

VIII. LAND USE

The use of land has been a primary concern of government from the original U.S. Public Lands Survey through the Homestead Act and railroad land grants to modern planning, zoning and environmental regulations. Land in Cottonwood County is used for a range of activity, from agriculture to residences to some industry. Careful and systematic planning for growth can minimize conflicts between different land uses, and provide for a measure of predictability and security for the future. This chapter examines different uses of land in the county, and local government regulation of those uses.

A. Issues Summary

- ? The majority of land in Cottonwood County is in agriculture
- ? Feedlot expansion has at times created conflicts with nearby residents
- ? Development in agricultural and natural areas can lead to sprawl and land use conflicts
- ? Character of development along protected waters and wetlands
- ? Mining, even as a temporary use, has long-term impacts
- ? Existing development regulations work well, yet can always work better

A.1 Land Use Strengths, Challenges and Future Direction

The County Committee identified issues and concerns regarding the use of land in Cottonwood County.

Land Use Strengths

- ? Fertile farmland
- ? Public support and space for agricultural expansion without crowding
- ? Land for value-added agricultural processing
- ? Sensible land use regulations

Land Use Challenges

- ? Review of feedlot standards as more scientific research is completed
- ? Balance development with environmental impacts
- ? Make zoning maps available in GIS format

Future of Land Use

- ? Production agriculture is vital and productive
- ? Land use changes are evaluated for effect on agriculture
- ? Housing opportunities are provided in both town and country
- ? New development makes efforts to fit in, locating in clusters around existing farmsteads, on non-productive land, and closer to urban services.
- ? Clear and easily available development regulations, maps and applications are posted online for easy public access

B. Agricultural and Commercial Land Uses

Rural land is predominately used for agriculture and certain other commercial uses that may not fit into an urban environment. According to analysis by Minnesota State University Mankato, over 90% of the land in Cottonwood County is used for farms and fields. As more of our nation becomes urbanized, it is important to protect productive agricultural land for the future.

As was discussed in Chapter VI. Economic Development, the business of agriculture continues to change, with national trends reflected in Cottonwood County. Diversified mid-size operations are becoming less common. Instead, modern production agriculture is growing more specialized. Farmers are responding by growing larger to maximize economies of scale—or by growing smaller and more focused.

Space is an important ingredient in the success of modern agriculture. Farms can be more productive with room to spread out and take advantage of economies of scale. Larger farm equipment makes better use of larger fields, yet also requires wider field access points, and may have a greater impact on township, county and state highways. Space is also needed for larger barns, equipment sheds, grain storage, and other specialized buildings and structures. Smaller specialized operations may also have their own space requirements, such as growers of pharmaceutical crops that need large buffers to prevent crop cross-pollination.

In general, local residents have experience with and support production agriculture. Cottonwood County has not seen the divisive (and expensive) litigation that some other rural communities have had to work through as urban and rural values collide. Any change in the use of land should be evaluated for potential impacts to agriculture.

B.1 Commercial Uses in Agricultural Areas

Certain commercial uses may be best located in rural areas. For example, agricultural supply depots benefit by being close to their customers, and may have dangerous chemicals that pose a danger to homes and other businesses. Value-added ag processing facilities like ethanol plants or packing plants may need more space than is available in an urban industrial park, or may give off odors unwelcome in town. Larger manufacturing and wholesaling facilities also need to be located where the infrastructure is—highway and railroad, water and sewer, electricity and natural gas—in city or country.



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Other non-agricultural uses encroaching on rural lands set the stage for conflict. Commercial uses also have a detrimental effect on agriculture beyond taking land out of production. Recreational vehicle parks may fit into natural areas near streams or creeks, but would create problems in a farming area if adjacent landowners ever wanted to put in a feedlot. Gas stations, retail stores, restaurants and bars strung out in strip development on county and state highways create traffic and place demands on public safety and other services. Problems with blowing trash, litter, and vandalism of crops or feedlots are also common with unfettered sprawl.

Farmers have a harder time moving tractors and implements on rural roads when cars and trucks are darting around them. Some conflicts can be mitigated by controlling access to highways. The Minnesota Department of Transportation (MN/DOT) Access Management Program sets useful guidelines depending on the type of land use and the purpose of a highway—if it primarily serves a regional user base or collects local traffic from homes and business. Careful, coordinated site planning before construction can prevent many problems in years to come.

Some counties have a dedicated Agricultural zone, excluding commercial and industrial uses, for property owners who desire more protection of production agriculture. Cottonwood County may want to look at this option in the future.

B.2 Feedlots

Animal agriculture is an integral part of Cottonwood County. There are several layers of regulation of animal agriculture facilities and operations—in particular the waste and wastewater from feedlots—including the US Environmental Protection Agency, Minnesota Environmental Quality Board, and the Minnesota Department of Agriculture. Requirements and recommendations for best practices are constantly changing, and it can be difficult to determine a predictable process for new and expanded feedlots.

Although fewer farms in the area raise animals than in the past, the number of hogs and sheep has grown. In 1995, Cottonwood County put in place a temporary moratorium on new or expanded feedlots to establish regulations for feedlots. The County settled on a setback between feedlots and rural residences. The County also soon after established a density limit on new residential development to help prevent future conflicts.

Communities across the state are having to balance the need for feedlot growth and expansion with the property rights of existing rural residences. The Governor’s Livestock Advisory Task Force, for example, recommended that local units of government develop checklists to clarify the process required for feedlot permitting, inclusion of State agencies in revisions of local ordinances, review of impacts of regulations on the local economy, continued research on feedlot

odor separation distances, and training and technical assistance for local units of government.* Some of these recommendations were included in new state statutes in 2005 governing regulation of feedlots.



USDA Photography

Issues with feedlots continue to be studied across the state of Minnesota and the Upper Midwest. The County will need to periodically reexamine regulations for animal agriculture facilities and operations as more scientific research and policy development is completed.

C. Rural Residential Land Uses

Fewer than 30% of homes in Cottonwood County are located outside of municipalities, accounting for only 1.3% of the county’s land area. As we saw in Chapter VII Housing, many of these homes are used as part of active agricultural operations, including organized farm colonies. Non-farm rural residents may be retired farmers, people with non-farm home occupations, or others employed in town who enjoy the country lifestyle. The county also has a few seasonal homes, typically on lakes or streams. Home sites in rural areas offer a choice that can make Cottonwood County an attractive location to live.

* Governor’s Livestock Advisory Task Force Local Siting Sub-Committee Recommendations, January 2005.



It can be difficult to fit rural residences into agricultural and natural areas without destroying the qualities that attracted homeowners in the first place. Currently there is a limit on density of new homes in agricultural areas. Clustering home sites, especially around existing farmsteads or established windbreaks, can reduce the amount of farmland taken out of production. Better yet, new residences should only be established on the least productive farmland available. Locations closer to one of the County’s incorporated communities also puts residents closer to jobs and services.

C.1 Preventing Sprawl

Preventing sprawl—urban development outside of urban areas—is important to contain the County’s cost of providing services, and to prevent conflicts between rural residents and farmers. Scattered leap-frog pattern residential development does not pay the full cost of delivering urban services.† While Counties and Townships do provide services essential for public health and safety, cities are established to provide urban services. These services are outlined in Chapter IV. Infrastructure. From water and sewer to police and fire safety, not to mention libraries, parks, and other social services, urban services are typically more effectively and efficiently delivered inside city limits.



As the Minnesota Department of Agriculture has found, “cities are generally much more able to provide the level of urban services typically demanded by new residents.” People who live in unincorporated areas traditionally have understood and supported this arrangement. However, many former city dwellers who move out into rural areas expect the high urban level of service to continue, without the higher urban level of property taxes. They expect that somebody from the County will pave the roads, plow the snow and fix the fence. They don’t expect that the farmer next door doesn’t keep bankers hours, or that manure spread on the fields has an aroma that’s not exactly fresh country air.

Cottonwood County may want to develop a notice to new residents in agricultural areas. This may be as simple as including a notice on new subdivision plats or with real estate sales closing documents, stating that the property is in an agricultural area. *The Code of the West*, a brochure first developed by former Larimer County (Colorado) Commissioner John Clarke and adopted by many other counties across the country, is an illustrated guide for new residents, addressing access, utility services, property rights and responsibilities, mother nature, and modern agriculture. While some of these items may be obvious to long-time residents—not all property has public access, it can take an ambulance a very long time to get to the end of your dirt road from town—this sort of “advance notice” is proving a popular way to help get newcomers started fitting into the neighborhood.

† See for example, Minnesota Dept. of Agriculture, *Cost of Public Services Study* (Duncan Assoc. Sept. 1999) [<http://www.mda.state.mn.us/agdev/pubservcosts.pdf>]; American Farmland Trust, *Cost of Community Services studies* [<http://www.farmland.org/research/index.htm>].

C.2 Residential development in natural areas

As discussed in Chapter V. Cultural and Recreational Resources, development in and near environmentally sensitive areas poses unique and increasing challenges. Rather than rely on a case-by-case evaluation of development in these natural areas, the State of Minnesota has adopted model land use rules for Shoreland areas. While often seen as just one more layer of bureaucracy, these requirements provide a guide to helping inherently different (natural and developed) land uses to fit together.

Homes have been built on lakes in Minnesota for many years. These were usually seasonal cabins, used only a few weeks in the summer, or if the ice fishing was good, in the winter, too. As baby boomers reach their prime earnings years, many people are realizing the dream of a second home fronting a lake, or secluded out in the country with a view of prairie grasslands. However, more people are choosing the lake as their primary residence. Recreational lifestyles appeal to people who may have jobs that are not tied to a particular location, retirees or couples who are already commuting in different directions and split the mileage difference with a lakeside or natural area retreat.

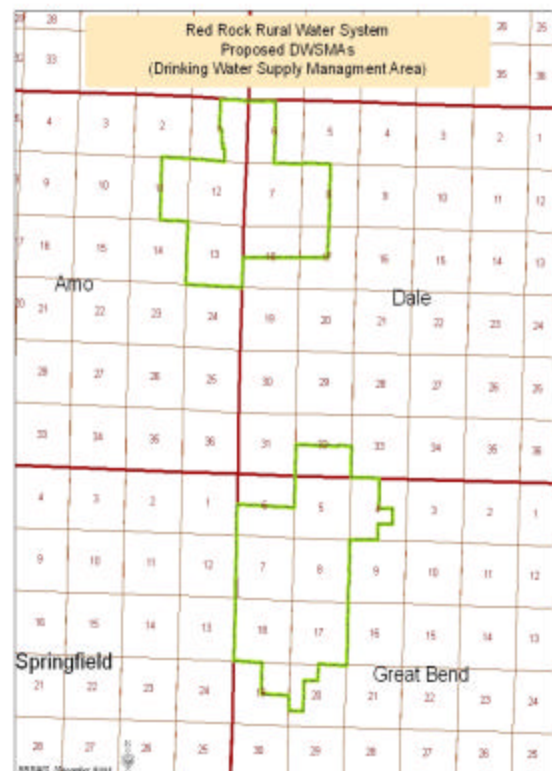
Land use regulations for scattered seasonal cabins do not work particularly well for more intensive, year-round homes. Cottonwood County has the opportunity to learn what other rural counties are doing to address this trend, before the pressure for development in natural areas builds.

D. Mining

Certain areas in Cottonwood County are underlain by sand and gravel deposits which may be commercially-viable for aggregate mining. Likewise, certain hard-rock deposits lie close to the surface and are in demand as raw material to be crushed for aggregate. These deposits typically lie in protected floodplains and state-designated shoreland areas, compounding the difficulties in management for both local government and private land owners.

Mining, unlike many activities, is a temporary, interim use of land. When a house is built, it is likely intended to stay a home for the foreseeable future. A mine, however, has a defined beginning and end, with observable impacts during the run of activity and a specific need for reclamation when the deposit is played out. The County should work with mine operators to minimize impacts on adjacent land owners and the natural environment, and to ensure that reclamation will return the site to a beneficial and compatible use. The County may also want to develop specific standards to ensure that all operators are subject to the same requirements.

In May 2005, the Cottonwood County Board of Commissioners adopted a moratorium on new zoning applications for mining in designated Drinking Water Supply Management Areas (DWSMAs) “Ten-Year Time of Travel” area, with the intention of establishing conditional use requirements for mining. The County will need to carefully consider criteria to adequately protect the aquifer while protecting the rights of private property owners.



Minnesota DNR's Division of Lands & Minerals provides specific county-wide geographic information system (GIS) mapping of aggregate resources location and quality, including availability, usability and supply. While the Legislature has given priority to areas where urbanization or other factors may threaten long term protection and use of aggregate resources, Cottonwood County should look into securing a priority position in the program.

E. Regulation of Land Use

Minnesota Statutes, Section 394.21, grants counties the ability to “to carry on county planning and zoning activities”. The County Comprehensive Plan, when adopted by the Board of County Commissioners, becomes the basis upon which “official controls” such as zoning and subdivision regulations must be based. Cottonwood County first completed a comprehensive plan in 1970, following up on adoption of a zoning ordinance in 1968. The zoning ordinance currently regulates subdivision of land as well.

Existing development regulations in the County seem to be working well, for the most part. Zoning and subdivision regulations are not any more restrictive than is typical in the region, and may be less restrictive in many areas. Ordinance texts are fairly straightforward and easy to read. There is some concern about compliance with the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA), as noted in Chapter V. Cultural and Recreational Resources. As enabling legislation, court decisions, and accepted development practices change, development regulations should be regularly reviewed to ensure they meet the goals and objectives of the community, as expressed in this Comprehensive Plan.

E.1 Zoning Districts

The Cottonwood County Zoning Ordinance, as currently amended, establishes five zoning districts:

- ? F-1 Floodplain
- ? AG-1 Agriculture
- ? R-1 Residential
- ? C-1 Commercial
- ? I-1 Industrial

Shoreland regulations have also been applied as an overlay district on top of existing zoning districts, in those areas defined as such by Minnesota regulations. Section 17 of the Ordinance outlines Shoreland requirements, including additional standards for variances, conditional use permits, and notice of public hearings; lot size and setbacks, public access, roads, storm water management, and water/sewer treatment and supply. There are also special requirements for commercial, industrial, public, agricultural, forestry and mining uses.

- ? Shoreland regulations may be more clearly understood, and more easily administered, if converted to a sixth dedicated, stand-alone zoning district.

In addition to these individual districts, the Zoning Ordinance regulates other land uses in separate sections, including Individual Sewage Treatment Systems (ISTS), pipelines, telecommunication towers, wind energy towers, and public nuisances.

Currently, zoning district maps have not been digitized. Although the zoning ordinance text includes legal descriptions of zones, the physical maps located in the Environmental Office are not easily reproducible for public review. Good, clear maps are essential for the public to understand what and where uses are permitted. Cottonwood County should create electronic versions of zoning maps in a geographic information system (GIS), including state Shoreland areas, as soon as possible.

Many counties now post their ordinances, zoning maps and development applications online. This increases public access to the information, and can reduce the time staff has to spend on the phone or at the front desk making copies.

E.2 Development Review

Local residents do not interact very often with the Comprehensive Plan and development regulations. The process can be confusing, unclear, and frustrating for the newcomer and the experienced planner alike. Decision makers are often faced with difficult issues, and are responsible to review impacts on the entire community. Simply avoiding the appearance of conflicts of interest can be difficult in a small towns where everybody seems to know everybody else. It is important that we make the development review process as fair, efficient and effective as possible.

Cottonwood County has implemented a “Setback and Use” permit for many projects, administered by the Environmental Office to ensure compliance with the Zoning Ordinance. The County has not adopted an official building code. Permits are also required for septic systems and feedlots.

- ? A **Conditional Use Permit (CUP)** is reviewed by the Planning Commission and approved by the Board of County Commissioners. Any application for a CUP must consider the standards outlined in Section 18 of the Zoning Ordinance. Minnesota Statutes, Section 394.22 offers this definition of a Conditional Use:

Subd. 7. Conditional use. "Conditional use" means a land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that (1) certain conditions as detailed in the zoning ordinance exist, and (2) the use or development conforms to the comprehensive land use plan of the county and (3) is compatible with the existing neighborhood.

- ✍ Findings of Fact in granting a CUP should include conformance with this Comprehensive Plan.

- ? The **Board of Adjustment**, established under Minnesota Statutes, Section 394.27, reviews and grants requests for Variances to performance standards of the Zoning Ordinance and appeals of official interpretations and decisions., as outlined in Sections 7 and 19 of the Ordinance. Performance standards include lot size, setbacks, etc. Minnesota Statutes, Section 394.22 define a Variance as:

Subd. 10. Variance. "Variance" means any modification or variation of official controls where it is determined that, by reason of exceptional circumstances, the strict enforcement of the official controls would cause unnecessary hardship.

Use variances (which would permit uses of land not listed in a district) are considered by the courts to be arbitrary and capricious, and are not permitted in Minnesota.

The Board of Adjustment must find that a variance application meets certain stringent tests. A variance must be consistent with statements of purpose and policy of development regulations, beyond the stated dimensional standard, and must not alter the essential character of an area. A variance may only be granted when there is an undue hardship that is unique to the property involved—something completely different from other property in the same zone. This hardship cannot be self-imposed by the applicant. Financial hardship is not sufficient to grant a variance.

- ⌘ Findings of Fact in granting a variance should include consistency with this Comprehensive Plan.
- ? The **division of land** is not subject to public review if conveyed by metes and bounds description which can be described by aliquot parts (government fractions) down to 2.5 acres. In this case, the County Zoning Administrator may only review the Certificate of Survey for compliance with the County Zoning Ordinance. For divisions with three contiguous splits of 2.5 acres or less, a preliminary and final plat are required to be reviewed by the Planning Commission and approved by the Board of County Commissioners.
- ⌘ Findings of Fact in approving a subdivision plat should include consistency with this Comprehensive Plan.
- ? **Planned Unit Developments (PUDs)** are not presently an option under the Cottonwood County Zoning Ordinance. PUDs are commonly used for larger (10+acre) developments that are planned, developed, operated and maintained as a single entity, allowing for flexibility in subdivision design and permitted uses. For example, using a PUD process, a dairy could add on-site workforce housing, or an organized farm colony could design necessary housing, agricultural and commercial structures, with appropriate performance standards to address impacts of the development. While this flexibility can enable more creative development, complex customized subdivision and zoning permits can add significantly to administrative workload.
- ? **Townships** may also adopt development regulations, which cannot not be inconsistent with or less restrictive than a county ordinance. Currently, all unincorporated areas of Cottonwood County are included in the jurisdiction of County planning and zoning.

E.3 Municipal Annexation

In most cases, new development should occur inside cities, to assure adequate and cost effective provision of urban services. When parcels are adjacent to city limits, state statutes outline methods for cities to annex that land into their municipal boundaries, including by petition (typically of landowners), by ordinance of the municipality, or with an “orderly annexation” agreement between a city and affected township.

As the League of Minnesota Cities’ *Handbook* (2004) explains, “Annexation questions pose some of the most difficult technical and policy problems facing municipal officials.” If new development occurs in unincorporated areas, the County and/or Township will face increasing pressure to become an urban services provider. Cities, on the other hand, already provide urban services. Yet cities are concerned about taking on new demands if their tax-benefit analysis doesn’t balance. Cities can not expect existing residents to subsidize the costs of growth. It may cost too much to extend sewer lines to growth areas, or reduce response time for emergency services.

Cottonwood County can work with cities and townships to coordinate development in urban growth areas. The County may want to create growth management areas to the extent cities determine they could realistically provide urban services within the next 20 years. This is a common approach that has been adopted in many communities. The County and the city in question could harmonize development regulations covering growth areas so new development would fit into the city when eligible for annexation. Or the County may simply pledge to look more closely at development in the growth area. Either way, residents and property owners would gain a more certain future regarding the costs and benefits of development.