

Updating and Incorporating Sustainability into Scott County's Zoning Code

Prepared for Scott County

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I. Introduction

This report is a result of a research proposal submitted to the Community Growth Planning Assistance Center (CGPAC) by Scott County to assist the County in updating components of its zoning code. As part of Scott County's effort to update its zoning code for the implementation of the *2030 Comprehensive Plan Update*, the County desires to modernize its agricultural zoning code and incorporate sustainability elements into its subdivision ordinance.

II. Updating Scott County's Agricultural Zoning Code

The first part of this report examines how Scott County zones for agriculture. This continues previous research CGPAC has completed for Scott County¹ on the future of agriculture within the County, by studying how the County's zoning code allows for new and emerging agricultural practices.

The County recently formed its Farm Advisory Task Force to help evaluate its zoning rules as they pertain to farming and agricultural land uses. The following section serves as an audit of Scott County's general agricultural zoning code in comparison to a sample of Minnesota counties, as well as a discussion of emerging trends in agricultural zoning approaches, specifically zoning for feedlots, parcel splitting procedures, and zoning for agricultural tourism. The analysis evaluates Scott County's current practices in these agricultural areas, and then summarizes the best practices in the region (and the nation, in some cases), alluding to actual ordinance text used in other communities.

Scott County's agricultural zoning code in comparison to other counties in Minnesota

Current Practices

Scott County employs a classified zoning structure for its agricultural areas. The County has three different agricultural districts: A1 Agricultural Preservation, A2 Agricultural Woodlands, and A3 Agricultural Preservation Density.

The A1 Agricultural Preservation District is intended primarily for application in those areas of Scott County where it is desirable, because of the high quality of soils,

¹ Find these reports on the CGPAC program webpage:
<http://www.cura.umn.edu/Programs/CGPAC/Projects.php#Local>

availability of water and highly productive capability of the land, to preserve, promote, maintain and enhance the use of land for agricultural purposes and to protect this land from encroachment by non-agricultural uses, structures and activities.

In the A2 Agricultural Woodlands District, the predominant land use remains agriculture, but there exists single family homes and hobby farms. Given the area's proximity to major highways and growing suburban areas, there will be continued pressure for additional residential development, which may be allowed at a low density. Development will not be provided with an urban level of service.

This A3 Agricultural Preservation Density District is intended for application in those areas of Scott County where it is desirable because of the high quality of soils, availability of water and highly productive capability of the land, to preserve, promote, maintain and enhance the use of land for agricultural purposes. Detached single-family dwellings may be located individually or clustered to maintain a one (1) home per forty (40) acre density. Only those lands zoned A-1, Agricultural Preservation District, shall be eligible to be rezoned to A-3, Agricultural Preservation Density District.

Generally, the allowed density in these districts remains at 1 dwelling unit per 40 acres, but the A2 district does allow for higher densities, up to 4 dwelling units per 40 acres. The allowed uses (primary, accessory, interim, and conditional) are very similar within each district, with the only difference among the districts being the inclusion of commercial bulk liquid storage and commercial livestock experiment stations being allowed as conditional uses in the A1 and A3 districts.

Observations

The following counties were selected to compare to Scott County's agricultural zoning practices: Blue Earth, Carver, Goodhue, Olmsted, and Washington. These counties were selected as a mixture of more rurally located (Blue Earth, Goodhue) and those located near or within larger metropolitan areas (Carver, Olmsted, and Washington), to give a broader representation of statewide agricultural zoning practices.

The tables on the following page give a general overview of the classification systems, density, and district regulations. Scott County's agricultural zoning system is very much on par with, and even more detailed than some of, the counties selected. Blue Earth and Carver County only have one agricultural zoning district, where as Washington, Olmsted, and Goodhue Counties have multiple districts.

Classification Scheme	Scott			Washington				Carver
	A1	A2	A3	AP	A1	A2	A4	Ag
Density (d.u./acres)	1/40	4/40	1/40	1/40	1/40	2/40	4/40	1/40, with density options up to 4/40
Minimum Lot Size (acres)	40	10	variable	40	40	20	10	1.5 20 acres for Ag Use
Setbacks								
Width	600'	300'	Existing Farmstead = 300' Non-Farmstead = 150'	N/A	N/A	N/A	N/A	125'
Depth	N/A	N/A	N/A	N/A	N/A	N/A	N/A	125'
Height	35'	35'	35'	35'	35'	35'	35'	35'
Front Yard	150' from county/state rd, 100' county/state ROW, 100' local road, 67' from local ROW	150' from county/state rd, 100' county/state ROW, 100' local road, 67' from local ROW	150' from county/state rd, 100' county/state ROW, 100' local road, 67' from local ROW	150' from centerline, 75' from ROW along arterials	150' from centerline, 75' from ROW along arterials	150' from centerline, 75' from ROW along arterials	150' from centerline, 75' from ROW along arterials	85' to 135' depending upon road
Side Yard	30', 15' if lot under 2 acres	30', 15' if lot under 2 acres	30', 15' if lot under 2 acres	20'	20'	20'	20'	15'
Rear Yard	60', 30' if lot under 2 acres	60', 30' if lot under 2 acres	60', 30' if lot under 2 acres	50'	50'	50'	50'	30'
Frontage	N/A	N/A	N/A	300'	300'	300'	300'	125'
Lot Coverage	N/A	N/A	N/A	25%	25%	25%	25%	

Classification Scheme	Olmsted				Goodhue			Blue Earth
	A1	A2	A3	A4	A1	A2	A3	Ag District
Density (d.u./acres)	Farm: 1/80, Non-Farm: 1/160	Farm: 1/35, Non-Farm: 1/40	Farm: 1/35, Non-Farm: 2/40	Farm: 1/80, Non-Farm: 1/35	1/160	1/40	none	1/40 upto 4/40
Minimum Lot Size (acres)	2	2	2	35	2	2	35	1
Setbacks								
Width	150'	150'	150'	150'	100'	100'	100'	150'
Depth					N/A	N/A	N/A	75'
Height	none	none	none	35' for residential only	35' for residential only	35'	35'	35' for residential only
Front Yard	45'	45'	45'	45' federal/state/county roads, 30' local roads	100' to public road ROW	60'	60'	130' to federal/state/county rds, 100' to divided hwys, 65' to all other rds
Side Yard	45' street, 25' interior	45' street, 25' interior	45' street, 25' interior	45' road, 30' street, 8' interior	30'	30'	30'	50'
Rear Yard	25'	25'	25'	25'	30'	30'	30'	50'
Frontage	33'	33'	33'	150'	N/A	N/A	N/A	N/A
Lot Coverage					N/A	N/A	N/A	N/A

In terms of density, Scott County's agricultural zoning regulations allow for as high of densities as the other counties audited in this report; with a max density in A2 at 4 dwelling unit per 40 acres. On the other end of the spectrum, most other counties audited (that have multiple district classes) had districts with lower densities than Scott County. Goodhue County, for example, has a maximum density in its A1 class at one dwelling unit per 160 acres.

Some of the counties audited offered a different density options within their agricultural districts. Carver County allows for the following density options within its agricultural zoning districts (as long as the density does not exceed 4 dwelling units per 40 acres). A resident can apply for additional building eligibilities if his or her property qualifies under the following categories²:

1. The property is an eligible wooded or lakeshore land.
2. The property is in a high amenity area (adjacent to lakeshore, in a wooded area, or in a bluff area). Building sites in the high amenity area shall be clustered as much as possible.
3. A resident with property in an eligible wooded or lakeshore land or a high amenity area may apply for one additional building eligibility as a conditional use permit.

In addition to allowing these density options, Carver County has a transfer of building eligibilities between adjacent parcels, as long as they adhere to the maximum density requirement of 4 dwelling units per 40 acres.

Most of the counties audited (specifically Carver, Olmsted, and Scott) allow or promote clustering within one or more of their agricultural districts. The rationale behind all is to conserve land and/or long-term preparation for urban expansion. Scott County's A3 district, the only with real clear language on this intent, has the explicit goal "to preserve, promote, maintain and enhance the use of land for agricultural purposes."

Olmsted County has separate zoning regulations for non-farm dwellings within its agricultural districts. Within each class of its agricultural districts, the County's code stipulates different densities (lower in almost every case) and standards for non-farm and farm dwellings. In this manner, the County can preserve agricultural land; the zoning code mandates that non-farm dwellings "be located on at least one (1) acre of non-prime agricultural soils with a crop equivalent rating of 55 or less."³

² Carver County Zoning Code, 152.078 -C.3.d

³ Olmsted County Zoning Code, Article 5-Section 5.00-C2

Zoning for Feedlots

ANIMAL UNITS PERMITTED

Animal units permitted in the following zoning districts of the Scott County townships:

A-1 (Agricultural Preservation District)	Yes
A-2 (Agricultural Woodlands District)	Yes
A-3 (Agricultural Preserve Density District)	Yes
UER (Urban Expansion Reserve District)	Yes
UER-C (Urban Expansion Reserve Cluster District)	Yes on 10 acres or more
UBR (Urban Business Reserve District)	Yes
RR-1 (Rural Residential Reserve District)	Yes
RR-1C (Rural Residential Reserve Cluster District)	Yes on 10 acres or more
RR-2 (Rural Residential Single Family District)	Only if 10 animal units or less on 10 acres or more. If existing animals on less than 10 acres, when property is sold, no more animals allowed.
RR-3 (Residential Suburban Single Family District)	No
C-1 (General Commercial District)	Yes
I-1 (Rural Industrial District)	Yes

Current Practices

Presently, Scott County regulates feedlots using animal units. The County only has two thresholds for regulating new or expanding feedlots: 100-250 animal units, 250+ animal units. The County requires conditional use permits for new and expanding feedlots, in which the County considers the following criteria: the size of the operation and type of animal raised in the operation, the method of spreading or incorporating manure from the feedlot, the measures which will be taken to minimize odor at the feedlot site, and the method of disposal of dead, dying or diseased animals. In addition, the County assures new or expanding feedlots are in accordance with State law and practices.

The County also has requirements on the amount of productive acres required for manure spreading: *The property shall have a minimum of two (2) productive acres for the first animal unit and one (1) productive acre for each additional animal unit.* The County does allow for land spreading agreements for feedlot operators that do not own an amount of productive acreage required for spreading. Under these agreements, landowners can prove they have access to the minimum amount of productive acres required for manure spreading for the lifetime of the feedlot.

Best Practices

Scott County has a good framework for feedlot regulation in its zoning code, but in comparison to other counties examined for this report, the County could be more prescriptive and elaborate in its feedlot regulation.

First, a number of counties use tables to summarize where, and through what method (permitted use, conditional use permit, etc), new and expanding feedlots can be operated. The graphic below is an example from Rice County’s feedlot ordinance. Scott County, within various handouts available on its website, displays this information, but it might be better served consolidated and listed in the Animal Units Permitted document.

SECTION 628 LAND USE DISTRICT, SIZE, AREA AND SETBACK REGULATIONS

- 628.01 Land Use Districts.** The following table establishes the Feedlot Uses in the zoning districts within Rice County.
- (a) **Permitted Uses, including Registrations and Certificates.** Uses specified with a “P” are permitted as of right in the district where designated, provided that the use complies with all other applicable provisions of this Ordinance and the Rice County Zoning Ordinance.
 - (b) **Conditional Uses.** Uses specified with a “C” may be allowed as a conditional use in the district designated.
 - (c) **Prohibited Uses.** Any use not listed as either “P” or “C” in a particular district shall be prohibited in that district.

Table 628-1 Permitted and Conditional Uses

Feedlot and Earthen basin Uses	Rice County Zoning Districts									
	GDS	RDS	NES	WS	A	UR	RR	VMU	HC	LI
Feedlot (1-9 AU)	P*	P*	P*	P*	P	P	P	P	P*	
Feedlot (10-49 AU)	P*	P*	P*	P*	P	P	P*	P*	P*	
Feedlot (50-99 AU)	P*	P*	P*	P*	P	P				
Feedlot (100-749 AU)	P*	P*	P*	P*	P	C				
Feedlot (749-2000 AU)				P*	C	C				
Earthen Basin					C	C				

*= Use only allowed for those sites where the use legally existed on the date of adoption of this Ordinance

Second, a number of counties (Nicollet, Goodhue, and Carver) have written in buffers around specific cities within the counties, where feedlots are restricted. For example, Goodhue County prevents new feedlots from locating within one-half mile of incorporated municipalities, in addition to placing one-mile buffers around the cities of Red Wing, Cannon Falls, Pine Island, Lake City, Kenyon, and Zumbrota (Art. 13, Sect. 7, Subd. 8). Goodhue County also applies feedlot restrictions within its agricultural zoning classifications. In its A-3, Urban Fringe District, Goodhue County does not allow new feedlots and limits expanding feedlots to fewer than 100 animal units (Sect. 5, Subd. 1).

628.05 Feedlot and Earthen Basin Setbacks. The following shall be the minimum setback requirements for new feedlots utilizing liquid manure:

Feedlot and Earthen basin Setbacks				
Feedlot Size (Animal Units)	10-300 Animal Units		Over 300 Animal Units	
Manure Type	Solid	Liquid	Solid	Liquid
Setback from:				
Public Parks (not including trails)	500 feet	¼ mile	¼ mile	½ mile
Northfield, Dundas, Faribault, Lonsdale	¼ mile	½ mile	½ mile	One-mile
Other Municipalities	500 feet	¼ mile	¼ mile	½ mile
Residential Area	500 feet	¼ mile	1000 feet	½ mile
Neighboring Residence not owned by family or employee	500 feet	1000 feet	1000 feet	¼ mile
Shoreland and Floodplain	Prohibited	Prohibited	Prohibited	Prohibited
Lakes	1000 feet	1000 feet	1000 feet	1000 feet
Protected Watercourses	300 feet	300 feet	300 feet	300 feet
Drainage Ditch, Wetland, or other Surface Water	150 feet	150 feet	300 feet	300 feet
Property Lines	As specified in the Rice County Zoning Ordinance			

**Distances shall be calculated from the nearest point on the feedlot structure to the nearest point on each feature listed.*

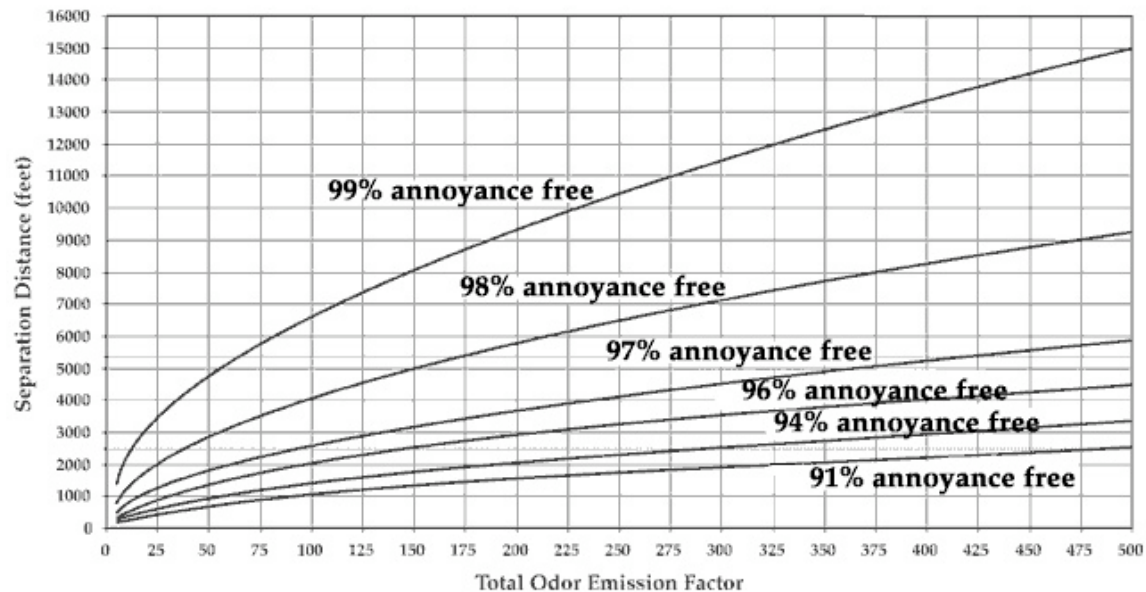
Finally, other counties have spelled out more specific practices for manure application in their zoning ordinances. Rice County's feedlot ordinance (Sect. 630) provides a good example of what type of regulations on manure application a county can impose. Rice County's ordinance describes the allowed methods for manure application and corresponding setbacks required for those methods.

In addition to methods of manure application, some county zoning ordinances apply specific benchmarks, most notably OFFSET, to regulate the odor impact of feedlots and determine appropriate setback distances. Goodhue County offers OFFSET annoyance rates in addition to a minimum distance, and requires that feedlot operators adheres to the distance limitation that is the greater of the two.

Odors From Feedlots Setback Estimation Tool (OFFSET) is a tool designed by the University of Minnesota to estimate average odor impacts from a variety of animal facilities and manure storages. OFFSET is based on odor measurements from Minnesota farms and Minnesota climatic conditions.

For more information on OFFEST see:

<http://www.extension.umn.edu/distribution/livestocksystems/D17680.html>



A number of other counties (Wright, Rice, Carver, and Goodhue, for example) also allow feedlot operators to factor in land spreading agreements which use leasable land to satisfy minimum acreage required for manure spreading.

Parcel-Splitting Procedures (Farmsteads)

Current Practices

Save a brief mention within the A-3 design performance standards section (27-7, 4), there is nothing in Scott County's zoning code describing what a farmstead is, or the parcel-splitting process used to divide a farmstead away from surrounding pasture or productive agricultural land.

Best Practices

In the research completed for this report, only one county in Minnesota had a detailed description, including definitions and parcel splitting procedures, of farmsteads. Olmsted County has definitions of farmsteads, farmstead dwellings, and farmstead boundaries as well as performance standards for farmsteads included in each agricultural zoning district.

Farmstead: A rectangular area surrounded by a farmstead boundary which contains a farm dwelling and may contain other buildings which are or have been used for farming uses. In some instances minor amounts of tilled acreage or pasture land would be contained within the boundary to enable a rectangular boundary to be established.

Farmstead Boundary: An imaginary line separating a farmstead from tilled land and pasture land. For the purposes of this ordinance said tilled and nontilled acreage or a reasonable area encompassing existing farm buildings to ensure compliance with the yard requirements of this ordinance.

Farmstead Dwelling: A dwelling which on April 16, 1983, was located upon a farm, as defined by this ordinance, but subsequently subdivided from that farm onto a non-farm lot which does not conform to the standards for non-farm dwellings within the district where located.

Olmsted Zonina Code: Article II. Section 2: Rules and Definitions.

Linn County, Iowa, outlines the parcel-splitting process used to split farmsteads from surrounding property. Linn County formally calls this a Residential Parcel Split.⁴ Within its ordinance, Linn County defines which parcels are eligible and how the resulting split parcels fit into the existing zoning and development regulations.

⁴ The regulations and full process are described in a handout found here:
<http://www.linncounty.org/files/download.asp?type=Adobe&mode=view&I=4781>

D. Standards for Farmstead Dwellings: A farmstead dwelling may be created provided the following standards are complied with:

1. A habitable farm dwelling must have legally existed on the farm in a habitable condition as of April 16, 1983.
2. The farmstead dwelling is located within a farmstead boundary.
3. Each parcel containing a farmstead dwelling must contain a minimum area of five (5) acres.
4. A parcel containing a farmstead dwelling shall not contain more than five (5) acres of prime cropland.
5. Not more than one (1) farmstead dwelling is permitted per farm.
6. If a farm contains more than one dwelling, only one of the dwellings may become a farmstead dwelling; the remaining dwelling or dwellings must remain on a farm parcel or be removed from the parcel.
7. Parcels containing farmstead dwellings shall conform with the yard, area, lot width and access requirements of this ordinance.

Olmsted Zoning Code: Article V, Section 5 (D)

Zoning for Agri-Tourism

Many counties throughout Minnesota are wrestling with new trends in agriculture. Farmers are increasingly turning to more adaptive farming, specializing in value-added products and secondary businesses as a way to bring in more income. The focus in many of these ventures is to bring people onto the farm to allow them to experience farming and food in its natural environment. This presents a number of zoning issues ranging from increased traffic and crowds to issues with food safety and product origin.

This section discusses how Scott County's current zoning ordinance treats agri-tourism and how other Minnesota counties are regulating agri-tourism-type uses within their own codes.⁵

⁵ CR Planning in conjunction with the Environmental Quality Board and Minnesota Pollution Control Agency has produced a model sustainable development ordinance on Local Food Networks that touches on agritourism. The model ordinance can be found at http://www.crplanning.com/pdfs/susdo6_09/localfood.pdf

Defining Agri-Tourism

A new ordinance in Goodhue County defines Agricultural Tourism as follows:

Agricultural Tourism. Ag-tourism” and/or “agri-tourism” means the practice of visiting an agribusiness, horticultural, or agricultural operation, including, but not limited to, a farm, orchard, winery, greenhouse, hunting preserve, a companion animal or livestock show, for the purpose of recreation, education, or active involvement in the operation, other than as a contractor or employee of the operation

Separating agriculturally related uses from non-agriculturally related uses is essential to regulating agri-tourism in Goodhue’s ordinance⁶:

Agriculturally related use. Means those activities that predominantly use agricultural products, buildings or equipment including that represent “agriculture tourism” in Goodhue County as defined in this section, including but not limited to:

- *pony rides*
- *corn mazes or straw bale mazes*
- *pumpkin rolling*
- *barn dances*
- *sleigh/hay rides*
- *educational events including but not limited to: activities associated with the promotion of wine usage, viticulture or viniculture classes, historical agricultural exhibits, and farming and food preserving classes.*
- *Gift shops for the sale of agricultural products and agriculturally related products.*

Non-agriculturally related uses. Means activities that are part of an agri tourism operation’s total offerings but not tied to farming or the farm’s buildings, equipment, fields, etc. Such non-agriculturally related uses include:

- *Amusement rides*
- *Concerts*
- *Non-profit benefits*
- *Wedding Ceremonies or Receptions*

⁶ For other definitions of specific agritourism uses please see the “Agricultural Tourism Local Zoning Guidebook and Model Ordinance Provisions,” published by the Michigan Agricultural Tourism Advisory Commission in January 2007.

www.michigan.gov/documents/.../MDA_zoneguide_185763_7.pdf

- *wine and catered food events*
- *vineyard harvest festivals*
- *bakeries selling baked goods containing produce grown primarily on site*
- *playgrounds or equipment typical of a school playground*
- *Petting farms, animal display, and pony rides*
- *Wagon, sleigh and hayrides*
- *Nature trails*
- *Open air or covered picnic area with restrooms*
- *Kitchen facilities, processing/cooking items for sale*
- *Gift shops for the sale of non-agricultural products, limited to 25 percent gross sales.*

Bed and Breakfasts vs. the Country Inn vs. Farmstays/Agricultural Homestays

The Scott County Zoning code regulates Bed and Breakfasts, but other counties have expanded their regulation of these uses to account for larger establishments and increasingly popular farmstays or agricultural homestays. The following ordinances show a comparison of the various types of uses. The main differences among the uses are number of rooms, the inclusion of cooking facilities, and the type of activities that can occur at the uses.

The Houston County ordinance was included because its Bed & Breakfast Inn definition allows for an absentee-owner, as long as the innkeeper resides on a contiguous property. Fillmore County's ordinance also does require owner-occupation.

Houston County – Bed and Breakfasts

Bed and Breakfast. A home or other establishment which provides lodging, breakfast, and hospitality. The Bed and Breakfast establishment is highly individualized and offers unique facilities and services to the guests. Bed and Breakfasts can be found in cities and towns of all sizes and in rural areas. The term "Bed and Breakfast" excludes franchise operations, hotels, motels, resorts, and boarding houses. Bed and Breakfasts generally fall into two categories:

1. Bed & Breakfast Inn

- *Up to 15 rooms available for guests*
- *Breakfast included in price of room*
- *Owner/innkeeper occupied or residing on contiguous property.*

2. Bed & Breakfast Home

- *1 to 5 rooms available for guests*
- *Breakfast included in price of room*
- *May operate with domestic kitchen equipment*
- *Meals provided to guests only*
- *Owner occupied*

Fillmore County Bed and Breakfasts vs. Country Inns

728. Bed and Breakfast Establishments

15) Bed and Breakfast Establishment: A dwelling which provides lodging and meals for overnight registered paying guests.

All Bed and Breakfast Establishments must obtain a Bed & Breakfast permit, and adhere to the regulations found in this section:

- 1) 1 to 5 rooms available for guests.*
- 2) Meals provided to overnight registered B&B guests only.*
- 3) The owner of the Bed and Breakfast Establishment must obtain a license from the Minnesota Department of Health in order to operate.*
- 4) All Bed and Breakfast Establishments must be constructed according to plans on file in the Zoning Office.*

729. Country Inns

49) Country Inn: A dwelling, which provides lodging, meals, special facilities, and other, organized activities for overnight registered guests.

729.01. Conditional Use Permit Required

All Country Inns shall obtain a Conditional Use Permit prior to construction and operation. Any Bed and Breakfast Establishment in operation desiring to convert to a Country Inn must also obtain a Country Inn Conditional Use Permit.

729.02. Requirements

All Country Inns must adhere to the regulations found in this section.

- 1) The Country Inn may have 1 to 5 rooms available to guests.*
- 2) The Country Inn may not be authorized on any lot less than three (3) acres.*
- 3) The owner of the Country Inn must obtain a license from the Minnesota Department of Health in order to operate as per MDH rules and regulations.*
- 4) All Country Inns must be operated according to plans on file in the Zoning Office.*
- 5) Individual rooms that are rented by paying occupants shall not contain cooking facilities.*
- 6) Except as provided for number 7 below shall serve meals served only to customers who are actually using the Country Inn accommodations overnight or their guests.*
- 7) In addition to providing meals as allowed, a Country Inn may provide facilities and catering for banquets, weddings, receptions, reunions, and similar events for invited*

quests.

8) *The use of the property as a Country Inn shall be shown by the owner not to be detrimental to the neighborhood.*

9) *In the unincorporated areas of the county, adequate off road parking shall be provided for all guests.*

Goodhue County – Educational Farm Retreat vs. Bed and Breakfast

BED AND BREAKFAST INN. A bed and breakfast inn shall be construed to mean any dwelling occupied in such a manner that certain rooms in excess of those used by members of the family, as herein provided, and occupied as a home or family unit, are rented without cooking facilities, to the public for compensation and catering primarily to the traveling public

SECTION 14. BED & BREAKFAST INNS

Permitted in all Districts except the Wild & Scenic River District and the Industrial District. Conditionally permitted in A-1, A-2, A-3 and R-1 Districts. The following standards shall apply to all Bed & Breakfast Inns:

Subd. 1. They may only occur in an existing owner occupied single family dwelling.

Subd. 2. Breakfast only to be served and it must be included in the price of the room.

Subd. 3. Maps showing limits of the property are to be placed in the rooms.

Subd. 4. No more than 10 guests will be accommodated.

Subd. 5. No more than 4 rooms or suites to be designated for guests.

Subd. 6. No cooking facilities allowed in the rooms.

Subd. 7. Owner must show proof of liability insurance.

Subd. 8. An annual inspection by the Fire Marshall and Public Health Services must be established.

Subd. 9. The property must have adequate parking.

EDUCATIONAL FARM RETREAT. An educational farm retreat shall be construed to mean any dwelling occupied in such a manner that certain rooms in excess of those used by members of the family, as herein provided, and occupied as a home or family unit, are rented with cooking facilities, to the public for compensation and catering primarily to the traveling public. The purpose of the Educational Farm Retreat is to provide a lodging experience that provides an opportunity for guests to learn about the operations of a working farm.

SECTION 15. EDUCATIONAL FARM RETREAT

Conditionally permitted in A-1, A-2, and A-3. The following standards shall apply to all Educational Farm Retreat:

Subd. 1. They must be part of an owner occupied single-family dwelling.

Subd. 2. Maximum length of stay for guests shall be limited to two weeks.

Subd. 3. No more than two Educational Farm Retreat units shall be permitted per property.

Subd. 4. That Educational Farm Retreat units may not be converted into permanent dwelling units.

Subd. 5. Owner must show proof of liability insurance.

Subd. 6. An annual inspection by the Fire Marshall and Public Health Services must be performed.

Subd. 7. The property must have adequate parking.

Subd. 8. The farm owner/operator must provide an educational and interpretive program to educate guests on the farm operations.

Farm Markets/ Roadside Stands, agricultural-seasonal businesses, farm-related businesses

More specific than Scott County's definition of home-extended businesses, farm markets, farm-related businesses, etc are focused on those businesses located on farms that sell/produce/ or utilize agricultural or agriculturally related products. These ordinances, such in Goodhue or Carver County, can specify the portion of these sales that are locally grown or grown onsite. Washington County adds a sunset clause to its ordinance, ensuring the use is seasonal in nature.

Goodhue County Definitions of Agricultural Products

Value-added agricultural product. Means the enhancement or improvement of the overall value of an agricultural commodity or of an animal or plant product to a higher value. The enhancement or improvement includes, but is not limited to marketing, agricultural processing, transforming, or packaging, education presentation, activities and tours.

Agricultural product. Includes, but is not limited to, crops (corn, wheat, hay, potatoes); fruit (apples, peaches, grapes, cherries, berries, etc.); cider; vegetables (sweet corn, pumpkins, tomatoes, etc.); floriculture; herbs; forestry; husbandry; livestock and livestock products (cattle, sheep, hogs, horses, poultry, ostriches, emus, farmed deer, farmed buffalo, milk, eggs, and fur, etc.); aquaculture products (fish, fish products, water plants and shellfish); horticultural specialties (nursery stock, ornamental shrubs, flowers and Christmas trees); maple sap, etc.

Agriculturally related products. Means items sold at a farm market to attract customers and promote the sale of agricultural products. Such items include, but are not limited to all agricultural and horticultural products, animal feed, baked goods, ice cream and ice cream based desserts and beverages, jams, honey, gift items, food stuffs, clothing and other items promoting the farms and agriculture in Goodhue County and value-added agricultural products and production on site.

Non-agriculturally related products. Means those items not connected to farming or the farm operation, such as novelty t-shirts or other clothing, crafts and knick-knacks imported from other states or countries, etc.

Farm Market/On-farm market/roadside stand. Means the sale of agricultural products or value-added agricultural products, directly to the consumer from a site on a working farm or any agricultural, horticultural or agribusiness operation or agricultural land.

Farm-related Businesses Definition from Carver County:

(2) Farm-related businesses.

(a) A business directly related to the conduct of agriculture that involves: retail sales beyond the scope of a roadside stand or yard sale, including “pick your own” sales; or operational limits exceeding that of a home occupation; or a commercial structure that would be constructed according to State Building Code.

(b) The following specific standard must be met: the business is 70% farm-related under one or more of the following criteria:

1. The business provides a repair or maintenance service for equipment unique and necessary to agricultural operations;

2. The business produces a product or involves a process that utilizes locally grown or produced commodities; or

3. The business involves sales and/or purchasing of products of the local agricultural economy or of goods unique and necessary to agricultural operations.

(3) Day nurseries (allowed in AG preserve) accommodating more than ten children provided appropriate licenses and/or permits are granted by the state or other appropriate agencies.

Washington County Agricultural Seasonal Business Definition & Standards

2.2 Agricultural Business - Seasonal

Agricultural-Business, Seasonal: A seasonal business not exceeding six months in any calendar year operated on a rural farm as defined offering for sale to the general public, produce or any derivative thereof, grown or raised on the property.

(1) Required Permits. Agricultural Business - Seasonal is allowed in the Agricultural Districts (AP, A-1, A-2, A-4), Conservancy District, Rural Residential District (RR), Single Family (SFE), and Transition Zone (TZ), with a certificate of compliance.

(2) Other Requirements. The business must comply with all rules and regulations of Federal, State, County and local agencies.

(3) Performance Standards. Seasonal agricultural businesses must comply with all of the following standards.

(A) The majority of product sold on the property shall be grown or raised on the property. No sale of product shall take place on any County Road right- of-way.

(B) Any temporary structure placed on the property for such sales must be removed at the end of the selling season. The size of the temporary structure shall not exceed 100 square feet.

(C) If deemed necessary by the Zoning Administrator, off-street parking may be required.

(D) All structures, including temporary structures shall meet the minimum setback requirements of the zone in which it is located.

(E) The certificate of compliance shall be reviewed annually.

Farm Wineries

Viticulture research conducted by the University of Minnesota has yielded cold hard varieties of grapes that have made it feasible to successfully grow grapes suitable for winemaking in Minnesota. Consequently, this has increased the interest in wineries and vineyards.

Scott County's current ordinance regulating farm wineries ensures that wine is produced by grapes or fruits grown on the premises by stipulating that 51% of products used in production must be grown on-farm. The ordinance also limits farm wineries to five events per year of no more than 150 people, but these events must be related to the making and marketing of wine. It has become common that events not directly related to wine or wine production are trying to locate on wineries, but Scott County's ordinance does not allow for this. In addition, the ordinance does not detail the different type of wine beverages or distinguish the difference between allowing wine tastings versus serving and selling alcoholic beverages for consumption on the premises. The ordinance also does not require wineries to conform to the appropriate federal, state, and local laws.

Goodhue County provides a good model at regulating the specifics pertaining to farm wineries. Goodhue County's ordinance allows for the possibility of special events not related to wine production by regulating agri-tourism in within applicable districts in general. These events fall under the blanket term of "non-agriculturally related uses" and are regulated by conditional or interim use permits, which is discussed in the next section.

Regulating agriculturally related versus non-agriculturally related uses in Goodhue County

Section 28. FARM WINERIES

Subd. 1. Statement of Purpose. Wineries are welcomed by Goodhue County as appropriate farm activities. It is the intent of this section to promote local agriculture production by allowing construction of a farm winery with tasting room and retail sale of winery products in the A-1, A-2 and A-3 Zone Districts. It is also the intent of this section to encourage the growing of wine fruit and production of wine as an integral component of the rural and agricultural ambiance of Goodhue County and to maintain the viability of fruit farming through value added processing and direct sales of wine and wine related beverages made from locally grown fruit.

Subd. 2. Definitions

A. Farm winery. "Farm winery" is a winery operated by the owner of a Minnesota farm and producing table, sparkling, or fortified wines from grapes, grape juice, other fruit bases, or honey with a majority of the ingredients grown or produced in Minnesota.

B. Wine. "Wine" is the product made from the normal alcoholic fermentation of grapes, including still wine, sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, sherry and sake, in each instance containing not less than one-half of one percent nor more than 24 percent alcohol by volume for non-industrial use. Wine does not include distilled spirits as defined in Minnesota Statutes.

C. Fortified wine. "Fortified wine" is wine to which brandy, or neutral grape spirits, has been added during or after fermentation resulting in a beverage containing not less than one-half of one percent nor more than 24 percent alcohol by volume for nonindustrial use.

D. Table or sparkling wine. "Table or sparkling wine" is a beverage made without rectification or fortification and containing not more than 25 percent of alcohol by volume and made by the fermentation of grapes, grape juice, other fruits, or honey

F. Distilled spirits. "Distilled spirits" is ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for nonindustrial use.

G. Tasting Room. A room in conjunction with a farm winery where:

- 1) Tasting of wine, fruit wines, and nonalcoholic fruit juices takes place at a charge or no charge to the individual; and*

2) The retail sales of winery products, incidental retail sales of non-food items, products by the bottle for off premises consumption and food items are allowed as provided herein

Subd. 3. Performance Standards.

A. Farm Wineries are permitted, provided:

1) The farm winery is licensed by the US Treasury, Bureau of Alcohol Tobacco & Firearms; and the State of Minnesota Department of Public Safety. In addition, the farm winery must operate in conformance with all applicable local, state and federal laws, rules, and ordinances.

2) The minimum parcel size required to construct and operate a farm winery shall be ten (10) acres or the minimum parcel size required for the construction of a structure in the Zone District the property is located within, whichever is greater.

3) The farm winery parcel shall have a minimum of two planted acres of fruit maintained pursuant to generally accepted management practices.

4) The total land area covered by buildings and structures used for wine processing, storage and sales does not exceed two percent (2%) of the contiguous lot area. If the total land area covered by buildings and structures used for wine processing, storage and sales exceeds thirty thousand (30,000) square feet, the project is subject to approval of a conditional use permit.

5) The above ground portion of any individual building shall not be greater than 20,000 square feet.

6) All farm winery buildings shall comply with minimum yard setbacks for the zone district of the parcel. However, if the farm winery building is open to the public, that building shall be set back at least 100 feet from any lot line. To encourage the use of existing buildings, the setback requirements may be reduced to the other standards of the districts, subject to site plan review.

7) Sales. Farm wineries licensed by the State of Minnesota operating in Goodhue County may sell, on the farm winery premises, of table, sparkling, or fortified wines produced by that farm winery at on-sale or off-sale, in retail, or wholesale lots in total quantities not in excess of 50,000 gallons in a calendar year, glassware, wine literature and accessories, cheese and cheese spreads, other wine-related food items sale. A farm winery may provide samples of distilled spirits manufactured pursuant to Minnesota Statutes 340A.315 distilled spirits only through a licensed wholesaler. Samples of distilled spirits may not exceed 15 milliliters per variety.

Zoning for Agri-Tourism events/activities

As discussed in the above sections, Scott County regulates some of the more typical agriculturally related uses (i.e. Bed and Breakfasts, Wineries, and more generally, home-extended businesses). Increasingly, farms are becoming the setting for events that are not agriculturally related in principle. However, Scott County's code does not allow for the entertainment aspects of agricultural tourism.

Because Goodhue County differentiates within its code the different activities that are agriculturally related and non-agriculturally related, the County can regulate those types of uses differently. Goodhue County has employed a conditional use or interim use permit (contingent on a time-limit) for those non-agriculturally related uses in agricultural districts, while also requiring a permit for agriculturally related uses as an accessory to existing agricultural uses.

Goodhue County – Regulating Events Associated with Agricultural Tourism

Add Section 29. AGRICULTURAL TOURISM ACCESSORY USES

Agriculturally related use are permitted as accessory uses within the A-1, A-2 and A-3 zone districts subject to approval of a zoning permit by the Zoning Administrator. Evidence in the form of a site plan and description of the use must be provided to indicate compliance with the following standards and any other applicable requirements set forth in this Ordinance.

A. Parking areas must be off-road, forty (40) feet from all lot lines, and appropriately screened from neighboring property. Light sources shall be directed downwards and shielded to prevent light being directed off the premises.

B. The operator must have a written statement from the County Environmental Services indicating the maximum number of persons that can be accommodated with existing toilet facilities and additional portable toilets must be provided for any guests exceeding the aforementioned number.

C. Outside, activities must be completed during daylight hours. Inside activities must be completed by 10:00 p.m.

D. With the exception of hor'deuvres, snacks or products regularly produced on the premises, food provided for the activity must be prepared off site.

SECTION 30 NON-AGRICULTURALLY RELATED USES

Non-agriculturally related uses may be permitted in the A-1, A-2, or A-3 Zone Districts subject to approval by the Board of County Commissioners of a conditional use permit or an interim use permit. In addition to submittal requirements set forth Article 4, the following information must be provided with a conditional use permit or interim use permit application.

- A. Plan drawn to an appropriate scale for effective interpretation.*
- B. Property boundaries, onsite parking areas and access roads.*
- C. Existing uses on adjacent properties and distance of dwellings within 500 feet of the property boundary.*
- D. Existing and proposed structures with maximum capacity of each building where guests have access as required to comply with building code and applicable fire safety requirements.*
- E. Location of temporary toilet facilities, which may be required.*
- F. A written description of the planned activities providing:*
 - a. Type of gathering*
 - b. The owner/operator will maintain a log of the activities occurring at the including activity/event dates, group identity, times and number of guests.*
- G. Frequency and number of activities proposed in a calendar year.*
- H. Maximum number of guests for any activity.*

Subd. 5 Review procedures:

In addition to considering the review criteria (findings) listed in Article 4, Section 5, the following items shall be consider by the Planning Advisory Commission and County Board when considering a Conditional Use Permit or Interim Use Permit for various non-agricultural activities or events

A. Applications shall be reviewed for conformance with the standards of the Zoning district in which located and shall in addition, establish that the following standards have been satisfied:

- 1) The size of the function and the number of expected guests on the property at one time shall be determined at the sole discretion of the County based on parcel size, proximity to adjacent neighbors and the ability of the applicant to demonstrate that there will be no unreasonable adverse impact on the neighbors from the noise, traffic, trespass, light or other impacts deemed relevant by the County.*
- 2) There is adequate provision for parking of vehicles so that there is no parking on public roads and adequate setbacks from adjacent properties are maintained. Temporary parking areas may be approved at the sole discretion of the County.*
- 3) The location and amount of time prior to an event for erection of temporary structures which are allowed and time for removal after the event.*
- 4) The County shall require a planted buffer between adjacent properties and parking or building if it is determined that such a buffer is necessary to avoid adverse impacts on adjacent properties.*

B. The site plan with the above written descriptions along with any condition added during Planning Advisory Commission and/or County Board review will become a part of any approved conditional use permit or interim use permit and will be recorded against the subject property.

III. Greening Scott County's Subdivision Code

Scott County's development code has been created incrementally over the past two decades. The County recognizes that because of this piecemeal implementation the code does not adequately address some of the emerging changes in technology and attitudes as they relate to sustainable development. The analysis in this section focuses on three components of Scott County's subdivision code: conservation subdivisions, tree preservation, and solar and geothermal energy systems. An audit of the Scott County's existing practices (if any) leads into subsequent discussion over the best practices in the three different areas. The best practices will be accompanied with model ordinances used by other communities to accomplish the different sustainability objectives.

Conservation Subdivisions

Current Practices

Other than definitions of clustering, common open space, and community water and sewer systems, the Scott County subdivision code does not contain any elements of conservation subdivisions. The Urban Expansion Reserve Cluster (UER-C) district in Scott County's zoning code does contain some elements of conservation subdivisions (maximum density and open space standards). However, the goal of the UER-C district is not primarily conservation, instead more of a long-term reserve to facilitate future development with some secondary conservation goals.

Best Practices

Conservation subdivisions can be used in Scott County's code to accomplish different objectives.⁷

- *Rural conservation development*, where the goal is to protect agricultural practice, forestry resources, or open space for rural community character.
- *Transitional conservation development*, where conservation subdivision is used to help define the urban transect by creating a permanent transition between urban areas and rural areas.
- *Natural resource conservation development*, frequently seen in lakeshore areas or where urban densities are abutting sensitive natural systems or features.

⁷ CR Planning, "Model Community Conservation Subdivision District," *Model Sustainable Development Ordinances*, 2008.

Specific elements to be included in a conservation subdivision are as follows⁸:

- *Minimum Size of Subdivision* - The minimum size of allowed subdivision must be large enough to allow for creative site design and the protection of open space. If the minimum size is too small, the open space is minimized and clusters may run into each other.
- *Maximum Gross Density* - The maximum gross density is a local choice that also reflects the specific conservation goal for the conservation subdivision. Different types of conservation goals will require different gross density thresholds.
- *Open Space Requirements* - The goal of the open space requirement is to meet the conservation goal: protect natural resources; preserve a rural character; protect agriculture; or other goal as identified in the conservation development theme.
- *Permanent Conservation Easements* - The long-term success of a conservation subdivision zone lies with permanently restricted open space in subdivisions. If the restrictions are not permanent, development of those areas could happen if zoning changes. The conservation easement must be held by a separate entity from the underlying fee. The conservation easement holder is responsible for monitoring the easement parcels to ensure development does not occur and for enforcing the terms of the easement if it is violated.
- *Ownership of Open Space Parcel* - Open space parcels should be platted as separate outlots and held by a single entity, such as a common ownership association.
- *Community Wastewater and Water* - common water and wastewater systems, or jointly managed individual systems within the cluster development. Common systems (or jointly managed individuals systems) are more likely to be maintained and thus less likely to fail.
- *Conservation Lot and Building Design* - The lot design standards can prioritize agricultural soils and fields over forestland. This priority can be reversed depending on community priorities, or other lot design standards may be included. Similarly, in lakeshore areas or in urban subdivisions the protection may be steep slopes, wetlands, rare habitat, natural heritage sites, shore land areas, or other conservation priorities.
- *Buffer Zones* - The buffer requirement is included to reduce the potential for conflict between agricultural and non-farm residential uses. Other buffers will be included for other conservation goals, such as protecting shore land and bluff areas, high quality habitat, wetland areas, or other conservation goals.

⁸ The following elements are taken from the "Model Community Conservation Subdivision District," which can be found at http://www.crplanning.com/pdfs/susdo6_09/conservation.pdf

Tree Preservation

Current Practices

Within Scott County's current subdivision ordinance, the County requires that a Tree Preservation Plan be prepared for subdivisions of five or more lots of five acres or less. The County has set forth mitigation strategies in the event that "significant trees or significant woodlands"⁹ are affected by a proposed subdivision. The County has discretion in both the species and size of replacement trees to be planted as part of the mitigation. In the case that significant trees or woodlands are removed or damaged the County has outlined a replacement schedule (also known as replacement ratio).

Best Practices

The tree preservation section in Scott County's subdivision code follows the best management practices in many aspects (the tree preservation plan, inclusion of woodlands, tree replacement ratio, monitoring and evaluation of the plan). One area that is not addressed in Scott County's subdivision code is the preservation of natural open space corridors made up by trees and woodlands, and acknowledgement of this preservation in the review process. Scott County should also consider lowering the threshold requirement for a Tree Preservation Plan. The focus of the plan should be less on the lot size and more on the potential trees and woodlands affected. The requirement of a tree inventory, currently part of the Tree Preservation Plan, might accompany initial permit applications for subdivision and if a percentage of the significant trees or woodlands are to be affected, the other aspects of the tree preservation plan are triggered.¹⁰

Other counties have gone the route of making tree and woodland conservation a requirement for all land uses and subdivisions. In Prince George County, Maryland, specific woodland conservation and afforestation thresholds are set for specific land uses (or zones in Prince George County's case). If the net tract area falls below these thresholds, the area must be afforested to meet the threshold. If development is clearing woodland, the replacement ratio differs depending upon the tracts woodland conservation threshold. If the tract is below the conservation threshold, two acres of woodland must be replaced for every acre cleared. If a tract is above

⁹ Significant Tree. A healthy tree measuring a minimum of six (6) inches in diameter for deciduous trees, or a minimum of twelve (12) feet in height for coniferous trees.

Significant Woodland – A grouping or cluster of coniferous and/or deciduous trees with contiguous crown cover, occupying five hundred (500) or more square feet of property, which are comprised of deciduous trees between four (4) inches and twelve (12) inches or larger in diameter or coniferous trees between four (4) feet and twelve (12) feet or higher in height.

¹⁰ The City of Arden Hills has such a stipulation, requiring an applicant to prepare and submit a tree preservation plan if the initial tree survey shows ten or more percent of significant trees to be affected by new development.

the conservation threshold, only a quarter acre needs to be replaced for every acre cleared.

Solar and Geothermal

Current Practices

There is no mention of solar or geothermal technology in Scott County's subdivision code. Scott County's zoning code does spell out definitions for different types of solar technology (i.e. active solar systems, passive solar systems, solar collectors, etc.) and specific land use elements unique to solar technology (i.e. solar access space, solar skyspace easement). However, this terminology is not present anywhere else in the zoning code. On the other hand, wind energy conversion systems (WECS) make their way into the zoning districts as uses allowed by administrative permits, as well as having performance standards listed.

Best Practices

Solar energy standards should consider the following elements¹¹:

- Remove regulatory barriers and create a clear regulatory path to approving solar energy systems.
- Limit aesthetic objections by setting reasonable design standards for solar energy in urban neighborhoods, historic districts, and new subdivisions.
- Address solar access issues in subdivisions and zoning districts that allow taller buildings on smaller (urban density) lots.
- Encourage solar-ready subdivision and building design.
- Incorporate regulatory incentives that can spur private-sector solar investment.

Since Scott County has many of the needed definitions in its zoning code, the next step is to build the ordinance language into its district regulation and subdivision code. Counties can address most barriers by simply stating in their development regulations that solar systems are an allowed accessory use in all districts. Aesthetic issues or solar access issues might come into play in lakeshore areas or conservation development areas, where homes are closer together or protected trees might limit solar access.¹²

Geothermal heat pumps are becoming an increasingly popular technology used for space heating, cooling, and water heating; utilizing the year-round constant temperatures below ground. The most popular zoning issue specific to geothermal technology is groundwater contamination. Because antifreeze solution runs through the pipes of geothermal systems, municipalities place performance

¹¹ CR Planning, "Solar Energy Standards," *Model Sustainable Development Ordinances*, 2008

¹² Ibid.

guidelines and restrictions to ensure geothermal heat pumps are permitted and regulated in a manner that prevents potential groundwater issues. It is most common for municipalities to restrict open-loop systems (which takes in water from an underground source and circulates it through the system then releases the water) and detail specific regulation on geothermal heat pump abandonment.