuts another industrial zoning district and the tower does not encroach upon any easements.
- B. A tower's setback may be reduced or its location in relation to a public street varied, at the discretion of the City Council, to allow the integration of the structure into an existing or proposed structure, such as a light standard, power line support device, or similar structure.

29.06 ACCESSORY AND SECONDARY USE ANTENNAS: The following standards shall apply to all accessory and secondary use antennas including radio and television receiving antennas, satellite dishes, TVROs three and one-half (3.5) meters or less in diameter, short-wave radio dispatching antennas, or those necessary for the operation of electronic

equipment including radio receivers, federally licensed amateur radio stations and television receivers.

- A. Accessory or secondary use antennas shall not be erected in any required yard (except a rear yard) or within public or private utility and drainage easements, and shall be set back a minimum of five (5) feet from all lot lines.
- B. Guy wires or guy wire anchors shall not be erected within public or private utility and drainage easements, and shall be set back a minimum of five (5) feet from all lot lines.
- C. Accessory or secondary use antennas and necessary support structures, monopoles or towers may extend a maximum of fifteen (15) feet above the normal height restriction for the affected zoning district, except support structures and antennas used in the amateur radio service may extend a maximum of seventy (70) feet for the affected zoning district.
- D. The installation of more than one (1) support structure per property shall require the approval of a conditional use permit.

29.07 PERSONAL WIRELESS SERVICE ANTENNAS:

- A. Agricultural and Residential District Standards:
 - 1. Antennas located upon public structures or existing tower: Personal wireless service antenna located upon public structures or existing towers shall require the processing of an administrative permit and shall comply with the following standards:
 - a. The applicant shall demonstrate by providing a coverage/interference analysis and capacity analysis prepared by a certified engineer that location of the antennas as proposed is necessary to meet the frequency reuse and spacing needs of the personal wireless system and to provide adequate portable personal wireless service coverage and capacity to areas which cannot be adequately served by locating the antennas in a less restrictive district.
 - b. Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary for transmitting, receiving and switching equipment, it shall be situated in the rear yard of the principal use and shall be screened from view by landscaping where appropriate.
 - c. An administrative permit is issued in compliance with the provisions of

Section 6 of this Ordinance.

2. Antennas not located upon a public structure or existing tower: Personal wireless service antenna not located upon a public structure or existing tower shall require the processing of a conditional use permit and shall comply with the following standards:
 - a. The applicant shall demonstrate by providing a coverage/ interference analysis and capacity analysis prepared by a certified engineer that location of the antennas as proposed is necessary to meet the frequency reuse and spacing needs of the personal wireless service system and to provide adequate portable personal wireless service coverage and capacity to areas which cannot be adequately served by locating the antennas in a less restrictive district.
 - b. If no existing, non-residential structure which meets the height requirements for the antennas is available for mounting purposes, the antennas may be mounted on a monopole tower provided that:
 - (1) The pole not exceed seventy-five (75) feet in height.
 - (2) The setback of the pole from the nearest residential structure is not less than the height of the antenna. Exceptions to such setback may be granted if a qualified structural engineer specifies in writing that any collapse of the pole will occur within a lesser distance under all foreseeable circumstances.
 - c. Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary for transmitting, receiving and switching equipment, it shall be situated in the rear yard of the principal use and shall be screened from view by landscaping where appropriate.
 - d. At the discretion of the City, a security fence not greater than eight (8) feet in height with a maximum opacity of fifty (50) percent shall be provided around the support structure.
 - e. The conditional use permit provisions of Section 4 of this Ordinance are considered and determined to be satisfied.

B. Business and Institutional District Standards:

1. Antennas Located Upon An Existing Structure or Tower: Personal wireless service antenna located upon an existing structure or co-located on an existing tower shall require the processing of an administrative permit and

shall comply with the following standards:

- a. Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary for transmitting, receiving and switching equipment, it shall be situated in the rear yard of the principal use and shall be screened from view by landscaping where appropriate.
 - b. Antennas mounted on public structures shall not extend more than fifteen (15) feet above the structural height of the structure to which they are attached.
 - c. Building-mounted antennas shall not extend more than fifteen (15) feet above the roof, and shall be set back at least five (5) feet from the roof edge.
 - d. Wall or facade mounted antennas may not extend more than five (5) feet above the cornice line and must be constructed of a material or color which matches the exterior of the building.
 - e. An administrative permit is issued in compliance with the provisions of Section 6 of this Ordinance.
2. Antennas Not Located Upon An Existing Structure or Existing Tower: Personal wireless service antennas not located upon an existing structure or tower shall require the processing of a conditional use permit and shall comply with the following standards:
- a. The applicant shall demonstrate by providing a coverage/ interference analysis and capacity analysis prepared by a certified engineer that location of the antennas as proposed is necessary to meet the frequency reuse and spacing needs of the personal wireless service system and to provide adequate portable personal wireless service coverage and capacity to areas which cannot be adequately served by locating the antennas in a less restrictive district.
 - b. If no existing structure which meets the height requirements for the antennas is available for mounting purposes, the antennas may be mounted on a monopole tower provided that:
 - (1) The pole not exceed seventy-five (75) feet in height.
 - (2) The setback of the pole from the nearest residential structure is not less than the height of the antenna. Exceptions to such setback may be granted if a qualified structural engineer

specifies in writing that any collapse of the pole will occur within a lesser distance under all foreseeable circumstances.

- c. Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary for transmitting, receiving and switching equipment, it shall be situated in the rear yard of the principal use and shall be screened from view by landscaping where appropriate.
- d. At the discretion of the City, a security fence not greater than eight (8) feet in height with a maximum opacity of fifty (50) percent shall be provided around the support structure.
- e. The conditional use permit provisions of Section 4 of this Ordinance are considered and determined to be satisfied.

C. Industrial District Standards:

- 1. Antennas Located Upon An Existing Structure or Existing Tower: Personal wireless service antennas located upon an existing structure or co-located on an existing tower structure shall require the processing of an administrative permit and shall comply with the following standards:
 - a. Building-mounted antennas shall not exceed more than fifteen (15) feet above the roof, and shall be set back at least five (5) feet from the roof edge.
 - b. Wall or facade mounted antennas may not extend more than five (5) feet above the cornice line and must be constructed of a material or color which matches the exterior of the building.
 - c. An administrative permit is issued in compliance with the provisions of Section 5 of this Ordinance.
- 2. Antennas Not Located Upon An Existing Structure or Existing Tower: Personal wireless service antennas not located upon an existing structure or tower shall require the processing of an administrative permit and shall comply with the following standards:
 - a. If no existing structure which meets the height requirements for mounting the antennas, the antennas may be mounted upon a monopole tower not exceeding one hundred fifty (150) feet in height. The tower shall be located on a parcel having a dimension equal to the height of the tower measured between the base of the tower located nearest the property line and said property line, unless a

structural engineer specifies in writing that the collapse of the tower will occur within a lesser distance under all foreseeable circumstances.

- b. An administrative permit is issued in compliance with the provisions of Section 5 of this Ordinance.
3. Temporary Mobile Towers: Personal wireless service antennas located upon a temporary mobile tower used on an interim basis until a permanent site is constructed shall require the processing of an administrative permit and shall comply with the following standards:
- a. Temporary mobile towers are exempt from co-location and permanent tower structure design standards contained in Sections 29.03 and 29.04 of this Ordinance.
 - b. The termination date of the permit shall not exceed one hundred twenty (120) days. Temporary mobile towers located on a site longer than one hundred twenty (120) days shall require the processing of an interim use permit subject to the standards contained in Section 5 of this Ordinance.
 - c. Guyed towers are prohibited.
 - d. Mobile units shall have a minimum tower design wind load of eighty (80) miles per hour, or be set back from all structures a distance equal to the height of the tower.
 - e. All towers shall be protected against unauthorized climbing.
 - f. The height of the tower shall not exceed ninety (90) feet.

29.08 SATELLITE DISHES:

- A. Agricultural and Residential District Standards: Single satellite dish TVROs greater than two (2) meters in diameter may be allowed as a conditional use within the agricultural and residential zoning districts of the City and shall comply with the following standards:
- 1. All accessory and secondary use provisions of Sections 29.02 and 29.03 of this Ordinance are satisfactorily met.
 - 2. The lot on which the satellite dish antenna is located shall be of sufficient size to assure that an obstruction-free receive window can be maintained

within the limits of the property ownership.

3. Except where the antenna is screened by a structure exceeding the antenna height, landscape buffering and screening shall be maintained on all sides of the satellite dish antenna in a manner in which growth of the landscape elements will not interfere with the receive window.
4. The satellite dish antenna is not greater than three and one-half (3.5) meters in diameter.
5. The conditional use permit provisions of Section 4 of this Ordinance are considered and determined to be satisfied.

B. Business District Standards: Satellite dish antennas within the business zoning districts of the City shall be limited to those listed as permitted accessory and secondary uses in the applicable zoning district subject to the provisions of Subd. 29.02 and Subd. 29.03 of this Ordinance.

C. Industrial District Standards: Commercial, private and public satellite dish transmitting or receiving antennas in excess of three and one-half (3.5) meters may be allowed as a conditional use within industrial districts of the City and shall comply with the following standards:

1. All accessory and secondary use provisions of Sections 29.02 and 29.03 of this Ordinance are satisfactorily met.
2. The lot on which the satellite dish antenna is located shall be of sufficient size to assure that an obstruction free transmit-receive window or windows can be maintained within the limits of the property ownership.
3. Except where the antenna is screened by a structure exceeding the antenna height, landscape buffering and screening shall be maintained on all sides of the satellite dish antenna in a manner in which growth of the landscape elements will not interfere with the transmit-receive window.
4. The conditional use permit provisions of Section 4 of this Ordinance are considered and determined to be satisfied.

29.09 COMMERCIAL AND PUBLIC RADIO AND TELEVISION TRANSMITTING ANTENNAS, AND PUBLIC UTILITY MICROWAVE ANTENNAS: Commercial and public radio and television transmitting and public utility microwave antennas shall comply with the following standards:

A. Such antenna shall be considered an allowed conditional use within the I-1 and I-2

Districts of the City and shall be subject to the regulations and requirements of Section 4 of this Ordinance.

- B. The antennas, transmitting towers, or array of towers shall be located on a continuous parcel having a dimension equal to the height of the antenna, transmitting tower, or array of towers measured between the base of the antenna or tower located nearest a property line and said property line, unless a registered structural engineer specifies in writing that the collapse of any antenna or tower will occur within a lesser distance under all foreseeable circumstances.
- C. Unless the antenna is mounted on an existing structure, at the discretion of the City, a fence not greater than eight (8) feet in height with a maximum opacity of fifty (50) percent shall be provided around the support structure and other equipment.

SECTION 30. WIND ENERGY CONVERSION SYSTEMS (WECS)

Subdivision

- 30.01 Purpose
- 30.02 Application
- 30.03 Declaration of Conditions
- 30.04 Site Plan Drawing
- 30.05 Compliance with State Building Code
- 30.06 Compliance with National Electrical Code
- 30.07 Manufacturer Warranty
- 30.08 Design Standards
- 30.09 Ornamental Wind Devices
- 30.10 Building Permit Required
- 30.11 Inspection
- 30.12 Abandonment

30.01 PURPOSE: The purpose of this Section is to establish standards and procedures by which the installation and operation of WECS shall be governed within the City.

30.02 APPLICATION: Wind conversion systems may be allowed as an accessory or conditional use within any zoning district of the City, subject to the regulations and requirements of this Section, and provided the property upon which the system is to be located is agricultural, commercial or industrial or is constructed and maintained on any parcel of land of at least five (5) acres in size.

30.03 DECLARATION OF CONDITIONS: The City Council may impose such conditions on the granting of WECS conditional use permit as may be necessary to carry out the purpose and provisions of this Section and to maintain compatibility.

30.04 SITE PLAN DRAWING: All applications for WECS conditional use permit shall be accompanied by a detailed site plan drawn to scale and dimensioned, displaying the following information:

- A. Lot lines and dimensions.
- B. Location and height of all buildings, structures, above ground utilities, and trees on the lot, including both existing and proposed structures and guy wires anchors.
- C. Locations and height of all adjacent buildings, structures, above ground utilities and

trees located within three hundred (350) feet of the exterior boundaries of the property in question.

- D. Existing and proposed setbacks of all structures located on the property in question.
- E. Sketch elevation of the premises accurately depicting the proposed WECS and its relationship to structures on adjacent lots.

30.05 COMPLIANCE WITH STATE BUILDING CODE: Standard drawings of the structural components of the wind energy conversion system and support structures, including base and footings shall be provided along with the engineering data and calculations to demonstrate compliance with the structural design provisions of the State Building Code especially with regards to wind and icing loads. Drawings and engineering calculations shall be certified by a registered engineer.

30.06 COMPLIANCE WITH NATIONAL ELECTRICAL CODE: WECS electrical equipment and connections shall be designed and installed in adherence to the National Electrical Code as adopted by the City.

30.07 MANUFACTURER WARRANTY: The applicant shall provide documentation or other evidence from the dealer or manufacturer that the WECS has been successfully operated in atmospheric conditions similar to the conditions within the City. The WECS shall be warranted against any system failures reasonably expected in severe weather operation conditions.

30.08 DESIGN STANDARDS:

- A. Height: The permitted maximum height of a WECS shall be determined in one of two ways. In determining the height of the WECS, the total height of the system shall be included. System height shall be measured from the base of the tower to the highest possible extension of the rotor.
 - 1. A ratio of one (1) foot to one (1) foot between the distance of the closest property line to the base of WECS to the height of the system.
 - 2. A maximum system height of one hundred fifty (150) feet.

The shortest height of the two above mentioned methods shall be used in determining the maximum allowable height of a WECS system. The height of a WECS must also comply with FAA Regulation Part 77 "Objects Affecting Navigable Air Space" and/or MnDOT Rule 14, MCAR 1.3015 "Criteria for Determining Obstruction to Air Navigation."

- B. Setbacks: No part of a WECS (including guy wire anchors) shall be located within or above any required front, side or rear yard setback and no part of the system shall be within ten (10) feet of any property line, whichever is greater. WECS towers shall be setback from the closest property line one foot for every one foot of system height. WECS shall not be located within fifty (50) feet of an above ground utility line.
- C. Rotor Size: All WECS rotors shall not have rotor dimensions greater than twenty-six (26) feet.
- D. Rotor Clearance: Blade-arcs created by the WECS shall have a minimum of thirty (30) feet of clearance over any structure or tree within a two hundred (200) foot radius.
- E. Rotor Design: The blade design and materials are to be designed and constructed to ensure safe operation in an urban/rural area.
- F. Rotor Safety: Each WECS shall be equipped with both a manual and automatic braking device capable of stopping WECS operation in high wind (40 MPH or greater) or in conditions of imbalance.
- G. Lightning Protection: Each WECS shall be grounded to protect against natural lightning strikes in conformance with the National Electrical Code as adopted by the City.
- H. Component Compatibility: The Wind turbine and wind turbine tower are to be designed and constructed to be compatible.
- I. Tower Access: To prevent unauthorized climbing, WECS towers must comply with one of the following provision:
 - 1. Tower climbing apparatus shall not be located within twelve (12) feet of the ground.
 - 2. A locked anti-climb device shall be installed on the tower.
 - 3. Tower capable of being climbed shall be enclosed by a locked, protective fence at least eight (8) feet high.
- J. Signs: WECS shall have one sign, not to exceed two (2) square feet at the base of

the tower and said sign shall contain the following information:

1. Warning high voltage.
 2. Manufacturer's name.
 3. Emergency phone number.
 4. Emergency shutdown procedures.
- K. Lighting: WECS shall not have affixed or attached any lights, reflectors, flashers or any other illumination, except for illumination devices required by FAA Regulations Part 77 "Objectives Affecting Navigable Air Space" and Lighting."
- L. Electromagnetic Interference: WECS shall be designed and constructed so as not to cause radio and television interference.
- M. Noise Emissions: Noises emanating from the operation of WECS shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulations NPC 1 and 2, as amended.
- N. Utility Company Interconnection: No WECS shall be interconnected with the local electrical utility company until the utility company and the City Engineer have commented upon such proposal. The interconnection of the WECS with the utility company shall adhere to the National Electrical Code as adopted by the City.

30.09 ORNAMENTAL WIND DEVICES: Ornamental wind devices that are not a WECS shall be exempt from the provisions of this Section and shall conform to other applicable provisions of this Ordinance and any other applicable City regulations.

30.10 BUILDING PERMIT REQUIRED: A building permit shall be required for the installation of a WECS in the City.

30.11 INSPECTION: The City hereby reserves the right upon issuing any WECS conditional use permit to inspect the premises on which the WECS is located. If a WECS is not maintained in operational condition and poses a potential safety hazard, the owner shall upon written notice from the City, take expeditious action to correct the situation.

30.12 ABANDONMENT: Any WECS or tower which is not used for twelve (12) successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner or upon approval of an extension by the Zoning Administrator.

