

### STAFF REPORT

#### Ordinance Amendment

**Initiator:** Pope County Land and Resource Management Department

**Ordinance Title and History:** Pope County Land Use Controls Ordinance

With the adoption of the Pope County Land Use Controls Ordinance (LUCO) by the Board of County Commissioners in December of 1999, county wide zoning and performance standards were instituted. The primary objectives of county wide zoning and land use planning is for the protection of public health, safety and welfare through limiting the degradation of sensitive environmental features, preserving valuable soil resources for agriculture purposes, providing for the housing needs of the community and ensuring the long-term sustainability of commercial and industrial development. These functions and uses work in tandem to limit disorderly development and to provide for a more stable population and tax base in Pope County.

**Sections:** The following sections of the LUCO are under consideration for amendment:

Section 8 Commercial (C) & Industrial (I) Uses

- Section 8.1 Commercial (C)
- Section 8.2 Industrial (I)

Section 11.1 Land Use Permits

Section 11.6 Variance from Standards

**Discussion:** Staff has initiated the proposed amendments in compliance with the following goal as established in the 2018 Pope County Comprehensive Land Use Plan.

#### *Land Use Compatibility*

4. *Ensure that land use regulations are clear, promote greater certainty in the land development process, and are consistent with the goals of the Comprehensive Plan and the well-being of the County's residents and landowners.*
  - a. *Conduct a thorough review of the County's zoning and subdivision ordinances to identify those parts which are unclear or inconsistent with the Comprehensive Plan or other county policies and make the appropriate amendments.*



Throughout the years there have been amendments to the official zoning map as well as the text of the ordinance. This proposed amendment relating to Section 8 is an effort to provide for performance standards relating to identified land uses within specified zoning districts, and are in response to a recognition of existing and evolving land use trends in the commercial, industrial and agricultural sectors of Pope County. The LUCO does not currently have defined performance standards for Commercial Uses and the current adopted Industrial Use performance standards are dated and are limited in scope.

The proposed amendment to Section 11.1 relates to an increase in the number of incidents in which a construction project has been undertaken without the benefit of the required permit. Staff supports a permitting standard which includes clearly identified penalties for nonconformance.

The proposed amendment to Section 11.6 relates to a duration of time between requests for the same variance on the same property. There is currently no standard set for variance requests in this matter. However, as in the case of a Conditional Use Permit (CUP) or Interim Use Permit (IUP) request, Section 11.5.2.O clearly sets a standard:

*No application for a Conditional or Interim Use Permit shall be resubmitted for a period of 1 year from the date of said order of denial.*

Staff supports the same timeline as it relates to variance requests.

### Applicable Statutes

---

Proposed ordinance changes are subject to the criteria and procedures as prescribed in Section 11.7 of the Land Use Controls Ordinance and Minnesota Statute 394 including:

- 394.24 Official Controls
- 394.25 Forms of Control
- 394.26 Public Hearing



## Supplemental Information

---

**Supplemental Information Attachment 1:**  
***DRAFT - Section 8 Commercial (C) & Industrial (I)***  
***(Land & Resource Management, 7 December 2021)***

---

## **SECTION 8 COMMERCIAL (C) & INDUSTRIAL (I)**

### **8.1 COMMERCIAL (C)**

#### **8.1.1. Purpose:**

The purpose of this district is to provide a location for commercial uses along a federal, state, county or local road or in locations consistent with those indicated in the Pope County Comprehensive Land Use Plan which may be incompatible with other land uses elsewhere in the county.

All uses are subject to the submittal of a site Stormwater Management Plan, see section 8.3.4. and 10.24 for required performance standards.

#### **8.1.2 Permitted Uses:**

- A. Agricultural related equipment sales and service.
- B. Agriculture, including farm dwellings and agricultural structures, but not including agricultural or commercial feedlots.
- C. Athletic clubs.
- D. Automotive sales and sales lots.
- E. Building materials sales.
- F. Contractor's offices and storage yards less than 50,000 square feet per storage yard.
- G. Convenience stores.
- H. Daycare, commercial.
- I. Drive-in movie theaters.
- J. Electrical, heating, plumbing and air conditioning shops and showrooms.
- K. Equipment rental, sales and service.
- L. Essential services, subject to performance standards in Section 10.7.
- M. Florist shops, plant nurseries and garden supplies sales.
- N. Hobbyist Wind Energy Conversion Systems, subject to performance standards in Section 10.12.
- O. Hotels, motels, motor lodges and resorts.
- P. Manufactured homes and travel trailer sales.
- Q. Mini or seasonal storage facility.
- R. Miniature golf courses or driving ranges.
- S. Office buildings.
- T. Radio, television, motor and appliance repair shops and showrooms.
- U. Radio and television studios and towers.
- V. Restaurants and drive-ins.
- W. Retail sales.
- X. Seed, fertilizer, feed and petroleum products sales.
- Y. Upholstery shops.

Z. Veterinary clinics or offices with no outside kennels.

AA. Wholesale businesses with no outdoor storage.

**8.1.3 Conditional Uses:**

A. Bars, lounges, clubs, lodges, and dance halls.

B. Car washes (when separate from Auto Service).

C. Kennels.

D. Pawnbrokers.

E. School bus service facilities.

F. Service stations and garages.

G. Shopping and entertainment malls.

H. Single-family housing.

I. Towers, subject to the standards at Section 10.5.

J. Any similar commercial use not specifically stated, implied or regulated elsewhere in this section, deemed by the Planning Advisory Commission to be of the same general character, as those permitted and conditional uses listed above.

**8.1.4 Interim Uses:**

A. Contractor's offices and storage yards greater than 50,000 square feet per storage yard.

B. Mining operations in accordance with Section 10.2.

C. Solar Energy Systems: Solar Garden or Farm, subject to the performance standards in Section 10.12.

D. Wind Energy Conversion Systems, subject to the performance standards in Section 10.12.

## 8.2 INDUSTRIAL (I)

### 8.2.1 Purpose:

The purpose of this district is to provide a location for commercial/industrial uses along a federal, state, county or local road or in locations consistent with those indicated in the Pope County Comprehensive Land Use Plan that which may be are will not be incompatible with other land uses elsewhere in the county.

All uses are subject to the submittal of a site Stormwater Management Plan, see section 8.3.4. and 10.24 for required performance standards.

### 8.2.2 Permitted Uses:

- A. Accessory Solar Energy Systems: Industrial facility/on-site use, subject to the performance standards in Section 10.12. *(AS AMENDED 7 July 2020)*
- B. Agriculture, including farm dwellings and agricultural structures, but not including agricultural or commercial feedlots.
- C. Antennae when mounted on a rooftop or along a building or other structure.
- D. Athletic clubs.
- E. Auction Businesses.
- F. Automotive and vehicle sales.
- G. Bus service.
- H. Cabinet shop.
- I. Contractor's offices and storage yards less than 50,000 square feet per storage yard.
- J. Essential services, subject to performance standards in Section 10.7.
- K. Experimental Wind Energy Conversion Systems, subject to performance standards in Section 10.12.
- L. Feed storage.
- M. Grain elevators.
- N. Light manufacturing, compounding, processing, packaging, treatment or assembly of products and materials.
- O. Mini storage facilities or seasonal storage.
- P. Offices.
- Q. Recycling Center in accordance with the Pope County Solid Waste Disposal Ordinance No. 4.
- R. Research and development operations.
- S. Sales or service businesses dealing principally with business, not retail customers.
- T. Signs, subject to the performance standards in Section 10.XX.
- U. Transportation or freight terminal.
- V. Wholesale business.
- W. Warehouse.
- ~~X. Dwelling units for security persons and their families located on the premises where they are employed.~~

### 8.2.3 Conditional Uses:

- A. Agricultural products processing.
- B. Alcohol fuel plants.
- C. Animal hospitals.
- D. Auto fuel stations and truck stops.
- E. Bulk liquid storage.
- F. Car washes (when separate from Auto Service).
- G. Convenience stores, service stations and garages.
- H. Kennels.
- I. Manufacturing.
- J. Motor vehicle salvage facilities, subject to the standards at Section 10.14.
- K. Other uses compatible with and of the same general character as those listed, provided they are not incompatible with existing adjacent uses.
- L. Pawn broker.
- M. Restaurants, cafes and taverns.
- N. Retail trade.
- O. Saw mills.
- P. Sewage treatment plants.
- Q. Single-family housing.
- R. Solid waste management facilities in accordance with the Pope County Solid Waste Disposal Ordinance No. 4.
- S. Towers, subject to the standards at Section-10.5.
- T. Transfer station.
- ~~U. Mining and Extraction.~~
- ~~V. Contractors offices, shops and yards such as building, cement, electrical, heating, ventilation and air conditioning, masonry, painting, plumbing, and refrigeration and roofing.~~
- ~~W. Auto repair shops.~~
- ~~X. Solar Energy Systems: Solar Garden or Farm, subject to the performance standards in Section 10.12.~~

### 8.2.4 Interim Uses:

- A. Asphalt and concrete mixing plants, portable.
- B. Contractor's offices and storage yards greater than 50,000 square feet per storage yard.
- C. Dwelling units for security persons and their families located on the premises where they are employed.
- D. Mining operations in accordance with Section 10.2.

- E. Solar Energy Systems: Solar Garden or Farm, subject to the performance standards in Section 10.12.
- F. Wind Energy Conversion Systems, subject to the performance standards in Section 10.12.

#### **8.2.6 8.4 Setbacks:**

- A. ~~Side Yard Setback: 10 Feet~~
- B. ~~Unplatted cemetery: 50 Feet~~
- C. ~~From centerline of public roadways classified as:~~
  - ~~Arterials 225 Feet~~
  - ~~Major Collectors 150 Feet~~
  - ~~Minor Collectors 125 Feet~~
- D. ~~From centerline of town roads, public streets, and all other legal roads or streets not classified as an arterial or collector: 100 Feet~~

#### **8.2.7 8.5 Lots of Record:**

- ~~A. Lots located in an area zoned industrial which were of record in the County Recorder's office prior to the date on which an area was zoned industrial and which do not meet the requirements of this section may be allowed as building sites provided:
  - ~~1. Such use is permitted in the zoning district.~~
  - ~~2. The lot was in separate ownership from abutting lots or lands prior to the date on which the area was zoned industrial; and~~
  - ~~3. All sanitary, dimensional, and setback requirements of this ordinance are complied with.~~~~



---

## 8.3 PERFORMANCE STANDARDS

### 8.3.1 Setbacks:

- A. Side and Rear Yard Setback:
  - Abutting residential district: 80 Feet
  - Abutting non-residential district: 20 Feet
- B. Unplatted cemetery: 50 Feet
- C. From centerline of public roadways classified as Arterials, Major and Minor Collectors: 125 Feet
- D. From centerline of town roads, public streets, and all other legal roads or streets not classified as an arterial or collector: 100 Feet
- E. No parking or loading space shall be located within ten (10) feet of any property line that abuts a highway right-of-way line, or any residential, special protection, or agriculture district except railroad loading areas.

### 8.3.2 Minimum Lot Area and Width:

- Area = 2 acres when utilizing an on-site sewage treatment system; or  
1 acre if connected to a public sewer system
- Width = 200 feet
- Depth = 330 feet

### 8.3.3 Lots of Record:

- A. Lots located in an area zoned commercial or industrial which were of record in the County Recorder's office prior to the date on which an area was zoned commercial or industrial and which do not meet the requirements of this section may be allowed as building sites provided:
  - 1. Such use is permitted in the zoning district.
  - 2. The lot was in separate ownership from abutting lots or lands prior to the date on which the area was zoned commercial or industrial; and
  - 3. All sanitary, dimensional, and setback requirements of this ordinance are complied with.

### 8.3.4 Stormwater Management for Commercial or Industrial Zoned Areas

Activities in commercial or industrial areas shall conform to the Stormwater Management standards in Section 10.24 as well as the following additional standards:

- A. A stormwater management plan must be submitted for all uses in both Commercial and Industrial Districts.
- B. Industrial stormwater should be managed in compliance with the Minnesota Pollution Control Agency *Industrial Stormwater, Best Management Practices Guidebook, Version 1.1 – April 2015*.
- C. A facility Stormwater Pollution Prevention Plan (SWPPP) must be implemented and maintained where required by the Pope County Board of Commissioners.

### 8.3.5 Impervious Surface

Impervious surface coverage of lots shall conform to the following limits:

- A. **Commercial District:** Impervious surface coverage shall not exceed thirty (30) percent of the lot area.
- B. **Industrial District:** Impervious surface coverage shall not exceed thirty (35) percent of the lot area.

### 8.3.6 Screening Requirements

- A. Any industrial development that abuts any existing residential development or abuts any parcel planned or zoned for housing development shall be screened from view from the housing site using a combination of fencing, plantings and/or berming to the satisfaction of the Planning Advisory Commission.
- B. If an industrial development occurs prior to an adjacent residential development, it shall be the responsibility of the residential development to provide screening using a combination of fencing, plantings and/or berming to the satisfaction of the Planning Advisory Commission.
- C. Any outdoor storage or display of goods, materials, or damaged vehicles awaiting body repair shall be screened from view from any non-industrial zones (except farm fields) to the satisfaction of the Planning Advisory Commission using a combination of fencing, coniferous and deciduous plantings and/or berming.

### 8.3.7 Signs

- A. Advertising devices must be located outside of the road right-of-way, and be 300 feet from the intersection of any primary highway at grade with another highway, or with a railroad; provided that advertising may be affixed to or located adjacent to a building at such intersection in such a manner as not to cause any greater obstruction of vision than that caused by the building itself.
- B. A sign face, whether a single sign face or each face of two back-to-back or V-type signs, shall not exceed five hundred (500) square feet including border and trim, but excluding base and apron supports and other structural members, except as provided under this ordinance. The maximum size limitation stated in this subdivision shall apply to each side of a sign structure and signs may be placed back-to-back, side by side, or in a V-type construction, but not more than two displays to each facing and such sign structure shall be considered as one sign.
- C. Advertising devices shall not be erected or maintained which are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of a primary highway, of such intensity or brilliance as to cause glare or impair the vision of the operator of any motor vehicle; or which otherwise interfere with any driver's operation of a motor vehicle are prohibited.
- D. No sign shall extend in height above the parapet wall of any principal building, except that one (1) free standing sign shall be allowed not exceeding thirty (30) feet in height above the average grade.
- E. No sign shall be mounted on a structure on or above the roof line.
- F. One temporary sign not to exceed one hundred thirty (130) square feet with no more than two (2) surfaces, may be displayed on a parcel during the time that the parcel is for sale, available for lease, or under construction.



**Supplemental Information Attachment 2:**  
*DRAFT - Section 11.1 Land Use Permits*

## **SECTION 11 ADMINISTRATION**

### **11.1 LAND USE PERMITS:**

A Land Use Permit shall be obtained prior to erecting or installing a new structure or altering any structure or part thereof if the outside dimensions are changed or the use thereof is converted to another use. A Land Use Permit shall also be obtained prior to the moving of a structure. It shall be the duty of the contractor to inspect the Land Use Permit application as approved and to perform the construction in compliance with the permit and this ordinance. It shall also be the duty of contractor to make certain that the permit is secured before the construction begins. **Contractors performing construction activities without the benefit of an issued permit shall be subject to monetary penalty as specified in the fee schedule resolution of the County Board of Commissioners.**

#### **11.1.1 Permits:**

An application for Land Use Permit shall be made on forms supplied by the County. Each application shall include a sketch plan drawn to scale showing the exact size and location of the buildings and accessory buildings to be erected, and the size and location of any existing buildings, wells or sewers located on the lot. An application is deemed complete when all required fees, plans and data are submitted. Fees for Land Use Permit shall be according to the fee schedule resolution of the County Board of Commissioners.

- A. Before a permit can be issued for any building, the requirements of Section 10.20 pertaining to sanitary facilities shall be met.
- B. Before any permit is issued under this section, the construction erosion standards found in Section 10.4 shall be met.

#### **11.1.2 Construction Period:**

A Land Use Permit is valid for a period of one year. If construction is not completed at one year, a one-year permit extension may be granted by the Administrator upon full payment of a fee equivalent to the original permit fee. If construction is not completed upon permit expiration after the first extension, future permit extensions may be granted for a one-year period upon full payment of a fee equivalent to two times the original permit fee.

- A. Construction is considered completed when the exterior of the structure is fully completed to the extent that there appears to be no additional construction necessary.
- B. All yard landscape work shall be fully completed during the first one-year permit period.



S:\2. BOA-PAC\2022\1. January 27th\6. PAC\2. Ordinance Amendments\PAC Item 6.B. Ordinance Amendments Staff Report.docx

**Supplemental Information Attachment 3:**  
***DRAFT - Section 11.6 Variance from Standards***

## 11.6 VARIANCE FROM STANDARDS:

### 11.6.1 Description:

In the case of the applicant's request for deviation from standards, a variance may be requested on items of height, bulk, density and yard requirements. The filing fee for variance appeals shall be according to the fee schedule resolution of County Board of Commissioners.

### 11.6.2 Requirements:

In any case where, upon application of any responsible parties it appears, that by reason of exceptional circumstances, the strict enforcement of any provision of the standards would cause unnecessary hardship or that strict conformity with the standards would be unreasonable, impractical or not feasible under the circumstances, the Board of Adjustments may permit a variance therefrom upon such conditions as it may prescribe consistent with the general purposes of this ordinance and the intent of this and all other applicable State and local regulations and laws provided that:

- A. The condition causing the hardship is unique to that property.
- B. The variance is proved necessary in order to secure for the applicant a right or rights that are enjoyed by the other owners in the same area or district.
- C. The granting of the variance will not be contrary to the public interest or damaging to the rights of other persons or to the property values in the neighborhood.
- D. The granting of the variance will not be contrary to management policies of the area or district.
- E. No variance shall be granted simply because there are no objections or because those who do not object outnumber those who do; nor for any other reason than a proved hardship.
- F. A copy of all variances granted within a shoreland district shall be forwarded to the Commissioner of Natural Resources within ten (10) days of such action.
- G. A hearing for variance shall be conducted in similar manner as required for Conditional & Interim Use Permits as stated in Section 11.5 of this ordinance.
- H. Applicants for Conditional & Interim Use Permits and Variance shall be required to submit a land surveyor's plot plan showing exact lot boundary and location of existing and proposed development as a part of application. Surveyor stakes shall be in place for site inspection of lot boundary and proposed development. Above policy shall be applicable for development on all lots of one acre or smaller. *(ADOPTED 4 September 1985)*
- I. No application for a Variance shall be resubmitted for a period of one (1) year from the date of said order of denial.