

SPECIAL SESSION OF THE MOWER COUNTY  
BOARD OF COMMISSIONERS

October 6, 2009

The Mower County Board of Commissioners in and for the County of Mower, Minnesota, met in Special Session October 6, 2009 at 1:00 p.m. at the Courthouse in Austin, Minnesota.

All members present, viz:     Dave Tollefson, Chair  
                                      Raymond Tucker  
                                      David Hillier  
                                      Dick Lang  
                                      Tim Gabrielson  
                                      Craig Oscarson, County Coordinator

Motion made by Commissioner Gabrielson, seconded by Commissioner Hillier to authorize the Human Resource Director to hire 1 to 2 temporary, part-time non-benefited communication clerks to work up to the current hours of employees on medical leaves and the length of the temporary assignments will not exceed the duration of the medical leaves. Motion carried.

Motion made by Commissioner Hillier, seconded by Commissioner Gabrielson amend the Data Processing 2009 budget to allow up to 20 hours of overtime or comp time for the manatron conversion project. Motion carried.

Motion made by Commissioner Hillier, seconded by Commissioner Gabrielson to amend the 2009 Coordinator's budget for up to 70 hours of overtime in the finance department for completing year-end activities. Motion carried.

Motion made by Commissioner Tucker, seconded by Commissioner Lang to set December 31, 2009 as the last day the Mower County water lab will operate. Motion carried.

Motion made by Commissioner Tucker, seconded by Commissioner Lang to move Environmental Services to the Recycling Center upon the closure of the lab. Motion carried.

Commissioner Hillier as the county representative on the Regional Radio Board reported that dues will need to be paid in the near future and he recommends the County's continued involvement.

A Public Hearing was held in regard to proposed ordinance changes for "housekeeping" purposes. The proposed ordinance changes are summarized as follows:

<b>Page No.</b>	<b>Regarding</b>
4	Feedlot Animal Units to Match MN Rules 7020

13	Nonconforming Lot: Definition
14	Nonconforming Structure, Land Use: Definition
18	Delete: Definition Non Conforming
21	Update to current Statute: 216G.01
23	Update to current Statute: 216G.07
24	Update to current Statute: 216G.07
	Removes Twp notification return requirement:
26	Still requires Notice to Twp.
26	Comply with MN Stat. 15.99 (60-day notice)
30	Delete: Previous Nonconforming Section
31	Addition: Nonconforming Section
32	Addition: Nonconforming Section
33	Addition: Nonconforming Section
34	Addition: Nonconforming Section
35	Addition: Nonconforming Section
36	Addition: Nonconforming Section
37	Addition: Nonconforming Section
38	Addition: Nonconforming Section
45	Typographical correction: reference to 14-18.4a
52	Comply with MN Stat. 15.99 (60-day notice)
54	Comply with MN Stat. 15.99 (60-day notice)
57	Comply with MN Stat. 15.99 (60-day notice)
62	Addition: Auction facility or flea market
64	Delete: adjoining property owner waiver:
70	Delete: adjoining property owner waiver:
71	Delete: adjoining property owner waiver:
74	Delete: adjoining property owner waiver:
77	Addition: Auction facility or flea market
	Update to current Statute: 103 etc, 396 applies to
89	forest lands; 462 applies to cities
95	Delete: Non-conformities & Refer back to 14-16
96	Delete: Non-conformities & Refer back to 14-16
112	Addition "A" to table: Previous typographical error
	Reference correct statute: 394 - Counties, 462-
113	cities
118	Refer back to 14-16 (non-conformities)
138	Delete: Non-conformities
139	Delete: Non-conformities
138-139	<i>Note: Perhaps should refer back to 14-16</i>

Craig Oscarson reviewed the proposed ordinance changes in the absence of the Environment Services Director, Angie Knish. The Planning Commission recommends approval.

No one spoke for or against the proposed ordinance changes.

The Commissioner's raised a question on the result on existing feedlots and the proposed change on page 4 for Feedlot Animal Units to Match MN Rules 7020. This one proposed ordinance amendment was not included for adoption at today's meeting.

Date: October 6, 2009

Ordinance #01-09

**Ordinance  
Zoning Ordinance Amendments**

On motion of Commissioner Hillier, seconded by Commissioner Gabrielson, the following Ordinance amendments were unanimously passed and adopted by the Mower County Board of Commissioners at a meeting held October 6, 2009 at the Courthouse, Austin, Minnesota.

**WHEREAS**, a Notice of Intention to consider amending sections of the Mower County Zoning Ordinance was published in the LeRoy Independent on September 17, 2009; and

**WHEREAS**, the County Board held a public hearing on said amendments on October 6, 2009; and

**WHEREAS**, the Mower County Planning Commission recommended by a majority to amend the Mower County Zoning Ordinance;

**BE IT ORDAINED** that Sections of the Mower County Zoning Ordinance be amended as follows:

Definition

**Nonconforming Lot (interchangeable phrase with Lot; nonconforming or substandard lot)**– A lot, the area, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of the zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district. Nonconforming lots are subject to Section 14-16 or 14-135.

**Nonconforming Structure or Building (interchangeable phrase with Structure or Building; nonconforming)** – a structure or building, the size, dimensions, or location of which was lawful prior to the adoption, revision, or amendment to the zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district. Nonconforming structures and buildings are subject to Section 14-16 or 14-135.

**Nonconforming Land Use (interchangeable phrase with Land Use; nonconforming)** - ~~The use of a structure or premises which was lawful before passage of this ordinance but which is not in conformity with the provisions of this Ordinance subject to the provisions of Section 14-135.~~ A use or activity that was lawful prior to the adoption, revision, or amendment of the zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district. Nonconforming uses are subject to Section 14-16 or 14-135.

~~Use, Non-Conforming – The use of a structure or premises which was lawful before passage of this ordinance but which is not in conformity with the provisions of this Ordinance subject to the provisions of Section 14-135.~~

Section 14-8.2.

(c) Delete reference to Minnesota Statutes Section ~~116L.01~~ and replace with the current statute 216G.01

*Subdivision 8* Delete reference to Minnesota Statutes Section ~~116L.06~~ and replace with the current statute **216G.07** and change reference to ~~1979~~ to **2008**

*Subdivision 10* Delete reference to Minnesota Statutes Section ~~116L.06~~ and replace with the current statute **216G.07**

Section 14-13

(a) In first sentence correct spelling mistake from ~~therefor~~ to **therefore**.

(b) Application. Persons requesting zoning permits shall fill out a zoning permit application available from the Zoning Administrator. Completed zoning permit applications and a fee as may be established by resolution of the County Board of Commissioners shall be submitted to the Zoning Administrator. A copy of the zoning permit application shall be sent to the affected Town Board (clerk ~~and or~~ chair) for notification. ~~The zoning permit cannot be issued until the Town Board returns the notification form or fourteen (14) days has lapsed.~~ If the proposed development conforms in all respects to this Ordinance, a zoning permit shall be issued by the Zoning Administrator ~~after a period of fourteen (14) days or receipt of notification form from the Town Board~~ **in compliance with MN Statute 15.99**. A zoning permit is valid for two (2) years from date of issuance. If substantial work has not been completed, i.e. spending at least 30% estimated value, a new zoning permit application and fee shall be submitted to the Zoning Administrator and it will be considered a new application and must comply with the Ordinance as of the new application date. However, if there are unusual circumstances, the Mower County Board of Commissioners may waive these requirements and extend the permit for good cause shown, i.e. natural disasters, acts of war, or temporary disability of a permit holder/laborer.

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Section 14-16 – delete all current language and replace with the following:

**Section 14-16. Non-Conforming Lots, Land Uses, Buildings and Structures**

**PREFACE:** Within the districts established by this Ordinance there may be lots, structures, buildings, or land uses which were once lawful or conforming but that now fail by reason of adoption, revision or amendment to conform to the present requirements of the zoning district or ordinance. It is the intent of this Section to allow these non-conformities to continue until they are removed, discontinued or destroyed by fire or other peril beyond 50 percent of their estimated market value.

Except as otherwise provided by law, any nonconformity, including the lawful use or occupation of land or premises existing at the time of the official control, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion.

There may be more restrictive requirements for Floodplain areas. These requirements can be found in Section 14-135.

**DETRIMENTAL NON-CONFORMING LOT, BUILDINGS, STRUCTURES OR LAND USE:** A nonconformity that is determined by the County Board to be detrimental to the achievement of the goals and objectives of the comprehensive plan may be acquired by the County Board by purchase.

**NONCONFORMING USE:**

**EXISTING:** Non-conforming uses are allowed to exist “as is”.

**DISCONTINUED:** If the nonconforming use or occupancy is discontinued for a period of more than one year any subsequent use or occupancy of the land or premises must be a conforming use or occupancy.

**ADDITION, ENLARGEMENT, EXPANSION OR INTENSIFICATION:** Addition, enlargement, expansion or intensification of an existing nonconforming use shall require a variance. The Board of Adjustment shall examine the variance to determine if the addition, enlargement, expansion or intensification of the nonconforming use is detrimental to the achievement of the goals, policies and objectives of the comprehensive plan. The Board of Adjustment may deny a variance request; or grant a variance request with or without conditions. Reasonable conditions may be imposed in order to mitigate any newly created impacts on adjacent property, water body or any existing or future public services or investment. This review shall be accomplished through the variance process of the Board of Adjustment as outlined in Section 14-22 of this Ordinance.

**NONCONFORMING BUILDINGS OR STRUCTURES**

**GENERAL MAINTENANCE, UPKEEP, (NOT INCLUDING FIRE OR PERIL, OR EXPANSION):** Allowed. Check with Zoning Office to determine if a permit is required.

**50% OR LESS DAMAGE:** If any nonconforming building or structure is destroyed by fire or other peril to the extent of 50 percent or less of its market value, as determined by the record of the County Assessor, at the time of damage, the structure may be continued, including repair, replacement, maintenance, or improvement, but not to include expansion. Check with Zoning Office to determine if a permit is required.

**50% OR LESS DAMAGE INCLUDING EXPANSION:** If any nonconforming building or structure is destroyed by fire or other peril to the extent of 50 percent or less of its market value, as determined by the record of the County Assessor, at the time of damage, the structure may be considered for reconstruction, including expansion by the Board of Adjustment. The Board of Adjustment shall examine the variance to determine if the addition, enlargement, expansion or intensification of the nonconformity is detrimental to the achievement of the goals, policies and objectives of the comprehensive plan. The Board of Adjustment may deny a variance request; or grant a variance request with or without conditions. Reasonable conditions may be imposed in order to mitigate any newly created impacts on adjacent property, water body or any existing or future public services or investment. This review shall be accomplished through the variance process of the Board of Adjustment as outlined in Section 14-22 of this Ordinance.

**GREATER THAN 50 PERCENT DAMAGE AND A PERMIT REQUEST IS MADE WITHIN 180 DAYS OF PROPERTY DAMAGE:**

**OPTION A:** Subsequent use or occupancy of the land or premises shall be in compliance with the existing ordinance; OR

**OPTION B:** If a nonconforming building or structure is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, and application is made to the zoning office before 180 days have expired since the fire or other peril; the structure or building may be considered for reconstruction as a nonconformity by the Board of Adjustment. The Board of Adjustment shall examine the variance to determine if the reconstruction of the

nonconformity, with or without expansion, is detrimental to the achievement of the goals, policies and objectives of the comprehensive plan. The Board of Adjustment may deny a variance request; or grant a variance request with or without conditions. Reasonable conditions may be imposed in order to mitigate any newly created impacts on adjacent property, water body or any existing or future public services or investment. This review shall be accomplished through the variance process of the Board of Adjustment as outlined in Section 14-22 of this Ordinance.

**GREATER THAN 50 PERCENT DAMAGE AND BEYOND 180 DAYS OF PROPERTY DAMAGE:** If any nonconforming building or structure is destroyed by fire or other peril to the extent of greater than 50 percent of its market value, as determined by the record of the County Assessor, at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged, any subsequent use or occupancy of the land or premises must be conforming.

**50% OR LESS DAMAGE TO SHORELAND STRUCTURES OR BUILDINGS WITH LESS THAN 50% OF THE REQUIRED SETBACK – NO EXPANSION** If any nonconforming building or structure is destroyed by fire or other peril to the extent of 50 percent or less of its market value, as determined by the record of the County Assessor, at the time of damage, the structure may be continued, including repair, replacement, maintenance, or improvement, but not to include expansion. Application shall be made within 180 days of damage/peril.

Application after 180 days: A nonconforming structure in the shoreland district which has less than 50 percent of the required setback from the water is destroyed by fire or other peril to the extent of 50 percent or less of its estimated market value, as indicated in the records of the county assessor at the time of damage may be considered for reconstruction by the Board of Adjustment. The Board of Adjustment shall examine the variance to determine if the reconstruction of the nonconformity is detrimental to the achievement of the goals, policies and objectives of the comprehensive plan. The Board of Adjustment may deny a variance request; or grant a variance request with or without conditions. Reasonable conditions may be imposed in order to mitigate any newly created impacts on adjacent property, water body or any existing or future public services or investment. This review shall be accomplished through the variance process of the Board of Adjustment as outlined in Section 14-22 of this Ordinance.

**50% OR LESS DAMAGE TO SHORELAND STRUCTURES WITH LESS THAN 50% OF THE REQUIRED SETBACK – WITH EXPANSION** If any nonconforming building or structure is destroyed by fire or other peril to the extent of 50 percent or less of its market value, as determined by the record of the County Assessor, at the time of damage, reconstruction including expansion may be considered by the Board of Adjustment. The Board of Adjustment shall examine the variance to determine if the addition, enlargement, expansion or intensification of the nonconforming use is detrimental to the achievement of the goals, policies and objectives of the comprehensive plan. The Board of Adjustment may deny a variance request; or grant a variance request with or without conditions. Reasonable conditions may be imposed in order to mitigate any newly created impacts on adjacent property, water body or any existing or future public services or investment. This review shall be accomplished through the Variance process of the Board of Adjustment as outlined in Section 14-22 of this Ordinance. Application must be made within 180 days of damage/peril.

Application after 180 days: Subsequent use or occupancy of the land or premises shall be in compliance with the existing ordinance.

**GREATER THAN 50 PERCENT DAMAGE TO SHORELAND STRUCTURES WITH LESS THAN 50% OF THE REQUIRED SETBACK (with or without expansion).** A nonconforming structure in the shoreland district which has less than 50 percent of the required setback from the water is destroyed by fire or other peril to greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage may be considered for reconstruction by the Board of Adjustment. The Board of Adjustment shall examine the variance to determine if the reconstruction, addition, enlargement, expansion or intensification of the nonconformity is detrimental to the achievement of the goals, policies and objectives of the comprehensive plan. The Board of Adjustment may deny a variance request; or grant a variance request with or without conditions. Reasonable conditions may be imposed in order to mitigate any newly created impacts on adjacent property, water body or any existing or future public services or investment. This review shall be accomplished through the variance process of the Board of Adjustment as outlined in Section 14-22 of this Ordinance. Application must be made within 180 days of damage/peril.

Application after 180 days: Subsequent use or occupancy of the land or premises shall be in compliance with the existing ordinance.

**NONCONFORMING LOTS:**

**UN-ESTABLISHED BUILDING SITE:** A nonconforming lot that was created in compliance with the rules or regulations in effect at the time of creation may be used as a buildable site if the site can sustain itself for the intended purposes, by

- (a) Meeting the requirements and setbacks of the ordinance, or by a granted variance; and
- (b) A Type-1 sewage treatment system consistent with MN Rules, chapter 7080, can be installed or the lot is connected to a public sewer.

**ESTABLISHED BUILDING SITE:** A nonconforming lot that was created in compliance with the rules or regulations in effect at the time of creation may continued to be used as a building site if the site can sustain itself for the intended purposes by:

- (a) Meeting the requirements and setbacks of the ordinance, or by a granted variance; and
- (b) A Type-1 sewage treatment system consistent with MN Rules, chapter 7080, can be installed or is currently in compliance with MN Rules 7080 or the lot is connected to a public sewer.

**ADDITIONAL SHORELAND REQUIREMENTS – NONCONFORMING LOTS**

**EXISTING NONCONFORMING LOTS IN SHORELAND AREAS:**

This Section applies to shoreland lots of record in the office of the county recorder on the date of adoption of local shoreland controls that do not meet the requirements for lot size or lot width. A county shall regulate the use of nonconforming lots or record and the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in the shoreland areas according to this Section.

- (1) A non-conforming single lot of record located within a shoreland area may be allowed as a building site without variances from lot size requirements provided that:
  - (a) All structure and septic system setback distances can be met; and

- (b) A Type-1 sewage treatment system consistent with MN Rules, chapter 7080, can be installed or is currently in compliance with MN Rules 7080, or the lot is connected to a public sewer; and
  - (c) The impervious surface coverage does not exceed 25 percent of the lot
- (2) In a group of two or more contiguous lots of record under common ownership, an individual lot must be considered as a separate parcel of land for the purposes of sale or development, if it meets the following requirements:
- (a) The lot must be at least 66 percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, chapter 6120; and
  - (b) The lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type-1 sewage treatment system, or is currently in compliance with MN Rules 7080, and local government controls; and
  - (c) Impervious surface coverage must not exceed 25 percent of each lot; and
  - (d) Development of the lot must be consistent with an adopted comprehensive plan and zoning district.
- (3) A lot subject to paragraph 2 not meeting the requirements of paragraph 2 must be combined with the one or more contiguous lots so they equal one or more conforming lots as much as possible.
- (4) Notwithstanding paragraph 2, contiguous nonconforming lots of record in shoreland areas under common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by a compliant sewage treatment system consistent with the requirements of Minnesota Statutes 115.55 and Minnesota Rules, Chapter 7080, or connected to a public sewer.
- (5) In evaluating all variances, zoning and building permit applications, or conditional use requests, the zoning authority shall require the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment system and water supply capabilities, and other conservation-designed actions.
- (6) A portion of a conforming lot may be separated from an existing parcel as long as the remainder of the existing parcel meets the lot size and sewage system requirements of the zoning district for a new lot and the newly created parcel is combined with an adjacent parcel.

#### **NONCONFORMITIES GUIDANCE CHART**

To be used as guidance tool only. Section 14-16 text overrules this tool, when found to be conflict. Other Sections of the Zoning Ordinance may also apply especially to those parcels that are also located within Shoreland or Floodplain: additional requirements may also apply or restrict uses.

<b>Nonconforming Building or Structures – see definition</b>			
<b>Action:</b>	<b>Applies specifically to Shoreland Areas?</b>	<b>Guidance or Permitting Process</b>	
		<b>Step 1</b>	<b>Step 2, if applicable</b>
General maintenance: no peril, no expansion		Check to see if zoning permit is required	
50% or less damage: no expansion		Check to see if zoning permit is required	
50% or less damage; including expansion		Variance	Zoning Permit; if variance is granted
> 50 % damage; Application within 180 days of damage event		A) Zoning Permit: comply to current ordinance B) Variance & Zoning Permit; variance is granted	
> 50 % damage Application after 180 days of damage event		Subsequent use or occupancy of the land shall apply to the current ordinance.	
50% or less damage with less than 50% of the required setback from shoreland: no expansion *1, *2, *3	Yes	Zoning permit	
50% or less damage with less than 50% of the required setback from shoreland including expansion: *1, *2, *3	Yes	Variance	Zoning Permit, if variance is granted
> 50% damage with less than 50% of the required setback from shoreland with/without expansion 1, *2, *3	Yes	Variance	Zoning Permit, if variance is granted
*1 Application must be made within 180 days of damage event.			
*2 Application made after 180 days of the damage event must comply with the current ordinance.			
*3 – In evaluating all variances zoning and building permit applications, or conditional use requests, the zoning authority shall require the property owner to address when appropriate, stormwater runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.			

<b>Nonconforming Use or Occupancy – see definition</b>			
<b>Action:</b>	<b>Applies specifically to Shoreland Areas?</b>	<b>Guidance or Permitting Process</b>	
		<b>Step 1</b>	<b>Step 2 if applicable</b>
No change		Allowed to operate “as is”	
Addition, Enlargement, Expansion, or Intensify Use		Variance	Zoning Permit, if variance is granted
Discontinued 1 year or more		Use must comply with current ordinance	

<b>Nonconforming Lot – see definition</b>				
<b>Action:</b>	<b>Applies specifically to Shoreland Area?</b>	<b>Guidance or Permitting Process</b>		
		<b>Step 1</b>	<b>Step 2</b>	<b>Step 3</b>
Un-established building site		Criteria “a” & “b” must be met	Zoning Permit	
Un-established building site		Criteria “a” & “b” NOT met	Variance	Zoning permit if Variance is granted
Established building site		Criteria “a” & “b” must be met	Zoning Permit	
Established building site		Criteria “a” & “b” NOT met	Variance	Zoning permit if Variance is granted
SINGLE lot	Yes	Criteria “a”, “b”, & “c” must be met	Zoning permit	
SINGLE lot. *3	Yes	Criteria “a”, “b”, & “c” NOT met	Variance	Zoning permit if Variance is granted
Two or more lots under common ownership *1, *2 *3	Yes	Criteria “a”, “b”, “c” & “d” must be met	Zoning Permit	
Two or more lots under common ownership *1, *2, *3	Yes	Criteria “a”, “b”, “c” & “d” NOT met	Variance	Zoning permit if Variance is granted
*1 – Lots must be combined with one or more contiguous lots so they equal one or more conforming lots. This applies to development and to the sale of shoreland property.				
*2 – Contiguous nonconforming lots of record in shoreland areas under common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by a sewage treatment system consist with the requirements of MN Statutes 115.55 and Minnesota Rules, chapter 7080, or connected to a public sewer.				
*3 – In evaluating all variances zoning and building permit applications, or conditional use requests, the zoning authority shall require the property owner to address when appropriate, stormwater runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.				

**Section 14-18.4**

(d) Additional Single Family Dwellings. Additional single family dwellings in addition to the number allowed in 14-18.4. ~~A~~ a 3 may be allowed by conditional use provided:

**Section 14-25**

(c) The Board of Adjustment must take action on the application ~~within ninety (90) days after receiving the application~~ **in accordance with MN Statute 15.99**. If it grants the variance, the Board of Adjustment may impose conditions it considers necessary to protect the public health, safety, and welfare, and such conditions may include a time limit for the use to exist or operate.

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Section 14-30

(d) The report of the Planning Commission shall be placed on the agenda of the Mower County Board at its next meeting following referral from the Planning Commission, ~~but not later than sixty (60) days after the applicant has submitted the application.~~

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(e) The Mower County Board must take action on the application ~~within thirty (30) days after~~ receiving the report of the Planning Commission **in accordance with MN Statute 15.99**. If it grants the conditional use permit, the Mower County Board may impose conditions it considers necessary to protect the public health, safety, and welfare, and such conditions may include a time limit for the use to exist or operate.

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Section 14-40

(a) In accordance with Minnesota State Statute 375.51, a public hearing on the rezoning application shall be held by the Planning Commission ~~within sixty (60) days~~ **in compliance with MN Statute 15.99** after the request for the zoning amendment has been received. Notice of said hearing shall be published in the official newspaper, designated by the County Board, at least ten (10) days prior to the hearing.

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Section 14-51

Add to the list “**(b) Auction facility or flea market**” and re-alphabetize the remainder of the list.

Section 14-52 (b)

(2) Side and Rear Yard.

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(a) There shall be a side yard width of not less than twenty (20) feet on each side of the building; ~~however, an adjoining property owner or owners may sign a waiver of lot line in which case it shall be no less than five (5) feet for a free standing accessory building.~~

(b) Rear yard setback for all buildings ~~shall be a minimum of~~ **be** twenty (20) feet. ~~; however, an adjoining property owner or owners may sign a waiver of lot line in which case it shall be no less than five (5) feet for a free standing accessory building.~~

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Section 14-62(b)(3)

(b) For building other than the above, there shall be a minimum rear yard of twenty-five (25) feet. ~~However, an adjoining property owner or owners may sign a waiver of lot line in which case it shall be no less than five (5) feet for a free standing accessory building.~~

Section 14-67 (b)

(3) Rear Yard. Every building shall have a rear yard. The rear yard shall have a minimum depth of twenty (20) feet. ~~However, an adjoining property owner or owners may sign a waiver of lot line in which case it shall be no less than five (5) feet for a free standing accessory building.~~

Section 14-71

Add to the list “**(a) Auction facility or flea market**” and re-alphabetize the remainder of the list.

Section 14-89

The purpose of this Section is to regulate the subdivision, use and development of shoreland areas within the unincorporated areas of Mower County as a means to further the policies declared in Minnesota Statutes, Chapters **103A, 103B, 103E to 103G**, 115, 116, 394, ~~396 and 462~~ and to achieve the following:

Section 14-99

**Section 14-99. NonConforming lots, land Uses, buildings and structures, and Substandard Lots and Structures, and Non-Conforming On-Site Sewage Treatment Systems**

**Nonconforming lots, land uses, buildings, structures, and substandard lots are regulated in Section 14-16 of this Ordinance.**

- (a) ~~Nonconforming Uses. Nonconforming Uses in shoreland areas shall not be expanded, changed, enlarged or altered in any way except as provided for in Section 14-135.~~
- (b) ~~Substandard Structures. The expansion or enlargement of a substandard structure shall meet the Shoreland Development Standards set forth in Section 14-96 except as follows:~~
- ~~(1) The extension, enlargement or alteration of a substandard structure or sanitary facility may be permitted without a variance on the side of the structure or facility facing away from the OHWL.~~
  - ~~(2) An improvement to a substandard structure or sanitary facility may be allowed to extend laterally by CUP (parallel to the OHWL) when the improvement is in compliance with the other dimensional standards of this ordinance. In no case shall the improvement extend closer to the OHWL than the existing structure.~~
  - ~~(3) Decks may be allowed without a variance provided as follows:~~
    - ~~(a) A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing OHWL setback of the structure. The deck encroachment toward the OHWL does not exceed 15 percent of the existing shoreline setback of the structure from the OHWL or does not encroach closer than 30 feet, whichever is more restrictive, and~~
    - ~~(b) The deck is constructed primarily of wood, and is not roofed or screened.~~
  - ~~(4) If a substandard structure is demolished, replacement shall comply with the dimensional standards of this ordinance.~~
- (c) ~~Substandard Lots. A lot of record shall be deemed a buildable lot if the following conditions can be met:~~
- ~~(1) It has frontage on a public street,~~
  - ~~(2) It can be demonstrated that an acceptable sewage disposal system (MPCA Chapter 7080) can be installed,~~
  - ~~(3) The proposed structure will occupy no portion of the shore impact zone,~~
  - ~~(4) The proposed structure can meet the required side yard setbacks of this ordinance, and~~
  - ~~(5) The lot is a separate parcel and the owner has owned no adjacent lot or parcel since the lot or parcel became substandard and was compliant with the official controls in effect at the time.~~
- (d) (a) Nonconforming On-Site Sewage Treatment Systems.
- (1) Systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, Section 103F.201-221, shall be considered as conforming systems unless they are determined to be failing, in which case, they shall be nonconforming.

- (2) Cesspools, leaching pits, seepage pits and other deep disposal systems shall be considered as nonconforming systems.
- (3) Nonconforming systems shall be reconstructed to meet MPCA standards whenever a permit or variance of any type is required for any improvement on, or use of, the property.

Section 14-103.13 (Table 1)

Add "A" as the heading in Column 2 of Table 1

Section 14-104

Delete reference to Minnesota Statutes Chapter 462 and replace with the correct Chapter 394

Section 14-116

- (b) Modifications, additions, structural alterations or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this Ordinance and specifically in Sections Section 14-16 and 14-135; and

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Section 14-135

- (a) A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance but which is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions:

~~(1) No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.~~

~~(2)~~ (1) Any alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 through FP-4 flood proofing classifications) allowable in the State Building Code, except as further restricted in (3) below.

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~~(3)~~ (2) The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions constructed since the adoption of the County's initial flood plain controls must be calculated into today's current costs which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds 50 percent of the current market value of the structure, the structure must meet the standards of Division 4 and 5 of this Ordinance for new structures depending upon whether the structure is in the Floodway or Flood Fringe, respectively.

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~~(4)~~ (3) ~~If any nonconforming use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this Ordinance. The Assessor shall notify the Zoning Administrator in writing of instances of non-conforming uses which have been discontinued for a period of twelve (12) months.~~

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- Ⓢ (4) If any nonconforming use or structure is destroyed by any means, including floods, to an extent of 50 percent or more of its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance. The applicable provisions for establishing new uses or new structures in Divisions 4, 5, or 6 will apply depending upon whether the use or structure is in the Floodway, Flood Fringe or General Flood Plain District, respectively.

Passed and approved this 6th day of October, 2009.

**THE MOWER COUNTY BOARD OF COMMISSIONERS**

By: \_\_\_\_\_  
Chairperson

By: \_\_\_\_\_  
Clerk/Coordinator

Motion made by Commissioner Hillier, seconded by Commissioner Lang to approve the minutes of September 22 and September 29, 2009. Motion carried.

Motion made by Commissioner Tucker, seconded by Commissioner Gabrielson to approve the following additional Commissioners' warrants for immediate payment:

KKE Architects	\$ 28,385.85
Verzieg Consulting	1,480.45

Motion carried.

Motion made by Commissioner Gabrielson, seconded by Commissioner Lang to amend the August 25, 2009 motion for the Ramsey concrete railroad crossing upgrade by increasing the amount from \$15,000 to \$15,300 and authorize the County Engineer to sign the agreement with DM&E. Motion carried.

Motion made by Commissioner Lang, seconded by Commissioner Hillier to award the quote for laundry equipment for the justice center to Minnesota Chemical with a low quote of \$37,098. Motion carried.

Motion made by Commissioner Hillier, seconded by Commissioner Tucker to award the quote for radio equipment for the justice center to Whitewater Wireless with a low quote of \$60,769.44. Motion carried.

Motion made by Commissioner Tucker, seconded by Commissioner Gabrielson to approve the Indemnity for Fiber Optic Cable and Geothermal Corridor agreement with the City of Austin. Motion carried.

Motion made by Commissioner Hillier, seconded by Commissioner Gabrielson to approve the Public Health Response Grant (PHER I-II) grant agreement between the

Minnesota Department of Health and Mower County Community Health Services effective October 1, 2009 through July 31, 2012. Motion carried.

Motion made by Commissioner Gabrielson, seconded by Commissioner Lang to set a Public Hearing on October 27, 2009 at 7:00 p.m. at the Mower County Courthouse Commissioner's Board Room for input on updating changes to the ISTS ordinance. Motion carried.

Motion by Commissioner Gabrielson, seconded by Commissioner Lang to adjourn the meeting at 2:18 p.m. until October 13, 2009 at 8:30 a.m. Motion carried.

**THE MOWER COUNTY BOARD OF COMMISSIONERS**

**BY:** \_\_\_\_\_ **Chairperson**

**Attest:**

**By:** \_\_\_\_\_  
**Clerk/Coordinator**

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