

ORDINANCE NO. 2006-1

AN ORDINANCE AMENDING THE CLAY COUNTY LAND DEVELOPMENT  
ORDINANCE: ZONING & SUBDIVISION REGULATIONS

RECITALS

WHEREAS, Clay County has recently adopted a new Land Development Ordinance, identified as Ordinance 2005-1;

WHEREAS, the Clay County Board of Commissioners, upon recommendation of the Clay County Planning Commission, desires to modify the Clay County Land Development Ordinance: Zoning & Subdivision Regulations Ordinance 2005-1 as indicated herein, additionally repealing the Development Ordinance's existing language in the following sections, and substituting therefore the following language:

NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF THE COUNTY OF CLAY, MINNESOTA HEREBY ORDAINS AS FOLLOWS:

1. MINOR SUBDIVISION SITE LIMITATION

Section **8-5D-4-A5** of the Development Code (dimensional standards in the AG zone) currently contains the following wording related to this issue:

*5. Site Location Limitation: Site locations shall be limited to parcels or lots which are wooded with healthy and mature trees and not currently used for agricultural purposes, or are unsuitable for economical agricultural uses because of poor soils, rough topography or other natural features.*

**This paragraph, 8-5D-A5, shall be deleted from the Development Code.**

2. HIGHWAY SETBACKS IN SHORELAND DISTRICTS

Table 8-5-1 Dimensional standards for SP, RD and SP-LD Districts contains the following:

*Minimum Lot Width (square feet)*

Square feet is an inappropriate unit of measure for Minimum Lot Width.

**That this particular reference be deleted from Table 8-5-1 of the Development Code.**

Table 8-5-1 Dimensional standards for SP, RD and SP-LD Districts also contains the following:

This reference is not appropriate because it refers to setbacks that do not apply in the Shoreland Districts.

**That this particular reference be deleted from Table 8-5-1 of the Development Code.**

3. TOWER PROVISIONS AS THEY RELATE TO THOSE USED FOR PRECISION AGRICULTURE

Currently there are standards for telecommunications towers in the Development Code. Towers such as those used for precision agriculture programs (GPS towers) are not specifically addressed in the Code and, therefore, must be addressed using telecommunications tower provisions. It has been suggested that since this type of tower is freestanding and does not exceed 110 feet in height above ground level (including antennae) that they could be exempted from the Conditional Use process. Current exemption language in the Code, Section 8-6-20-B reads as follows:

**B. Exemptions:**

1. The following tower facilities and activities shall be allowed in all zoning districts of Clay County without obtaining either a building permit or a conditional use permit:
  - a. Antennas incidental to residential use including but not limited to television, citizens band, business band and similar type of antennas;
  - b. Routine maintenance of existing tower facilities; and
  - c. The addition of antennas to a tower facility that meets the standards of this Section and does not increase the height of the tower facility; additional support structures shall require a building permit.
2. The following tower facilities shall be allowed in all zoning districts in Clay County without a conditional use permit, but do require a building permit:
  - a. The addition of an antenna or antennas on existing structures including, but not limited to, buildings, flag poles, church steeples, cupolas, ball field lights, or power line support device where no modifications are required to the existing structure and where the antenna does not increase the height of the structure by more than twenty feet (20').
3. All other tower facilities require a conditional use permit and building permit pursuant to the terms of this ordinance.

**That the following language be inserted at Section 8-6-20-B2b of the Code to accommodate the precision agricultural related towers (GPS). This language shall be inserted as Item b under part 2 above:**

*b. Towers and antennas used primarily for agricultural purposes provided that all such towers: 1) are freestanding (no guy wires); 2) meet all appropriate FAA/FCC requirements, and; 3) do not exceed a maximum height of 110 feet above ground level (including tower and antennae).*

4. REQUIREMENT FOR AGRICULTURAL, BIOLOGICAL AND AGGREGATE  
“LAND USE NOTIFICATION FORM”

The language currently found in the code is as follows:

**8-5D-3: LAND USE NOTIFICATION**

No permit for the construction of, or addition to, a dwelling unit in the AG Agricultural General District shall be issued until the landowner signs an agricultural land use notification on a form provided by Clay County. Such notification shall be recorded at the expense of the landowner on the deed of the property that is the subject of the permit or development. Agricultural land use notification forms shall inform the landowner that:

- A. The land that is the subject of the permit or development is located in an agricultural area where Clay County has determined that agricultural uses are primary uses.
- B. Agricultural uses may be accompanied by noise, dust, odor, light, smoke, and other off-site impacts at any time of day and year.
- C. Agricultural uses may include new or expanded feedlots that conform to all state or federal standards, operation of machinery, storage and disposal of manure, and application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides.
- D. Agricultural uses are given preference over other uses in agricultural areas.
- E. If you live near an agricultural area, you should be prepared to accept inconveniences or discomfort associated with agricultural practices as a normal and necessary aspect of living in agricultural areas.

**E. Land Use Notification:** No permit for the construction of, or addition to, a dwelling unit in the RP-BIO Resource Protection Overlay District shall be issued until the landowner signs a land use notification on a form provided by Clay County. Such notification shall be recorded at the expense of the landowner on the deed of the property that is the subject of the permit or development. Land use notification forms for the RP-BIO District shall inform the landowner that:

- 1. The land that is the subject of the permit or development is located within an area with significant biological resources where Clay County has determined that these are important resources.
- 2. The management of significant biological resources may include controlled burning of large areas. Such burning may produce smoke, dust, odor, light, and other off-site impacts.
- 3. If you live within an RP-BIO area, you should be prepared to accept inconveniences or discomfort associated with management of biological resources as a normal and necessary aspect of living in an RP-BIO area.

**C. Land Use Notification:** No permit for the construction of, or addition to, a dwelling unit in the RP-AGG Resource Protection Overlay District – Aggregate resources shall be issued until the landowner signs an aggregate land use notification on a form provided by Clay County. Such notification shall be recorded at the expense of the landowner on the deed of the property that is the subject of the permit or development. Aggregate land use notification forms shall inform the landowner that:

1. The land that is the subject of the permit or development is located within an aggregate resource area where Clay County has determined that aggregate resources are important resources.
2. Aggregate removal practices may be accompanied by noise, dust, odor, light, and other off-site impacts at any time of day and year.
3. Aggregate removal uses are given preference over other residential uses in RP-AGG areas.
4. If you live within an RP-AGG area, you should be prepared to accept inconveniences or discomfort associated with aggregate removal as a normal and necessary aspect of living in an RP-AGG area.

The first line in each of these sections is essentially the same except for the zoning district reference.

**That the first sentence in each of these sections; 8-5D-3, 8-5C-6-E, and 8-5C-7-C shall be changed to read as follows:**

**“No permit for the construction of or addition to a dwelling unit, or permit for a septic system in the (AG, RP-CBS, RP-AGG) District shall be issued until the landowner reads and signs an (agricultural, biological, aggregate) land use notification and records it, at the owners expense, against the property that is the subject of the permit of development.”**

**Staff also recommends that the second sentence in each of these sections; 8-5D-3, 8-5C-6-E, and 8-5C-7-C be deleted and replaced with the following:**

**“Once such a land use notification has been recorded against a property it does not need to be recorded again related to subsequent permits on the same property.”**

IT IS HEREBY ORDIANED THAT the foregoing revisions be made to the Clay County Land Development Ordinance: Zoning and Subdivision Regulations.

Adopted by the Clay County Board of Commissioners March 28, 2005.

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Mike McCarthy  
Chairman, Clay County Board of Commissioners

ATTEST:

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Clay County Administrator

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Clay County Auditor