

TITLE XV: LAND USAGE

Chapter

150. BUILDING REGULATIONS; CONSTRUCTION

151. SUBDIVISIONS

152. ZONING

153. FLOODPLAIN MANAGEMENT

CHAPTER 150: BUILDING REGULATIONS; CONSTRUCTION

Section

General Provisions

- 150.01 Building Codes adopted by reference
- 150.02 Building permits required
- 150.03 Permit fees
- 150.04 Zoning permits required
- 150.05 Zoning permit fees

Moving Buildings

- 150.15 Definition
- 150.16 Permit required and application
- 150.17 Permit and fee
- 150.18 Building permit and code compliance

Unsafe Buildings

- 150.30 Definition and abatement
- 150.31 Notice to owner
- 150.32 Posting of signs
- 150.33 Right to demolish
- 150.34 Costs
- 150.35 Unlawful act

Rental Housing

- 150.50 Purpose
- 150.51 Intent
- 150.52 Definitions
- 150.53 Health and safety
- 150.54 Maximum density
- 150.55 Licensing
- 150.56 Inspections
- 150.57 License and inspection fees
- 150.58 Fines and penalties
- 150.59 Appeals

Windom - Land Usage

- 150.60 Minimum standards
- 150.61 City not an arbiter
- 150.62 No warranty by city

- 150.99 Penalty

GENERAL PROVISIONS**§ 150.01 BUILDING CODES ADOPTED BY REFERENCE.**

(A) The Minnesota State Building Code, as adopted by the Minnesota Commissioner of Labor and Industry, pursuant to M.S. Ch. 32B and any successor chapter, as amended from time to time, including the 2007 State Building Code, and including all future editions of the State Building Code and all of the amendments, rules and regulations established, adopted and published from time to time by the State Commissioner of Labor and Industry, through the Construction Codes and Licensing Division or successor agency, are hereby adopted by reference, with the exception of the optional chapters unless specifically adopted by ordinance. The 2007 State Building Code and all future editions of the State Building Code are hereby incorporated in this section as if fully set out herein. This section shall perpetually include the most current edition of the State Building Code with the exception of the optional appendix chapters, unless the chapters are specifically adopted by ordinance.

(B) The application, administration and enforcement of the code shall be in accordance with the State Building Code. The code shall be enforced within the extraterritorial limits permitted by M.S. § 326B.121, Subd. 2, as amended from time to time, when so established by this section. The code enforcement agency of the municipality is called the “Building and Zoning Office”. This Code shall be enforced by the state-certified Building Official designated by the municipality to administer the code (M.S. § 326B.121, Subd. 2, as amended from time to time.)

(C) (1) The issuance of permits and the collection of fees shall be as authorized in M.S. § 326B.153, as amended from time to time. Permit fees shall be assessed for work governed by this Code in accordance with the fee schedule adopted by the municipality in Res. 2001-34, effective 1-1-2002.

(2) In addition, a surcharge fee shall be collected on all permits issued for work governed by this Code in accordance with M.S. § 326B.148, as amended from time to time.
(Ord. 129, 2nd Series, passed 7-31-2007)

§ 150.02 BUILDING PERMITS REQUIRED.

Within the city, or within the contiguous unincorporated territory two miles in all directions from the corporate limits of the city, it is unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish any building or structure, or any part or portion thereof, including, but not limited to, the plumbing, electrical, ventilating, heating or air conditioning systems therein, or cause the same to be done, without first obtaining a separate building or mechanical permit for each building, structure or mechanical components from the city.

(Prior Code, § 4.03) (Ord. 92, 2nd Series, eff. 7-13-1995) Penalty, see § 150.99

§ 150.03 PERMIT FEES.

Fees for permits under this chapter, which may include a surcharge, as authorized in M.S. §§ 326B.153 and 326B.148, as amended from time to time, and as provided for in the Minnesota State Building Code, shall be determined by the Council and fixed by its resolution, a copy of which shall be in the office of the City Administrator and uniformly enforced.

(Prior Code, § 4.04) (Ord. 92, 2nd Series, eff. 7-13-1995)

§ 150.04 ZONING PERMITS REQUIRED.

Within the city, it is unlawful for any person to construct or place: a storage building less than 200 square feet, other outdoor structure, a deck not attached to the house and/or less than 30" tall, an in-ground pool, or a fence, wall or hedgerow on his/her/their property without first obtaining a separate zoning permit from the city for each building, structure, deck, in-ground pool, or fence, wall or hedgerow. Within the city, it is unlawful for any person to install a new driveway with or without a curb cut or to replace the paving or concrete in a driveway without first obtaining a separate zoning permit from the city for the driveway project.

(Ord. 185, 2nd Series, passed 7-7-2020)

§ 150.05 ZONING PERMIT FEES.

Fees for zoning permits shall be determined by the Council and fixed by its resolution, a copy of which shall be in the office of the City Administrator and uniformly enforced.

(Ord. 185, 2nd Series, passed 7-7-2020)

MOVING BUILDINGS**§ 150.15 DEFINITION.**

STREET or ***STREETS***, as used in this subchapter, means all streets and highways in the city which are not state trunk highways, county state-aid highways or county roads.
(Prior Code, § 4.05)

§ 150.16 PERMIT REQUIRED AND APPLICATION.

(A) It is unlawful for any person to move a building on any street without a moving permit issued by the city except that if a manufactured home/structure permit, building permit, or zoning permit has been issued for the building, no moving permit will be required.

(B) The application for a moving permit shall state the approximate size and weight of the structure or building proposed to be moved, together with the places from and to which it is proposed to move the same, and proposed route to be followed, proposed dates and times of moving and parking, and the name and address of the proposed mover. The application shall also state any municipal utility, street and public property repairs or alterations that will be required by reason of the movement.
(Prior Code, § 4.05) (Ord. 185, 2nd Series, passed 7-7-2020) Penalty, see § 150.99

§ 150.17 PERMIT AND FEE.

(A) The moving permit shall state date or dates of moving, hours, routing, movement and parking. Permits shall be issued only for moving buildings by building movers licensed by the state; except that, a permit may be issued to a person moving his or her own building, or a person moving a building which does not exceed 12 feet in width, 25 feet in length or 16 feet in loaded height. Fees to be charged shall be separate for each of the following:

(1) A moving permit fee to cover use of streets and route approval; and

(2) A fee equal to the anticipated amount required to compensate the city for any municipal utility and public property (other than streets) repairs or alterations occasioned by the movement.

(B) The latter shall be paid in advance.
(Prior Code, § 4.05)

§ 150.18 BUILDING PERMIT AND CODE COMPLIANCE.

(A) Before any building is moved from one location to another within the city, or from a point of origin without the city to a destination within the city, regardless of the route of movement, it shall be

inspected and a building permit shall have been issued for at least the work necessary to bring it into full compliance with the State Building Code.

(B) It is unlawful for any person to move a building without a permit required by the terms of this subchapter unless the exception listed in § 150.16 (A) is applicable.

(Prior Code, § 4.05) (Ord. 185, 2nd Series, passed 7-7-2020) Penalty, see § 150.99

UNSAFE BUILDINGS

§ 150.30 DEFINITION AND ABATEMENT.

All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard or abandonment, as specified in the SBC, another provision of the city code, or any other law, are, for the purpose of this subchapter, unsafe buildings. All unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified herein.

(Prior Code, § 4.06)

§ 150.31 NOTICE TO OWNER.

(A) The Building Inspector shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if it is found to be an unsafe building, the Building Inspector shall give to the owner of the building or structure written notice stating the defects therein. This notice may require the owner or person in charge of the building or premises, within 48 hours, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all work shall be completed within 90 days from the date of notice, unless otherwise stipulated by the Building Inspector.

(B) If necessary, the notice also shall require the building, structure or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected and approved by the Building Inspector. Proper service of the notice shall be by personal service upon the owner of record, if he or she shall be found within the city. If he or she is not found therein, the service shall be made upon the owner by registered mail or certified mail; provided that, if the notice is by registered mail or certified mail, the designated period within which the owner or person in charge is required to comply with the order of the Building Inspector shall begin as of the date of delivery shown upon the return receipt.

(Prior Code, § 4.06)

§ 150.32 POSTING OF SIGNS.

The Building Inspector shall cause to be posted at each entrance to the building a notice to read: "DO NOT ENTER, UNSAFE TO OCCUPY. Building Department, City of Windom". The notice shall remain posted until the required repairs, demolition or removal are completed. The notice shall not be removed without written permission of the Building Inspector and no person shall enter the building, except for the purpose of making the required repairs or of demolishing the building.

(Prior Code, § 4.06) Penalty, see § 150.99

§ 150.33 RIGHT TO DEMOLISH.

In case the owner shall fail, neglect or refuse to comply with the notice to repair, rehabilitate or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this subchapter and may order the Building Inspector to proceed with the work specified in the notice. A statement of the cost of the work shall be transmitted to the Council, who shall cause the same to be paid and levied as a special assessment against the property.

(Prior Code, § 4.06)

§ 150.34 COSTS.

Costs incurred under § 150.33 shall be paid out of the Treasury. The costs shall be charged to the owner of the premises involved as a special assessment on the land on which the building or structure is located and shall be collected in the manner provided for special assessments.
(Prior Code, § 4.06)

§ 150.35 UNLAWFUL ACT.

It is unlawful for the owner of any property to suffer or permit an unsafe building, as defined herein, to remain thereon.
(Prior Code, § 4.06) Penalty, see § 150.99

RENTAL HOUSING**§ 150.50 PURPOSE.**

The purpose of this subchapter is to ensure that the conditions of rental housing units in the city comply with life, health and safety standards necessary to safeguard the general welfare of the residents of these units and the surrounding properties. The general objectives include, but are not limited to, the following:

- (A) To maintain the character, integrity, and stability of rental housing units within the city;
- (B) To correct and prevent rental housing conditions that adversely affect or are likely to adversely affect the life, safety, general welfare and health of persons occupying rental housing units within the city;
- (C) To assist in enforcing minimum standards for cooking, heating, and sanitary equipment necessary for the health and safety of the occupants of rental housing units;
- (D) To assist in enforcing minimum standards of light and ventilation necessary for health and safety;
- (E) To prevent overcrowding of rental housing units;
- (F) To assist in enforcing minimum standards for the maintenance of rental housing units to prevent slums and blight;

(G) To preserve the value of land and buildings throughout the city.
(Ord. 167, 2nd Series, passed 12-19-2017)

§ 150.51 INTENT.

It is the intent of this subchapter to establish a permanent mode of protecting and regulating the living conditions of the residents of the city who rent/lease rental housing units and to provide a means for imposing license fees to help the city defray the costs necessary for rental housing inspections and enforcement of this subchapter.

(Ord. 167, 2nd Series, passed 12-19-2017)

§ 150.52 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUILDING. Any structure, other than a rental dwelling, that contains multiple rental units.

DWELLING. Any structure which is wholly or partly used or intended to be used by human occupants for living, sleeping, cooking, eating and sanitation purposes ("residential purposes").

DWELLING UNIT. Any room or group of rooms located within a dwelling or building and forming a habitable space to be used by human occupants for residential purposes.

EGRESS. A safe means of escape.

HABITABLE SPACE. A space in a building for living, sleeping, eating or cooking with a ceiling height of not less than six feet, eight inches. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces.

IMMEDIATE FAMILY MEMBER. A spouse, child, sibling, a parent, grandparent, or grandchild. This includes stepparents, stepchildren, stepsiblings, and adoptive relationships.

PROPERTY. Any rental dwelling or building on one parcel, or any group of buildings located on the same parcel of land which is owned by the same individual(s) or entity, or buildings physically and permanently attached to one another that may or may not be on the same parcel of land and are owned by the same individual(s) or entity.

RENTAL DWELLING. Any dwelling rented or offered for rent by any person or entity to any other person or persons for use for residential purposes.

RENTAL HOUSING. All rental dwellings and buildings in the city limits of Windom, Minnesota, that are rented or offered for rent by the owners to other persons for residential purposes.

RENTAL UNIT or RENTAL HOUSING UNIT. Any dwelling unit rented or offered for rent by any person or entity to any other person or persons for use for residential purposes. **RENTAL UNIT** does not include rooms or units in rest homes, convalescent homes, nursing homes, hotels, motels, dormitories or facilities licensed by the State of Minnesota as institutional occupancies. (Ord. 167, 2nd Series, passed 12-19-2017)

§ 150.53 HEALTH AND SAFETY.

(A) *Building exterior.* The exterior of the rental dwelling/building shall be in reasonable repair and have adequate roofing and siding material to prevent air and water from leaking into the rental dwelling/building.

(B) *Identification.* Street address numbers shall be displayed on the front of the rental dwelling/building so they are visible from the street. Individual units shall have the unit number displayed on the main entrance to the unit.

(C) *Electrical requirements.* Electrical equipment shall be fully functional and in safe operating condition. Outlets, switches and junction boxes shall have proper sized cover plates securely attached. Any hard-wired light fixture, both interior and exterior, must be securely fastened to an approved electrical box. Temporary wiring, drop cords or extension cords shall not be used In lieu of permanent wiring. Outlets in bathrooms, kitchen, garages and outdoors shall be GFI (Ground-fault interrupters). The owner shall provide an adequate electrical service. Electric service panels shall be unobstructed.

(D) *Exits.* Each unit shall have two exits. These exits can be any combination of doors leading directly to the exterior or public hallways and egress windows. All sleeping rooms shall have an egress window or door that leads directly to the exterior of the rental dwelling/building. Egress windows shall be sized according to the Minnesota Building Code in effect at the time of inspection.

(E) *Doors.* All doors shall be equipped with panic hardware or knobs that are operable from inside the rental dwelling or rental unit without keys or tools. Exterior doors shall be properly fitted and sealed to prevent air and water from leaking into the rental dwelling/building, and have locks installed for privacy and security.

(F) *Windows.* Windows shall be properly fitted and sealed to prevent air and water from leaking into the rental dwelling/building; broken windows shall be repaired or replaced and not boarded over. Egress windows shall be properly sized and shall operate freely and easily from the inside of the rental dwelling/building.

(G) *Hallways.* Owners shall not place or install any fixtures, furniture, appliance or similar obstructions in public hallways that are part of an emergency exit. Tenants shall keep public hallways free of obstructions and personal property.

(H) *Fire extinguishers of Type ABC.* The owner:

(1) Shall equip each dwelling unit with a fire extinguisher.

(2) *Exception.* Properties with two or more dwelling units shall have the option of installing one 10 lb. extinguisher in a common area accessible to all units with a minimum of at least one extinguisher per floor that contains two or more dwelling units. Annual inspections of these fire extinguishers by a certified professional will be required.

(I) *Garbage.* The owner(s) of a rental property consisting of more than four rental units shall provide garbage collection containers or dumpsters and recycling containers adequate to accommodate all garbage and recyclables generated by each rental unit. Tenants, whether in rental dwellings or buildings, shall not allow garbage, rubbish, debris, or recyclables to accumulate inside or outside of their units and shall keep their units reasonably clean and sanitary.

(J) *Heating units.* All heating units shall be fully functional, properly vented, and be capable of maintaining all habitable rooms at 68°F. Intake and exhaust openings shall have proper clearance and be unobstructed. Portable electric heating units and stoves shall not be used as a permanent source of heat and non-vented fuel-burning heaters are strictly prohibited.

(K) *Mold, rodents and insects.* Mold, rodent and insect infestations shall be promptly eliminated by the owner and the rental unit shall then be kept mold and infestation free by the tenant.

(L) *Plumbing.* Plumbing systems shall be properly maintained by the owner free of leaks and fully functional and shall provide hot and cold water to all sinks, tubs and showers and cold water to all toilets. Plumbing vents shall be fully functional and unobstructed.

(M) *Water heaters.* All water heaters shall be fully functional, properly vented if using gas, and shall be equipped with a fully-functional relief valve with a discharge line to within 18 inches of the floor.

(N) *Sanitary sewer.* Sanitary sewer systems shall be properly maintained, fully functional and properly connected to every toilet, sink, tub and shower.

(O) *Clothes dryers.* Clothes dryers, where provided by either the property owner or tenant, shall be properly vented. Vents shall be clean and unobstructed.

(P) *Utility meters.* Gas, water, and other utility meters shall be unobstructed.

(Q) *Smoke detectors.* Smoke detectors shall be fully functional and installed on every level of a rental unit, in every sleeping room, access point leading to sleeping rooms, public hallways and stairwells. Tenants shall not remove batteries from or otherwise disable, remove or destroy any such detector. Such action could be subject to criminal penalty pursuant to M.S. § 299F.362(6)(b) as it may be amended from time to time.

(R) *Carbon monoxide detectors.* Carbon monoxide detectors shall be provided by the owner, shall be installed within ten feet of the entrance of all sleeping rooms, and shall be maintained in fully-functional condition. Tenants shall not remove batteries from or otherwise disable, remove or destroy any such detector pursuant to M.S. § 299F.51(4) as it may be amended from time to time.

(S) *Exterior illumination.* Parking lots, sidewalks and exterior stairs shall be sufficiently illuminated for safety and security.

(T) *Accessibility.* Buildings required to be handicap accessible shall maintain all accessible features and systems.

(Ord. 167, 2nd Series, passed 12-19-2017; Ord. 172, 2nd Series, passed 12-18-2018)

§ 150.54 MAXIMUM DENSITY.

Maximum density. The maximum permissible occupancy of any rental unit shall be determined as follows.

(A) For the first occupant, 150 square feet of habitable space and for every additional occupant thereof at least 100 square feet of habitable space.

(B) Every rental unit shall be equipped with at a minimum:

(1) One sink and one shower/tub with hot and cold water.

(2) Kitchen with food storage and food preparation areas including space and hook-ups for a stove/oven and refrigerator/freezer. Small electric appliances, such as hot plates or crock pots, shall not be substituted for a stove/oven.

(3) One toilet with cold water.

(4) Sleeping areas for all tenants. Single occupant bedrooms shall be a minimum of 70 square feet. Every bedroom occupied by more than one person shall have a minimum of 50 square feet for each occupant.

(Ord. 167, 2nd Series, passed 12-19-2017)

§ 150.55 LICENSING.

(A) Every person, firm, corporation or entity who owns a residential property in the city and rents that property to another person shall be required to obtain a rental license from the city on a form provided by the city.

(B) Property owners must fill out and submit a rental license application and pay the initial application fee. After the city receives the application and payment, inspections will be scheduled and conducted. Rental units that pass inspections will receive a certificate of compliance. Rental properties will receive a rental license once all units pass inspection.

(C) All existing and future rental properties must be individually licensed, regardless of ownership.

(D) The license will be valid for a three-year period. An application for renewal of the license must be submitted between January 1 and March 31 of the renewal year.

(E) After adoption of the rental housing ordinance by the City Council, all properties converted to or constructed as new rental units must be inspected and licensed prior to being occupied.

(F) *Complaints.* Upon receipt of a complaint and verification that a rental property is not licensed, the city shall notify the property owner of record in writing that the owner has 60 days to comply with this subchapter and obtain a rental license or cease rental operations. If the owner fails to obtain a rental license within said 60 days, the owner shall pay the city a daily fine per rented unit. The daily fine shall commence immediately on the expiration of the 60 days and continue until the unit(s) is either vacated or the owner obtains a rental license. A rental license will not be issued until all fines are paid. Fines will be established by resolution of the City Council.

(Ord. 167, 2nd Series, passed 12-19-2017)

§ 150.56 INSPECTIONS.

(A) All rental properties shall be required to have an inspection of each rental unit completed by the city prior to a license being issued or renewed.

(B) An initial inspection of the rental property will be scheduled following submission of a rental license application by the owner.

(C) At the time of renewal of a rental license, an inspection of the rental property will be scheduled and shall be conducted between January 1 and May 31 of the renewal year.

(D) In the event that a rental property is sold, the new owner will be required to obtain a rental license from the city within 60 days of the closing on the property. That property is subject to rental inspections and fees regardless of when the last inspection was completed. The rental license issued to the new owner will then be valid for a full three-year license term.

(E) *Complaints.* The city will handle complaints as follows:

Windom - Land Usage

(1) It is the city's position that property owners and tenants work together to resolve complaints concerning rental housing units. Complaints by tenants shall be in writing and shall first be directed to the property owner. If after a reasonable period of time, the property owner does not respond to the tenant's written complaint or refuses to repair a valid health or safety issue as required by city ordinances, the tenant may then submit a written complaint to the city.

(2) Tenants' complaints to the city concerning rental housing units shall be in writing and submitted on a fully completed "Rental Housing Complaint Form" provided by the city.

(3) The city will only respond to complaints concerning issues that allegedly are in violation of the health and safety sections of this subchapter.

(4) Upon submission of a completed rental housing complaint form, the city will send written notification to the property owner within five business days. This notice will explain the nature of the complaint and request that the property owner contact the city within seven calendar days to schedule an inspection. There will be no fee for this inspection. If the property owner does not schedule the inspection or the rental unit fails the inspection, then § 150.58 will apply.

(5) For any complaint the city receives for the same rental unit within 12 months of the filing of the initial complaint, a deposit will be charged to the complainant at the time the complaint is filed. The amount of the deposit will be established by Resolution of the City Council. The city will then contact the property owner within two business days and schedule an inspection. This inspection shall be made within three business days after the city has contacted the owner. After inspection, if the city issues a repair notice to the owner, the deposit will be returned to the complainant and § 150.58 will apply. If the rental unit passes the inspection, the city will retain the deposit to cover administrative costs associated with the complaint and inspection.

(F) The property owner or an authorized representative must be present for all inspections.

(G) The current tenant must: (a) either be present for the inspection; (b) have signed a consent form, provided by the city, authorizing the inspection without the tenant's presence which consent form must be presented to the city prior to the inspection; or (c) have been given written notice of the scheduled inspection by the owner, pursuant to M.S. § 504B.211 as it may be amended from time to time, and a copy of said written notice must be presented to the city prior to the inspection.

(H) *Exemptions from rental inspections.*

(1) Properties that are under state or federal inspections are exempt from the provisions of this subchapter and from rental inspections by the city.

(2) Single-family homes and rental properties consisting of four or fewer rental units (each of which has its own Parcel ID No.) that are both (a) rented to an immediate family member and (b) have been granted homestead classification for purposes of property taxes by Cottonwood County are exempt from the provisions of this subchapter and from rental inspections by the city, subject to division (H)(3)(g) below.

(3) A property owner may be entitled to an exemption from rental inspections on a specific property for alternate renewal rental license periods if all of the following criteria are met:

(a) The specific property received passing inspections for the initial license period and the consecutive first license renewal period.

(b) The city has not received any complaints which have led to required work orders or repairs on the specific property.

(c) The property owner must file for the exemption at the time of the license renewal application for the specific property.

(d) Exemptions are for properties only and will not be issued for individual rental units.

(e) The property owner will still be required to renew the rental license for the specific property according to this subchapter. However, the property owner will not be charged the inspection fees or be subject to rental inspections for that specific property for the subsequent three-year license term.

(f) Thereafter, if the criteria of this section are not violated, the property owner will be entitled to an exemption from rental inspections on the specific property for alternating three-year rental license periods.

(g) Exempt properties will lose their exempt status if the city receives a complaint and issues a work order or repair notice to the property owner.

(h) Exempt properties will lose their exempt status when they are sold.
(Ord. 167, 2nd Series, passed 12-19-2017)

§ 150.57 LICENSE AND INSPECTION FEES.

(A) Rental license and inspection fees will be established by resolution of the City Council.

(B) Rental license fees will be payable at the time of the initial application and renewal applications for a rental license.

(C) The license fee will cover the initial inspection for each application period.

(D) Properties exempt from renewal inspections for alternating renewal license periods, as provided herein, will be charged a minimum renewal fee for each license period exempt from a rental inspection. (Ord. 167, 2nd Series, passed 12-19-2017)

§ 150.58 FINES AND PENALTIES.

(A) If during a rental inspection a rental unit or property does not meet the minimum requirements of this subchapter, it will receive a failed inspection notice. This notice will be issued in writing to the owner or authorized agent who is present at the time of the inspection. The notice will list the repairs that are necessary and a period of time within which the repairs must be made and the rental unit or property re-inspected (second inspection). Payment for this second inspection will be due prior to the inspection. Failure to pay the second inspection fee will not prevent the city from conducting a second inspection.

(B) If the property owner does not schedule the second inspection by the date specified on the notice, it will count as a second failed inspection whether or not the repairs have been made. The city will then send notice to the owner of the day and time of the rescheduled inspection (third inspection) for the property. Payment for this third inspection and the unscheduled second inspection will be due prior to this inspection. Failure to pay these re-inspection fees will not prevent the city from conducting the third inspection.

(C) If a property owner fails to be present for a scheduled inspection without giving at least 48-hours' notice, it will count as a failed inspection and will be subject to re-inspection fees.

(D) Re-inspection fees for failed inspections will be established by resolution of the City Council.

(E) If a property owner does not consent in a reasonable amount of time to the first and any required second and third inspections, or if the property owner has failed to be present for or schedule the inspections, or if the tenant has failed to be present for any inspection or consent in writing to an inspection without his/her presence or hasn't been given written notice of a scheduled inspection pursuant to M.S. § 504B.211, as it may be amended from time to time, or if the property owner has not made the necessary repairs within the time(s) specified, the Windom Building and Zoning Official shall have the right to suspend or revoke the rental license for the property. Furthermore, starting on the day that the owner's rental license is suspended or revoked, the property owner shall pay the city a daily fine per rented unit. Daily fines will continue until the unit(s) is either vacated or is brought into compliance with city ordinance. The rental license will not be reissued until all fines are paid. Fines will be established by Resolution of the City Council.

(F) If the city chooses to seek injunctive relief or any other relief from the Court to enforce the provisions of this subchapter and if the city prevails in such action(s), the property owner shall pay all of the city's reasonable attorneys' fees and court costs in such action(s).

(G) The city shall have the right to recover any unpaid license and renewal fees, re-inspection fees, fines issued pursuant to this subchapter, and reasonable attorneys' fees and court costs (if incurred by the city to enforce the city's rental housing ordinance). If any of these fees, fines and costs are unpaid, the city shall prepare an invoice for said unpaid amount and mail the invoice to the property owner. Thereupon the amount shall immediately be due and payable at the Office of the City Clerk.

(H) If the property owner fails to pay the license or renewal fees, re-inspection fees, the fines specified at § 150.55(F), the fines specified at § 150.58(E), or any attorneys' fees and court costs (if incurred by the city to enforce the city's rental housing ordinance), then after notice and hearing as provided by M.S. § 429.061, as it may be amended from time to time, the City Administrator shall, on or before December 31 next following mailing of the invoice for these fees, fines and costs, list the total unpaid fees, fines and costs against each separate lot or parcel to which the fees, fines and costs are attributable and these shall be levied as special assessments against the property. These special assessments shall be payable with the real estate taxes on the property in one or more installment(s) as the City Council may determine.

(I) Any property owner who violates any of the provisions of §§ 150.53 through 150.58 shall also be guilty of a misdemeanor.
(Ord. 167, 2nd Series, passed 12-19-2017)

§ 150.59 APPEALS.

(A) Property owners have the right to appeal the results of a rental inspection. The appeal can only be filed after a rental inspection has occurred and the result was a failed inspection.

(B) Appeals must be in writing and submitted or mailed to the City of Windom, 444 9th Street, PO Box 38, Windom, MN 56101.

(C) Appeals must be submitted prior to the work order/re-inspection date indicated on the inspection form.

(D) The Windom City Council will act as the Appeals Board and hear all appeals. The owner(s) will have an opportunity to be heard and present any evidence they have that relates to the property.

(E) The decision of the Appeals Board will be final and no further appeals will be heard or allowed for the same rental unit until another rental inspection has occurred. The property owner will be sent written notice of the results of the appeal.
(Ord. 167, 2nd Series, passed 12-19-2017)

§ 150.60 MINIMUM STANDARDS.

This subchapter sets forth minimum standards for rental housing units in the city. In addition to these standards, the owners of subsidized housing units shall be subject to the requirements of the governmental agencies regulating those units.

(Ord. 167, 2nd Series, passed 12-19-2017)

§ 150.61 CITY NOT AN ARBITER.

With respect to rental disputes, and except as otherwise specifically provided by the terms of this subchapter, it is not the intention of the city to intrude upon the fair and accepted contractual relationship between tenant and landlord. The city does not intend to intervene as an advocate of either party, nor to act as an arbiter, nor to be receptive to complaints from tenant or landlord which are not specifically and clearly relevant to the provisions of this subchapter. In the absence of such relevancy with regard to rental disputes, it is intended that the contracting parties exercise such legal sanctions as are available to them without the intervention of city government. Neither in enacting this subchapter is it the intention of the city to interfere or permit interference with legal rights to personal privacy.

(Ord. 167, 2nd Series, passed 12-19-2017)

§ 150.62 NO WARRANTY BY CITY.

Also, by enacting and undertaking to enforce this subchapter, the city, its agents, and employees do not warrant or guarantee the safety, fitness or suitability of any rental housing unit in the city. Owners and occupants should take whatever steps they deem appropriate to protect their interests, health, safety and welfare.

(Ord. 167, 2nd Series, passed 12-19-2017)

§ 150.99 PENALTY.

(A) A violation of the Code, adopted under § 150.01, is a misdemeanor, as per M.S. Ch. 326B, as amended from time to time.

(B) Every person violates a section, division, paragraph or provision of this chapter when he or she performs an act thereby prohibited or declared unlawful, or fails to act when the failure is thereby prohibited or declared unlawful, or performs an act prohibited or declared unlawful or fails to act when the failure is prohibited or declared unlawful by a code adopted by reference by this chapter and, upon conviction thereof, shall be punished as for a misdemeanor, except as otherwise stated in specific provisions hereof.

(Prior Code, § 4.99) (Ord. 129, 2nd Series, passed 7-31-2007)

CHAPTER 151: SUBDIVISIONS

Section

General Provisions

- 151.01 Purpose
- 151.02 Application
- 151.03 Plat approval required
- 151.04 Restrictions on filing and recording conveyances
- 151.05 Fees and charges
- 151.06 Building permits
- 151.07 Definitions
- 151.08 Variances
- 151.09 Minor subdivisions
- 151.10 Exemptions

Preliminary Plat

- 151.25 Preliminary plat required
- 151.26 Procedure on preliminary plat
- 151.27 Preliminary plat and supplementary data and documents

Final Plat

- 151.40 Generally
- 151.41 Procedure on final plat
- 151.42 Final plat and supplementary data and documents

Design Standards and Improvements

- 151.55 Minimum improvements required
- 151.56 Financing improvements
- 151.57 Conformance to the official map and comprehensive plans
- 151.58 Community assets
- 151.59 Monuments and stakes
- 151.60 Public sites and open spaces

- 151.61 Streets and block layout
- 151.62 Minimum widths for streets and alley rights-of-way
- 151.63 Lots
- 151.64 Utilities and drainage
- 151.65 Other requirements

- 151.99 Penalty

GENERAL PROVISIONS

§ 151.01 PURPOSE.

Land subdivision is the first step in the process of community development. Once land has been divided into streets, blocks, lots and open spaces, a pattern has been established which determines how well community needs for residents, business and industry will be met. It also determines, to a great extent, how well the community will be able to handle its traffic circulation problems, how well it will be able to meet the demand for home sites and how efficiently and economically it will be able to provide the many services that are required. These subdivision regulations are designed to provide for harmonious development of a subdivided area; for a coordinated layout; for the proper arrangement of streets; for adequate and convenient spaces for traffic, utilities, recreation, light, air and access for fire-fighting equipment; and for adequate provisions for water, drainage, sewer and other sanitary facilities. This chapter adopts subdivision regulations to provide for the orderly, economic and safe development of land and urban services and facilities to promote the public health, safety, morals and general welfare.

(Ord. 126, 2nd Series, passed 8-16-2005)

§ 151.02 APPLICATION.

(A) This chapter shall apply to all land now lying within, and hereafter annexed to, the city, and to unincorporated territory located within two miles of its limits in any direction. Except as herein otherwise provided, this chapter shall apply to the subdivision of a lot, tract or parcel of land into two or more lots, tracts or other division of land for any purpose, whether immediate or future, including the resubdivision, rearrangement or replatting of land or lots. This chapter shall further apply to any parcel of land being subdivided which includes an existing or future right-of-way or easement according to the comprehensive plan of the city, that has not been previously dedicated.

(B) This chapter shall not apply to:

(1) Subdivision into tracts each of which contain five acres or more and at least 300 feet in width;

(2) Resubdivision of land previously subdivided the total area of which is one acre or less; and/or

(3) The subdivision or allocation of land as open space for common use by owners, occupants or leaseholders, or as easements for the extension and maintenance of public sewerage, water, storm drainage or other public facilities.

(Ord. 126, 2nd Series, passed 8-16-2005)

§ 151.03 PLAT APPROVAL REQUIRED.

No plat for a subdivision or part thereof within the application of this chapter shall be prepared, presented for approval, approved or recorded, except as prescribed herein.

(Ord. 126, 2nd Series, passed 8-16-2005)

§ 151.04 RESTRICTIONS ON FILING AND RECORDING CONVEYANCES.

(A) After the effective date of this chapter, no conveyance of land to which this chapter is applicable shall be filed or recorded if the land is described in the conveyance by metes and bounds or by reference to an unapproved registered land survey made after 4-21-1961, or to an unapproved plat.

(B) This chapter does not apply to a conveyance of the land if it:

(1) Was a separate parcel of record on the date of adoption of this chapter;

(2) Was the subject of a written agreement to convey entered into prior to the date of adoption of this chapter;

(3) Was a separate parcel of not less than two and one-half acres in area and 150 feet in width on 1-1-1966;

(4) Was a single parcel of land of not less than five acres and having a width of not less than 300 feet on 7-1-1980;

(5) Is a single parcel of commercial or industrial land of not less than five acres and having a width of not less than 300 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than five acres in area or 300 feet in width; and

(6) Is a single parcel of residential or agricultural land of not less than 20 acres and having a width of not less than 500 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than 20 acres in area or 500 feet in width.

(C) In any case in which compliance with this chapter will create an unnecessary hardship and failure to comply does not interfere with the purpose of this chapter, the Council may waive the compliance by adoption of a resolution to that effect and the conveyance may then be filed or recorded.

(D) Any owner or agent of the owner of land who conveys a lot or parcel in violation of the provisions of this chapter shall forfeit and pay to the city a penalty of not less than \$100 for each lot or parcel so conveyed. The city may enjoin the conveyance or may recover the penalty by a civil action in any court of competent jurisdiction.

(Ord. 126, 2nd Series, passed 8-16-2005)

§ 151.05 FEES AND CHARGES.

The Council may from time to time establish fees and charges for the filing and reviewing of plats. The subdivider shall reimburse the city for the cost of legal, professional and technical services as to any plat.

(Ord. 126, 2nd Series, passed 8-16-2005)

§ 151.06 BUILDING PERMITS.

No building permit shall be considered for issuance by the city for the construction of any building, structure or improvement to the land or to any lot in a subdivision as defined herein, until all requirements of this chapter have been complied with fully.

(Ord. 126, 2nd Series, passed 8-16-2005)

§ 151.07 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALLEY. A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on a street.

APPLICANT. The owner of land proposed to be subdivided for his or her representation. Consent shall be required from the legal owner of the premises.

BLOCK. The distance as measured along a street between intersecting streets from centerline to centerline; and where the context requires, it also means the enclosed area within the perimeter of the streets or property lines enclosing it, or the combination of the above with a river or lake.

BOULEVARD. The portion of the street right-of-way between the curb line and the property line.

BUILDING. Any structure built for the support, shelter or enclosure of persons, animals, chattels or movable property of any kind, and includes any structure.

COMPREHENSIVE PLAN. The group of maps, charts and texts that make up the comprehensive long-range plan of the city.

DESIGN STANDARDS. The specifications to land owners or subdividers for the preparation of plats, both preliminary and final, indicating among other things, the optimum, minimum or maximum dimensions of such items as right-of-way, blocks, easements and lots.

DRAINAGE COURSE. A watercourse or indenture for the drainage of surface water.

EASEMENT. A grant by a property owner for the use of a strip of land and for the purpose of constructing and maintaining drives, utilities, including, but not limited to, wetlands, ponding areas, sanitary sewers, water mains, electric lines, telephone lines, cable television lines, storm sewer or storm drainageways and gas lines.

FINAL PLAT. A drawing or map of a subdivision, meeting all of the requirements of the city and in a form as required by the county and state statutes for the purpose of recording.

INDIVIDUAL SEWAGE DISPOSAL SYSTEM. A septic tank, seepage tile sewage disposal system or any other approved sewage treatment device.

LOT. Land in a subdivision, occupied or to be occupied by a building and its accessory buildings, together with open spaces as are required under the provisions of the current zoning regulations, having not less than the minimum area required by Ch. 152 of this code of ordinances for a building site in the district in which the lot is situated and having its principal frontage on a street.

METES AND BOUNDS DESCRIPTION. A description of a tract of land with references to courses and distances establishing a point of beginning and returning to the point of beginning.

OFFICIAL MAP. A map which designates rights-of-way and easements for streets, alleys, drainage courses and utilities. The map shall also show existing additions and subdivisions and that include the lot and block identifications and dimensions and the identifications of additions and subdivisions and the streets contained therein. The information as shown on the map shall be in accordance with documents as permanently recorded with the city and county. The ***OFFICIAL MAP*** shall be kept on record in the office of the City Administrator and is to be kept current by the city.

OUTLOT. A lot remnant or parcel of land left over after platting, which is intended as open space or other use, for which no development is intended and for which no building permit shall be issued.

OWNER. Includes the plural as well as the singular, and where appropriate shall include a natural person, partnership, firm, association, public or quasi-public corporation, private corporation or a

combination of them having interest in land sought to be subdivided to maintain proceedings as a subdivider.

PARKS. Areas of public land developed and maintained primarily as pleasurable landscaped areas providing for both active and passive recreational pursuits, including playgrounds, neighborhood parks, playfields and special purpose areas.

PLAT. A map showing a plan for the subdivision of land which is submitted for approval and is intended in final form (which shall contain the necessary certificates) for recording.

PRELIMINARY PLAT. A tentative drawing or map of a proposed subdivision meeting the requirements herein enumerated.

PROTECTIVE COVENANTS. Contracts made between private parties as to the manner in which land may be used, with the view to protecting and preserving the physical and economic integrity of any given area.

SANITARY SEWER. A constructed conduit connected with a sewer system for the carrying of liquids and solids other than storm waters to a sanitary treatment facility.

SETBACK. The building setback distance of a line as measured from the nearest street, road, water shoreline or property boundary line.

STORM SEWER. A constructed conduit for carrying surface waters to a drainage course.

STREET. A public right-of-way affording primary access by pedestrian or vehicles or both, to abutting properties, whether designated as a street, highway, thoroughfare, parkway, road, avenue or boulevard.

STREETS - COLLECTOR STREETS. Those streets which carry traffic from local streets to the major system of arterials and highways. **COLLECTOR STREETS** primarily provide principal access to residential neighborhoods, including, to a lesser degree direct land access.

STREETS - CUL-DE-SAC. A local street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

STREETS - LOCAL STREET. Those local streets used primarily for access to abutting properties and for traffic movement.

STREETS - MARGINAL ACCESS OR SERVICE DRIVES. Those local streets which are parallel and adjacent to thoroughfares and highways; and which provide access to abutting properties and protection from through traffic.

STREETS - THOROUGHFARES, ARTERIAL STREETS. Those streets carrying larger volumes of traffic and serving as links between various subareas of the community. ***THOROUGHFARES*** or ***ARTERIAL STREETS*** are intended to provide for collection and distribution of traffic between highways and collector streets; hence, regulation of direct access to property is critical.

SUBDIVIDER. Any individual, firm, association, syndicate, co-partners, corporation, trust or other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this chapter.

SUBDIVISION. The division of a tract of land into two or more lots or parcels of land for the purpose of transfer or ownership or building development.

SUBDIVISION - MAJOR. A subdivision of a parcel or parcels of property in which more than one additional parcel or lot is created in unplatted lands or more than two additional parcels or lots are created in platted lands.

SUBDIVISION - MINOR. A subdivision of a parcel or parcels of property in which no more than one additional parcel or lot is created in unplatted lands, or no more than two additional parcels or lots are created in platted lands.

SURVEYOR. A duly registered land surveyor employed by the subdivider for the preparation of subdivision surveys or plats as required by this chapter and state statute, and in accordance with the city code and state law.

(Ord. 126, 2nd Series, passed 8-16-2005)

§ 151.08 VARIANCES.

(A) *General.* Subdivision regulations may provide for a procedure for varying the regulations as they apply to specific properties where as unusual hardship on the land exists, but variances may be granted only upon the specific grounds set forth in the regulations. Unusual hardship includes, but not limited to, inadequate access to direct sunlight for solar energy systems.

(B) *Reasons for granting.* The Council may grant a variance from these regulations following a finding that substantially all of the following conditions exist:

(1) There are special circumstances or conditions affecting the property so that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his or her land;

(2) The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner; or

(3) The granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which the property is situated.

(C) *Consideration to be given.*

(1) In making the finding, the Council shall consider the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision, and the probable effect of the proposed subdivision upon traffic conditions in the vicinity.

(2) In granting a variance as herein provided, the Council shall prescribe only conditions that it deems desirable or necessary to the public interest.

(Ord. 126, 2nd Series, passed 8-16-2005)

§ 151.09 MINOR SUBDIVISIONS.

(A) (1) In the case of a subdivision resulting in three parcels or less situated in a locality where conditions are well defined, the Council may exempt the subdivider from complying with some of the requirements of these regulations.

(2) In the case of a request to subdivide a lot which is a part of the recorded lot, or where the subdivision is to permit the adding of a parcel of land to an abutting lot or to create not more than three new lots, and the newly created property lines will not cause any resulting lot to be in violation of these regulations or the zoning chapter, the division may be approved by the Council, after submission of a survey by a registered land surveyor showing the original lot and the proposed subdivision.

(B) In the case of a request to divide a lot which is a part of a recorded plat where the division is to permit the adding of a parcel of land to an abutting lot or to create two lots and the newly created property line will not cause the other remaining portion of the lot to be in violation with these regulations or the zoning chapter, the division may be approved by the Council, after submission of a survey by a registered land surveyor showing the original lot and the proposed subdivision.

(Ord. 126, 2nd Series, passed 8-16-2005)

§ 151.10 EXEMPTIONS.

The Council may exempt from compliance with all or any part of the requirements for the preparation of a preliminary plat if:

(A) A proposed subdivision is situated in a locality where conditions are well defined;

(B) The number of current improved lots fronting on the proposed street substantially limit change in the existing public improvements or future land layout;

(C) The subdivision does not involve a new street or the extension of municipal utilities; and

(D) The subdivision will not adversely affect the adjoining property.
(Ord. 126, 2nd Series, passed 8-16-2005)

PRELIMINARY PLAT

§ 151.25 PRELIMINARY PLAT REQUIRED.

Before submitting a final plat for approval, the subdivider shall have approval of a preliminary plat, so designated. Ten copies of the preliminary plat shall be filed in the office of the Zoning Administrator; provided that, additional copies may be required if highways are affected. The required application fee shall be paid and any necessary applications for variances from the provisions of this chapter shall be submitted with the required fee. The preliminary plat shall be considered filed after the Zoning Administrator has examined it and found it to be complete and in proper form. The Zoning Administrator shall note the filing date on all copies.

(Ord. 126, 2nd Series, passed 8-16-2005)

§ 151.26 PROCEDURE ON PRELIMINARY PLAT.

(A) One copy of any preliminary plat which includes lands abutting upon any existing or established trunk highway shall be forthwith forwarded by the Zoning Administrator to the State Department of Transportation (MnDot), District Design Engineer for his or her written comments and recommendations, and any plat which includes land abutting upon an existing or established county or county state-aid highway shall be so forwarded to the County Highway Engineer for his or her written comments and recommendations.

(B) One copy of the preliminary plat shall be referred by the Zoning Administrator to the City Engineer, the gas company, telephone company, electric department, City Street and Parks Department, Water and Waste Water Department and any other departments or agencies that may need to review the proposed plat for their comments and recommendations.

(C) After receipt of the comments and recommendations from divisions (A) and (B) above, the Planning Commission shall meet to review the preliminary plat. Upon completion of the preliminary review by the Planning Commission, a public hearing shall be scheduled for the next regular meeting of the Planning Commission. The city reserves the right to waive the preliminary review by the Planning Commission based on findings of the Zoning Administrator. If a preliminary review is waived, the Planning Commission shall conduct a public hearing on the preliminary plat at its next regular meeting.

(D) The hearing of the Planning Commission shall be held within 60 days from the date of filing. The hearing shall be held following publication of notice of the time and place thereof in the official

newspaper at least ten days before the day of the hearing. At the hearing, all persons interested shall be given an opportunity to make presentations. A subdivision application shall be preliminarily approved or disapproved within 120 days following the date of the approved application, unless an extension of the review period has been agreed to by the applicant.

(E) At the public hearing, the Planning Commission shall review the plat, consider all oral and written reports, comments and recommendations, and adopt, by majority vote of those present and voting, its own recommendation to the Council as to approve or disapprove the plat, stating its reasons. The recommendation shall be presented to the Council at the next regular meeting. Within 30 days after receipt of the Planning Commission's recommendation the Council shall act on the preliminary plat. (Ord. 126, 2nd Series, passed 8-16-2005)

§ 151.27 PRELIMINARY PLAT AND SUPPLEMENTARY DATA AND DOCUMENTS.

All preliminary plats shall meet the design standards set forth in this chapter and shall show thereon, or have submitted therewith, as the context of this chapter indicates, the following:

(A) Scale of 100 feet to one inch or larger;

(B) Name of subdivision, name and address of the owner(s) and the engineer or surveyor;

(C) Location of subdivision by section, town, range or other legal description together with a small scale sketch showing location within section;

(D) Date, north arrow and graphic scale;

(E) Boundary line and total acreage of land to be subdivided;

(F) Zoning classification of lands to be subdivided and all adjacent lands;

(G) Existing land elevation contours at an interval of two feet;

(H) Boundary lines of the area to be subdivided and their approximate bearings and distances;

(I) Existing and proposed easements and their locations, widths and distance;

(J) Streets on and adjacent to the tract and their names, widths, proposed approximate grades and proposed relative ground elevations at the intersections of all streets and every 100 feet along the streets and at the corners or extremities of the plat, and other dimensions as may be required. Elevations shall be to city datum;

(K) Utilities on and adjacent to the tract showing proposed connections to existing utility systems. Rear easements for utilities shall be provided wherever possible. Data to be provided includes type of

utility, location of manholes, catch basins, hydrants and the like; approximate depth of pipe construction and size of pipe and direction of flow;

(L) Lot lines, lot numbers and approximate lot dimensions;

(M) Sites and their acreages, if any, to be reserved or dedicated for parks, recreation areas, open spaces, schools or other public uses. Sites, if any, for semi-public, commercial or multi-family uses;

(N) Location of railroads, streams, natural and proposed drainage courses, permanent buildings or other structures;

(O) Other reasonable information, such as percolation and other soil tests, if so requested by the Commission in order to make a proper review of the site;

(P) Copies of proposed deed restrictions or protective covenants, if any;

(Q) Topographic data, watercourses, wetlands, rock outcrops, power transmission poles and lines, and other significant features shall also be shown; and

(R) If a variance is necessary, the subdivider shall submit with the preliminary plat his or her written request for the variance specifying, in detail, reasons necessitating variance in compliance with this chapter.

(Ord. 126, 2nd Series, passed 8-16-2005)

FINAL PLAT

§ 151.40 GENERALLY.

(A) Following preliminary approval, the applicant may request final approval of the plat.

(B) Upon the request, the city shall certify final approval within 60 days if the applicant has complied with all conditions and requirements upon which the preliminary approval was expressly conditioned, either through performance or the execution of appropriate agreements assuring performance.

(C) If the city fails to certify final approval as so required, and if the applicant has complied with all conditions and requirements, the application shall be deemed finally approved and, upon demand, the city shall execute a certificate to that effect.

(D) After final approval, the subdivision plat may be recorded.

(Ord. 126, 2nd Series, passed 8-16-2005)

§ 151.41 PROCEDURE ON FINAL PLAT.

(A) (1) The owner or subdivider shall file with the Zoning Administrator ten copies of the final plat upon his, her or their request for final approval of the plat.

(2) The owner or subdivider shall also submit at this time an up to date certified abstract of title and other evidence as the City Attorney may require, showing title in the applicant, and an attorney's opinion based on the abstract of title showing the owner(s) of the land to be platted.

(3) The final plat will have incorporated all changes or modifications required by the Council.

(4) In all other respects, it shall conform to the preliminary plat.

(5) The plats required for filing shall bear the fully executed certificates of the subdivider and surveyor.

(6) The supplementary documents shall be in final form and shall be fully executed by the subdivider at the time of the filing.

(B) At the next scheduled meeting of the Planning Commission, the official plat and supplementary documents shall be examined to determine whether or not they conform to the preliminary plat and are consistent with the action taken by the Council and with the requirements of this chapter and state statutes. The Planning Commission shall forward its respective opinions and recommendations to the Council.

(C) The Council, upon receiving the opinions and recommendations from the Planning Commission, shall take action on the final plat. If the final plat and supplementary data and documents are found to be consistent with the preliminary plat and prior requirements, the Council shall adopt an approving resolution which shall also authorize and direct the City Administrator to certify the Council's approval on the plat. Every resolution passed by the Council shall be signed by the Mayor or by two members of the Council, attested by the City Administrator. If the final plat and supplementary data and documents are not in conformance with prior Council action, this chapter or state statutes, the Council shall forthwith return the executed plats and documents and state the requirements necessary for approval of the final plat.

(D) When any existing special assessments which have been levied against the property described, the City Administrator shall determine how the assessments shall be divided and allocated to the respective lots in the proposed plat.

(E) (1) If the final plat is approved by the Council, the subdivider shall record it with the County Recorder within 90 days after the approval or approval of the final plat shall be considered void, unless a request for time extension is submitted in writing and approved by the Council. The subdivider shall,

immediately upon recording, furnish the City Administrator with a print and reproducible tracing of the final plat showing evidence of the recording. If the plat relates to property outside the corporate limits of the city, a copy of the final plat shall also be filed with the appropriate town clerk.

(2) No building permits shall be issued for construction of any structure on any lot in the plat until the city has received evidence of recording of the plat by the county.
(Ord. 126, 2nd Series, passed 8-16-2005)

§ 151.42 FINAL PLAT AND SUPPLEMENTARY DATA AND DOCUMENTS.

(A) The owner or subdivider shall submit a final plat together with any necessary supplementary information.

(B) The final plat, prepared for recording purposes, shall be prepared in accordance with provisions of state statutes and the final plat shall contain the following information:

(1) Name of the subdivision, which shall not duplicate or too closely approximate the name of any existing subdivision;

(2) Block, lot numbers, lot lines and dimensions;

(3) All outlots shall be designated by alphabetical order, beginning with Outlot "A";

(4) The location of monuments shall be shown and described;

(5) The exact locations, widths and names of all streets to be dedicated. A statement dedicating all streets, alleys and other public areas shown on the plat;

(6) Location and width of all easements to be granted. A statement granting all easements. The purpose of any easement shown on the plat must be clearly stated, and shall be confined to only those that deal with public utilities, and the drainage easements as deemed necessary for the orderly development of the land encompassed within the plat;

(7) Name and address of developer and surveyor preparing the plat;

(8) Scale of plat (the scale to be shown graphically on a bar scale 100 feet to one inch), date of preparation and north arrow;

(9) Names and location of adjoining subdivisions, streets and unplatted properties;

(10) Protective covenants, variances or any other data or documents, if required by city ordinance or state law, shall be attached to the final plat; and

(11) Certifications and signatures.
(Ord. 126, 2nd Series, passed 8-16-2005)

DESIGN STANDARDS AND IMPROVEMENTS

§ 151.55 MINIMUM IMPROVEMENTS REQUIRED.

The subdivider shall provide the improvements described herein.
(Ord. 126, 2nd Series, passed 8-16-2005)

§ 151.56 FINANCING IMPROVEMENTS.

Improvements may be financed, in accordance with a policy established by the Council and uniformly enforced, by one of the following means:

- (A) Installation and payment thereof by the subdivider;
- (B) A corporate surety bond or cash bond guaranteeing performance of the installation;
- (C) An escrow deposit and agreement;
- (D) Special assessments; and
- (E) Any combination of the foregoing.

(Ord. 126, 2nd Series, passed 8-16-2005)

§ 151.57 CONFORMANCE TO THE OFFICIAL MAP AND COMPREHENSIVE PLANS.

All plats shall conform to the official map and other parts of the adopted comprehensive plan of the city. Whenever a subdivision embraces any part of an arterial or collector street or highway, which is so designated on the comprehensive plan, the part shall be dedicated to the public by the subdivider in the location and at the width indicated thereon.

(Ord. 126, 2nd Series, passed 8-16-2005)

§ 151.58 COMMUNITY ASSETS.

In all subdivisions, due regard shall be shown for natural features such as trees, unusual rock formations and watercourses; for sites which have historical significance; and for similar assets which,

if preserved, will add attractiveness and value to the subdivision and to the community. The Planning Commission may prepare a list of all features within its area of subdivision jurisdiction, which it deems worthy of preservation.

(Ord. 126, 2nd Series, passed 8-16-2005)

§ 151.59 MONUMENTS AND STAKES.

All subdivision boundary corners, block and lot corners, street intersection corners, and point of tangency and curvature shall be marked with survey monuments consisting of minimum five-eighth inch steel rods 24 inches in length. Inscribed on the monument or cap, for block corners, according to state statute, shall be the registration number of the land surveyor making the survey. All United States, state, county and other official benchmarks; monuments or triangulation stations in or adjacent to the property shall be preserved in precise position. Permanent stakes and/or monuments shall be in place no later than one year after approval of the final plat.

(Ord. 126, 2nd Series, passed 8-16-2005)

§ 151.60 PUBLIC SITES AND OPEN SPACES.

(A) *Dedication of land.*

(1) In subdividing land, the subdivider shall dedicate a reasonable portion of any proposed subdivision to the public or preserve for the public use, streets, roads, sewers, electric, gas and water facilities, storm water drainage and holding areas or ponds and similar utilities and improvements. In addition, the city may require a reasonable portion of any proposed subdivision be dedicated to the public or preserved for conservation purposes or for public use as parks, recreational facilities, playgrounds, trails, wetlands or open spaces. Areas so dedicated or reserved shall conform as nearly as possible to the city comprehensive plan. All areas to be reserved for or dedicated to public use shall be indicated on the preliminary plat in order that it may be determined when and in what manner the areas will be dedicated to or acquired by the appropriate agency.

(2) The following applies:

- (a) Subdivisions of up to 50 acres: 5% of the platted area; and
- (b) Additional acreage over 50 acres: 2% of the platted area.

(B) *Cash in lieu of land.* If, in the judgment of the City Council, the area proposed to be dedicated is not suitable or desirable for park/playground purposes, because of the location, size or other reasons, the City Council may require, in lieu of land dedication, a payment to the city of a sum equal to the percentage listed above of the average value of land to be subdivided. The aforementioned value shall be the value of the land upon approval of the preliminary plat, prior to the installation of improvements,

and shall be determined jointly by the City Council or its agent and the subdivider-developer. If the City Council and subdivider-developer cannot agree on land value, the land values shall be established on the basis of the average of two independent appraisals by professional appraisers. (Ord. 126, 2nd Series, passed 8-16-2005)

§ 151.61 STREETS AND BLOCK LAYOUT.

(A) The subdivision shall be so designed as to be in harmony with adjacent subdivisions and provide for the continuation of existing streets. Provisions shall be made for streets through the subdivision for the platting of contiguous property. No strip of unplatted land or portion of street or artifice shall be used or retained by the subdivider to impede the platting of adjacent parcels.

(B) The street layout shall provide access adequate for emergency and public service vehicles to all lots and parcels of land within the subdivision.

(C) Where appropriate to the design, streets shall be established to avoid jogs at intersections and to promote continuity of local streets and those of higher classifications.

(D) Streets shall be established to take advantage of the contour of the land so as to produce usable lots, cause a minimum of cutting and filling and to produce streets with reasonable grades, as defined herein.

(E) Certain proposed streets, where appropriate, shall be extended to the boundary line of the tract to provide for adequate circulation of traffic within the vicinity for adjacent, but as yet undeveloped or platted land tracts.

(F) Streets shall intersect other streets as near to a 90-degree angle as topography and other factors permit. Intersections of streets with arterial or collector streets shall be limited to a minimum angle of 70 degrees unless specifically approved by the Planning Commission.

(G) Whenever there exists a dedicated or platted portion of a street or alley adjacent to the proposed subdivisions, which conforms to the official map, the remainder of the street or alley shall be platted to the prescribed width within the proposed subdivision.

(H) Half-width streets shall be prohibited, except where essential to the reasonable development of the subdivision in conformity with other requirements of these regulations. Where an existing half-width street adjoins a portion of the boundary of a proposed subdivision, street dedication in a width needed to make this a full-width street may be required.

(I) Street and right-of-way widths shall conform to those indicated in division (H) above. Where the widths are not prescribed therein, the widths shall not be less than the minimum herein.

(J) Alleys may be platted in the rear of all lots to be used for commercial or industrial purposes. Alleys will not generally be approved in single-family residential areas, unless required by unusual topography or other exceptional conditions.

(K) Land abutting arterial or collector streets shall be platted with the view of making the lots, if for residential use, desirable for the use by cushioning the impact of heavy traffic on the traffic-ways; and with the view also of minimizing interference with traffic on the traffic-ways as well as the accident hazard. This may be accomplished in several ways:

(1) By platting the lots abutting the traffic-ways at very generous depth, with setbacks or front yards at least ten feet greater or deeper than otherwise required; and providing vehicular access to them by means of frontage access roads next to the traffic-way, connected therewith at infrequent intervals;

(2) By not fronting the lots on the highway or thoroughfare, but on a parallel local street at a distance of a generous lot depth, in which case private driveways shall connect with the local street; and/or

(3) By a collector street platted more or less parallel with the highway or thoroughfare, 600 to 1,000 feet distance therefrom, from which loop streets or dead-end streets would extend toward the highway, the ends of which provide access to the lots abutting the highway to their rear.

(L) Dead-end streets will be approved if limited to 850 feet in length, provided a permanently designed turnaround area having a minimum diameter to the edge of the finished street or curb line of not less than 28 feet and a minimum right-of-way diameter of 60 feet is constructed.

(M) Closed subdivisions over five acres in size (with only one exit) shall not be permitted.

(N) Blocks shall have sufficient width to provide for two tiers of lots of appropriate depth, unless, in the opinion of the Planning Commission, prevented by unusual topography or other physical conditions.

(O) The lengths, widths and shapes of blocks, and lots within blocks, shall be determined with due regard to:

(1) Provision of adequate building sites suitable to the special needs of the principal and all required accessory uses;

(2) Zoning requirements as to lot sizes and dimensions, and provisions regulating off-street parking and loading spaces;

(3) Needs for convenient access, circulation, control and safety of street traffic;

(4) Limitations and opportunities of topography; and

(5) Generally, blocks shall not exceed 1,320 feet in length or less than 350 feet in length measured along the greatest dimension of the block.

(P) (1) Residential blocks shall normally be of sufficient width for two tiers of lots.

(2) Block lengths shall be determined by circulation and other needs.

(Q) Pedestrian walk right-of-way, not less than ten feet wide, shall be required where deemed essential to provide circulation, or access to schools, playgrounds, shopping centers, transportation and other community facilities.

(R) The number of intersecting streets along arterial and collector streets shall be held to a minimum, and where practicable, blocks along the traffic-ways shall not be less than 800 feet in length. (Ord. 126, 2nd Series, passed 8-16-2005)

§ 151.62 MINIMUM WIDTHS FOR STREETS AND ALLEY RIGHTS-OF-WAY.

(A) Where existing or anticipated traffic on principal and minor arterial highways warrants greater widths or right-of-way, these shall be required.

(B) For all public ways hereafter dedicated and accepted, the minimum right-of-way widths for streets and thoroughfares shall be shown in the comprehensive plan and where not shown therein, the minimum right-of-way width for streets, arterial highways or pedestrian ways included in any subdivision shall not be less than the minimum dimensions for each classification as follows:

<i>Classification</i>	<i>Right-of-Way</i>	<i>Roadway</i>
Alley	20 feet	
Collector streets	70 feet	36 feet
Minor arterial highway (local thoroughfare)	80 feet	44 feet
Minor streets and cul-de-sacs	60 feet	28 feet
		43-foot radius
Pedestrian way	10 feet	
Principal arterial highway (major thoroughfare)	As determined by state and county	
Service drives (marginal access)	50 feet	28 feet

(Ord. 126, 2nd Series, passed 8-16-2005)

§ 151.63 LOTS.

(A) The size, shape and orientation of lots shall be appropriate for the location of the proposed subdivision and for the type of development contemplated. Lot dimensions shall conform to the requirements of Ch. 152 of this code of ordinances.

(B) Excessive depth in relation to widths shall be avoided. A proportion of not more than three to one normally shall be considered appropriate.

(C) Every lot shall abut on a street. Lots for residential purposes shall meet the size requirements of Ch. 152 of this code of ordinances and also the requirements relative to building setback and side yard requirements.

(D) Corner lots for residential use shall be platted at least five feet wider than interior lots in order to permit conformance with the setback required by Ch. 152 of this code of ordinances on the side streets.

(E) Residential lots fronting on arterial and collector streets should have extra depth to permit deep setbacks for the buildings.

(F) Side lot lines shall be approximately at right angles to the right-of-way line of the street on which the lot fronts.

(G) Narrow, triangular lots, unusual shapes and lots not permitting at least a 26-foot width house with side yards and driveway, rear yards and front yards are prohibited. No plat will be accepted that contains lots undesirable for building, property subject to recurrent flooding, property at grades greater than 8% or other factors that may cause the properties to be marginal in building operations and cause the property to be returned for property taxes.

(Ord. 126, 2nd Series, passed 8-16-2005)

§ 151.64 UTILITIES AND DRAINAGE.

(A) Where an approved public water supply is within reasonable access to the subdivision as determined by the number of lots, distance from and capacity of existing mains, water lines shall be placed within the right-of-way of each street. Water lines shall have a minimum diameter of six inches, and all water mains shall be looped so that water is available from two directions to any point. In certain instances when looping the water main is not feasible because of certain circumstances, the City Utility Commission shall determine whether or not it is required. Water main, fire hydrants, gate valves and appurtenances shall be installed in accordance with acceptable engineering practice and city municipal utilities policies. Fire hydrants shall be installed at the intervals required by the city policy.

(B) Sanitary sewers shall be constructed in accordance with the standards of the city and each lot shall be provided with a connection to a sanitary sewer. The city may accept an area for platting where

the service cannot be provided when the lots are of sufficient size and the soil is suitable for private disposal systems and is in accordance with City and State Health Department recommendations. No private disposal system shall be interconnected or run to a common private or public drain. The minimum size public sanitary sewer shall be eight inches in diameter.

(C) All necessary facilities including underground pipe, manholes, inlets, catch basins and other appurtenances necessary to provide adequate drainage for the property or to maintain any natural drainage course shall be the responsibility of the developer. Open drainage ditches will not be allowed unless specifically permitted by the City Engineer. Platting of the property is prohibited unless it is possible to drain the property to the natural drainage course for the area. As a minimum, no property plat will be accepted unless lots are of an elevation as to drain into the streets. The meeting of this minimum requirement does not obligate the Council to accept the plat if there are substantial obstructions to the drainage of the property contained therein, and the Council may require that the subdivider install pumping facilities for storm drainage prior to plat acceptance if the facilities are necessary.

(D) In some cases the proposed area to be platted will not be served at its borders by water mains or sanitary sewer. The Council may require a petition for the creation of an assessment district to extend the facilities to the platted area; or may require the subdivider to pay the cost of the extension; or may accept the plat with a separate water or sewer system; or may pay the cost thereof and hold the amount for future assessment; or may refuse acceptance of the plat.

(E) The City Engineer may design the improvements to be installed by the city. A subdivider desiring to contract and install his or her own improvements shall do so in accordance with city specifications and practice. The City Engineer will approve or disapprove all plans, specifications and installations. For improvements installed by the subdivider, the City Engineer shall furnish a written statement to the subdivider of city acceptance of the improvement prior to the city accepting maintenance of the improvement or street as a part of the city system.

(F) All utility lines for telephone and electrical service shall be placed in rear line easements when carried on overhead poles. The Planning Commission may recommend, and the Council require, that type of overhead pole used be of a quality and durability aesthetically in conformance with the nature of the development.

(G) Where telephone, electric and gas service lines are to be placed underground entirely, conduits and cables shall be placed within easements or dedicated public ways, in a manner so as not to conflict with other underground services.

(H) All drainage and other underground utility installations, which traverse privately, owned property shall be protected by easements.

(I) Placement of utilities underground shall be encouraged in accordance with the requirements of the city.

(Ord. 126, 2nd Series, passed 8-16-2005)

§ 151.65 OTHER REQUIREMENTS.

(A) *Sidewalks.* In those cases where the City Council deems appropriate and necessary, sidewalks of not less than five feet in width shall be provided. In all cases where sidewalks are provided, provisions shall be made for disabled access.

(B) *All streets are to be named.* A proposed street which is in alignment with and which joins an existing and named street shall be given the name of the existing street. The name of a proposed street shall not duplicate the name of an existing street to which it does not connect or with which it is not in alignment.

(C) *Easements.*

(1) An easement for utilities at least ten feet wide, shall be provided where necessary to form a continuous right-of-way. The easements are to be dedicated and provided for utility service from street to street. If necessary for the extension of water mains or sewer lines, electrical transformer pads or similar utilities, easements of greater width may be required along lot lines or across lots.

(2) Where a subdivision is traversed by a watercourse, drainage way, channel or stream, a storm water easement, drainage right-of-way or park dedication, whichever the City Engineer may deem the most adequate, conforming substantially with the lines of the watercourse shall be provided. The City Engineer shall determine the width of the easements.

(D) *Erosion and sediment control.*

(1) The development shall conform to the natural limitations presented by topography and soil so as to create the least potential for soil erosion.

(2) Erosion and siltation control measures shall be coordinated with the different stages of construction. Appropriate control measures shall be installed prior to development when necessary to control erosion.

(E) *Protected areas.*

(1) Where land proposed for subdivision is deemed environmentally sensitive by the city, due to the existence of wetlands, drainage ways, watercourses, floodable areas or steep slopes, the design of the subdivision shall clearly reflect all necessary measures of protection to ensure against adverse environmental impact.

(2) Based on the necessity to control and maintain certain sensitive areas, the Council, based upon the review of the City Engineer, shall determine whether the protection will be accomplished through lot redesign and enlargement with easements or dedication of those sensitive areas in the form of outlots.

(3) In general, measures of protection shall include design solutions, which allow for construction and grading involving a minimum of alteration to sensitive areas. Where these areas are to be incorporated into lots within the proposed subdivision, the subdivider shall be required to demonstrate that the proposed design will not require construction on slopes over 18%, or result in significant alteration to the natural drainage system so that adverse impacts cannot be contained within the plat boundary.

(Ord. 126, 2nd Series, passed 8-16-2005)

§ 151.99 PENALTY.

Every person who violates a section, division, paragraph or provision of this chapter when he or she performs an act thereby prohibited or declared unlawful, or fails to act when failure is thereby prohibited or declared unlawful and, upon conviction thereof, shall be punished as for a misdemeanor, except as otherwise stated in specific provisions hereof.

(Ord. 126, 2nd Series, passed 8-16-2005)

CHAPTER 152: ZONING

Section

General Provisions

- 152.001 Purpose and intent
- 152.002 Rules of construction; definitions
- 152.003 Establishment of zoning districts and maps
- 152.004 District use regulation
- 152.005 Zoning Administrator
- 152.006 Schedule of fees, charges and expenses

District Regulations

- 152.020 Restrictions
- 152.021 All-encompassing
- 152.022 Non-reduction
- 152.023 Rules for interpretation of district boundaries

A-O (Agricultural-Open Space District)

- 152.035 Purpose
- 152.036 Permitted uses
- 152.037 Conditional uses
- 152.038 Yard and lot requirements
- 152.039 Accessory uses and buildings permitted

R-1 (Single-Family Residential District)

- 152.050 Purpose
- 152.051 Permitted uses
- 152.052 Conditional uses
- 152.053 Yard and lot requirements
- 152.054 Accessory uses and buildings permitted

R-2 (Urban Residential District)

- 152.065 Purpose
- 152.066 Permitted uses

Windom - Land Usage

- 152.067 Conditional uses
- 152.068 Yard and lot requirements
- 152.069 Accessory uses and buildings permitted

R-3 (Multi-Family Residential District)

- 152.080 Purpose
- 152.081 Permitted uses
- 152.082 Conditional uses
- 152.083 Yard and lot requirements
- 152.084 Accessory uses and buildings permitted
- 152.085 Usable open space

B-1 (Neighborhood Business District)

- 152.095 Purpose
- 152.096 Permitted uses
- 152.097 Conditional uses
- 152.098 Yard and lot requirements
- 152.099 Accessory uses and structures permitted

B-2 (Highway Business District)

- 152.110 Purpose
- 152.111 Permitted uses
- 152.112 Conditional uses
- 152.113 Yard and lot requirements
- 152.114 Accessory uses and structures permitted
- 152.115 Special district provisions

B-3 (Central Business District)

- 152.130 Purpose
- 152.131 Permitted uses
- 152.132 Conditional uses
- 152.133 Yard and lot requirements
- 152.134 Accessory uses and structures permitted
- 152.135 Special district provisions

I-1 (Light Industrial District)

- 152.150 Purpose
- 152.151 Permitted uses
- 152.152 Conditional uses

- 152.153 Yard and lot requirements
- 152.154 Accessory uses and buildings permitted
- 152.155 Special district provisions

I-2 (Heavy Industrial District)

- 152.170 Purpose
- 152.171 Permitted uses
- 152.172 Conditional uses
- 152.173 Yard and lot requirements
- 152.174 Accessory uses and structures permitted
- 152.175 Special district provisions

PUD (Planned Unit Developments)

- 152.190 Purpose
- 152.191 General requirements and standards
- 152.192 Submission requirements
- 152.193 Procedure for processing a PUD

W (Wetlands System District)

- 152.205 Purpose
- 152.206 District application
- 152.207 Permitted uses
- 152.208 Prohibited uses
- 152.209 Development regulations

S (Shoreland District)

- 152.220 Generally
- 152.221 District application
- 152.222 Boundaries
- 152.223 Shoreland classification
- 152.224 Shoreland district uses
- 152.225 Residential lot size
- 152.226 Placement and height of structures
- 152.227 Design criteria for structures
- 152.228 Shoreland alterations
- 152.229 Placement and design of roads, driveways and parking areas
- 152.230 Storm water management
- 152.231 Special provisions for commercial, industrial, public/semi-public and extractive uses
- 152.232 Conditional uses

Windom - Land Usage

- 152.233 Water supply and sewage treatment
- 152.234 Non-conformities
- 152.235 Subdivision, platting provisions
- 152.236 PUDs in the district
- 152.237 Variances
- 152.238 Administration

Airport Zoning

- 152.250 Development and land use

Specific Regulations

- 152.265 Compliance
- 152.266 Building regulations
- 152.267 Area requirements
- 152.268 Minimum requirements
- 152.269 Platted and unplatted property
- 152.270 Dwelling on any lot of record
- 152.271 Height limitations not applicable
- 152.272 Yard and frontage limitations not applicable
- 152.273 Yard space, general
- 152.274 Placement of single- and two-family residential structures on large lots
- 152.275 Yard space encroachments; projections into yards
- 152.276 Yard space exception, steep slopes
- 152.277 Erection of more than one principal structure on a lot
- 152.278 Housing projects utilizing the “zero lot line” concept
- 152.279 Accessory buildings
- 152.280 Fences in residential districts
- 152.281 Determination of yard requirements
- 152.282 Dwelling unit restriction
- 152.283 Solar energy systems
- 152.284 Uses not provided for within zoning districts
- 152.285 Essential services
- 152.286 Opt-out of M.S. § 462.3593

Industrial Performance Standards

- 152.300 General
- 152.301 Fire protection
- 152.302 Electrical disturbance
- 152.303 Noise
- 152.304 Smoke
- 152.305 Vibrations

- 152.306 Odors
- 152.307 Air pollution
- 152.308 Glare
- 152.309 Erosions
- 152.310 Water pollution

Accessory Structures in Residential Districts

- 152.325 General requirements
- 152.326 Accessory building setbacks
- 152.327 Accessory building standards
- 152.328 Accessory space for two-family dwellings
- 152.329 Accessory buildings on undeveloped lots
- 152.330 Ground coverage of accessory space

Home Occupations

- 152.350 General
- 152.351 Application
- 152.352 Permitted home occupations
- 152.353 Conditionally permitted home occupations
- 152.354 Bed and breakfast facilities

Manufactured Housing and Home Parks

- 152.365 Manufactured homes generally
- 152.366 Manufactured home parks generally
- 152.367 Minimum requirements for manufactured home parks
- 152.368 Off-street parking and street requirements
- 152.369 Accessory uses and buildings permitted in manufactured home park
- 152.370 Conversion

Wind Energy Conversion Systems (WECS)

- 152.385 General requirements
- 152.386 Plans

Solar Systems

- 152.390 Purpose and intent; applicability
- 152.391 Definitions
- 152.392 Permits and standards
- 152.393 Planning, design, and compliance

Windom - Land Usage

- 152.394 Safety
- 152.395 Appeals
- 152.396 Abandonment

Non-Conforming Lots, Structures and Uses

- 152.400 Determination
- 152.401 Non-conforming lots of record
- 152.402 Non-conforming uses of land
- 152.403 Non-conforming structures
- 152.404 Non-conforming uses of structures and land in combination
- 152.405 Phasing-out of qualifying non-conforming uses

Fencing and Screening

- 152.420 General
- 152.421 Location
- 152.422 Construction and maintenance
- 152.423 Barbed wire and electric fences
- 152.424 Residential district fences
- 152.425 Business and industrial fences
- 152.426 Required fencing and screening
- 152.427 Traffic visibility
- 152.428 Special purpose fences

Signs

- 152.440 Purpose
- 152.441 Definitions
- 152.442 General provisions
- 152.443 Advertising signs (billboards)
- 152.444 Business signs
- 152.445 Marquee and fixed awnings
- 152.446 Electric signs
- 152.447 Roof signs
- 152.448 Residential signs
- 152.449 Illuminated signs

- 152.450 Political signs
- 152.451 Construction signs
- 152.452 Real estate signs
- 152.453 Mobile/temporary signs
- 152.454 Sign maintenance
- 152.455 Non-conforming signs
- 152.456 Obsolete signs
- 152.457 Unsafe or dangerous signs
- 152.458 Other signs
- 152.459 Signs permitted in residential districts

- 152.460 Signs permitted in B-1 District
- 152.461 Signs permitted in other non-residential districts
- 152.462 Signs permitted in planned development

Automotive Service Stations; Car Wash Regulations

- 152.475 Automotive service stations
- 152.476 Car wash establishments

Off-Street Parking and Loading Regulations

- 152.490 Purpose
- 152.491 Site plan drawing necessary
- 152.492 General provisions
- 152.493 Schedule of off-street parking requirements
- 152.494 Mixed uses
- 152.495 Design standards
- 152.496 Loading regulations

Mining

- 152.510 General restrictions
- 152.511 Operational requirements and regulations
- 152.512 Rehabilitation and restoration standards

Public Hearings

- 152.525 Generally
- 152.526 Setting of hearings
- 152.527 Notice of hearings
- 152.528 Conduct of hearing
- 152.529 Administrative procedures and recordings at public hearings
- 152.530 Continuance; determination

Conditional Use Permits

- 152.545 Authority
- 152.546 Findings
- 152.547 Compliance
- 152.548 Review
- 152.549 Revocation
- 152.550 Discontinuance
- 152.551 Procedure

Variances and Appeals

152.565	Variances
152.566	Variances; practical difficulties
152.567	Appeals
152.568	Appeals and adjustments

Amendments

152.580	Generally
152.581	Authority
152.582	Initiation
152.583	Procedure
152.999	Penalty

GENERAL PROVISIONS**§ 152.001 PURPOSE AND INTENT.**

(A) *Title.* The official title of this chapter is the “Zoning Ordinance of the City of Windom, Minnesota”.

(B) *Purpose and intent.* This chapter is intended to promote the general health, safety, morals, convenience and welfare of the people of the city. These regulations are necessary to provide adequate open spaces, avoid undue concentration of population, secure safety from fire and other disasters and danger, maximize the use of public facilities and resources, control and abate unsightly use of buildings or land, facilitate other public needs (such as schools, parks and emergency services), encourage the most appropriate use of land, and conserve and stabilize the value of property. It is the policy of the city that the enforcement, amendment and administration of this chapter be accomplished with due consideration of the recommendations contained in the comprehensive plan as developed and amended from time to time by the Planning Commission and the City Council.

(C) *Compliance.* No structure shall be located, erected, constructed, moved, converted or enlarged; nor shall any structure or land be used, or be designed to be used, except in full compliance with all the provisions of this chapter and after the lawful issuance of all permits and certificates required by this chapter.

(D) *Severability.* If any provision of this chapter or application of any provision to particular circumstances is held invalid, the remainder of the ordinance or application of the provision to other circumstances shall not be affected.

(E) *Repeal*. All ordinances or parts of ordinances in conflict with this chapter, or inconsistent with the provisions of this chapter, are hereby repealed to the extent necessary to give this chapter full force and effect.

(F) *Effective date*. This chapter shall take effect following adoption by the City Council and publication in the official newspaper.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.002 RULES OF CONSTRUCTION; DEFINITIONS.

(A) *Rules*. For the purpose of this chapter, certain terms or words used herein shall be interpreted as follows.

(1) The word person includes a firm, association, partnership, trust, company or corporation as well as an individual.

(2) The present tense includes the future tense, the singular number includes the plural and the plural number includes the singular.

(3) The word shall is mandatory, the word may is permissive.

(4) The words used or occupied include the words intended, designed or arranged to be used or occupied.

(5) The word lot includes the words plot or parcel.

(B) *Definitions*. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY BUILDING OR STRUCTURE. Any detached building, structure or improvement subordinate to a principal building which is situated on the same parcel as the principal building.

ACCESSORY USE. A subordinate use that is located upon the same parcel on which the main building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of the building or main use.

AGRICULTURAL RIVER. These river segments are located in well-roaded, intensively cultivated areas of the western and southern regions of the state. Cultivated crops are the predominant land use, with some pasture and occasional feedlots, small municipalities and small forest areas. Residential development is not common, but some year-round residential use is occurring within commuting distance of major cities.

AGRICULTURE. The use of land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture and animal and poultry husbandry and the necessary accessory uses for packing, treating or storing the produce; provided, however, that, the operation of any accessory uses shall be secondary to that of the normal agriculture activities.

ALLEY. A public right-of-way less than 30 feet in width which affords secondary access to abutting property.

APARTMENT. A room or suite of rooms which is designed for, intended for or occupied as a residence by a single-family or an individual, and is equipped with cooking facilities, includes dwelling use and efficiency unit.

AQUIFER RECHARGE AREAS. All land surface areas which by nature of their surface and/or subsurface characteristics are determined to contribute to the replenishment of subsurface water supplies.

ARTIFICIAL OBSTRUCTION. Any obstruction which is not a natural obstruction. (See **OBSTRUCTION**.)

AUTOMOBILE REPAIR - MAJOR. General repair, rebuilding or reconditioning engines, motor vehicles or trailers; collision service, including body, frame or fender straightening or repair, overall painting or paint job; vehicle steam cleaning.

AUTOMOBILE REPAIR - MINOR. Minor repairs, incidental body and fender work, painting and upholstering, replacement of parts and motor services to passenger automobiles and trucks not exceeding 12,000 pounds gross weight, but not including any operation specified under "Automobile Repair - Major".

AUTOMOBILE WRECKING OR JUNK YARD. Any place where two or more vehicles not in running condition and/or not licensed, or parts thereof are stored in the open and are not being restored to operation or any land, building or structure used for wrecking or storing of the motor vehicles or parts thereof; and including any commercial salvaging and scavenging of any other goods, articles or merchandise.

BASEMENT. A portion of a building located partially underground, but having less than one-half its floor to ceiling height below the average land grade.

BED AND BREAKFAST FACILITY. An owner- or manager-occupied single-family dwelling in which a room or rooms are rented on a nightly basis for periods of less than a week. Meals may or may not be provided. Meals may be served to the general public.

BED AND BREAKFAST UNIT. A room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

BLOCK. Property abutting on one side of a street and lying between the two nearest intersecting or intercepting streets or railroad right-of-way or unsubdivided acreage.

BLUFF. A topographic feature such as a hill, cliff or embankment having the following characteristics:

- (a) Part or all of the feature is located in a shoreland area;
- (b) The slope rises at least 25 feet above the ordinary high water level of the waterbody;
- (c) The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30% or greater; and
- (d) The slope of less than 18% over a distance for 50 feet or more shall not be considered part of the bluff.

BLUFF IMPACT ZONE. A bluff and land located within 20 feet from the top of a bluff.

BOARDING HOUSE. A building other than a hotel where, for compensation and by prearrangement for definite periods, meals or lodging and meals are provided to three or more persons, not of the principal family therein, pursuant to previous arrangements and not to anyone who may apply, but not including a building providing these services for more than ten persons.

BOATHOUSE. A structure designed and used solely for the storage of boats and boating equipment.

BUILDABLE AREA. The portion of a lot remaining after required yards have been provided.

BUILDING. Any structure used or intended for supporting or sheltering any use or occupancy.

BUILDING LINE. A line measured across the width of the lot at the point where the principal structure is placed in accordance with setback provisions.

BUILDING LINE IN THE SHORELAND DISTRICT. A line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.

BUSINESS. Any establishment, occupation, employment or enterprise where merchandise is manufactured, exhibited or sold, or where services are offered for compensation.

CARPORT. A canopy constructed of metal or other materials supported by posts either ornamental or solid and completely open on three sides.

CELLAR. The portion of a building having more than one-half of the floor to ceiling height below the average land grade.

CHANNEL. A natural or artificial depression of perceptible extent, with definite bed and banks to confine and conduct water either continuously or periodically.

CHURCH. A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

CLUB or LODGE. A non-profit association of persons who are bona fide members paying annual dues, use of premises being restricted to members and their guests.

COMMERCIAL PLANNED UNIT DEVELOPMENT. Typically uses that provide transient, short-term lodging spaces, rooms or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are **COMMERCIALLY PLANNED UNIT DEVELOPMENTS**.

COMMERCIAL RECREATION. Bowling alley, cart track, jump center, golf, pool hall, vehicle racing or amusement, dance hall, skating, trampoline, theater, firearms range, boat rental, amusement rides, campgrounds, park and similar uses.

COMMERCIAL USE. The principal use of land or buildings for sale, lease, rental or trade of products, goods and services.

CONDITIONAL USE. A use that, because of special control problems the use presents, requires effectuation of reasonable, but special, unusual and extraordinary limitations peculiar to the use for the protection of the public welfare and the integrity of the municipal land use plan.

CONDITIONAL USE PERMIT. A permit issued by the Council in accordance with procedures specified in this chapter, as a flexibility device to enable the Council to assign dimensions to a proposed use or conditions surrounding it after consideration of adjacent uses and their functions and the special problems which the proposed use presents.

CONDOMINIUM. A multiple dwelling containing individually owned dwelling units and jointly owned and shared areas and facilities, which dwelling is subject to the provisions of the State Condominium Law, M.S. §§ 515.01 and 515.19, as may be amended from time to time.

CONVENIENCE FOOD ESTABLISHMENTS. An establishment which serves food in or on disposable or edible containers in individual servings for consumption on or off the premises.

COOPERATIVE (HOUSING). A multiple-family dwelling owned and maintained by the residents and subject to the provisions of M.S. §§ 515B.1-102 et seq., as may be amended from time to time. The entire structure and real property is under common ownership as contrasted to a condominium dwelling where individual units are under separate, individual occupant ownership.

CROWDING POTENTIAL. The ratio of total acreage to shore miles.

DAY CARE. The care of children outside of their own homes for a part of the 24-hour day by persons unrelated to them by blood or marriage. **DAY CARE** includes family day care, group family day care and care in group day care centers.

DAY CARE - FAMILY. A program providing day care for no more than five children at one time, including the family day care provider's own children under school age.

DAY CARE - GROUP NURSERY. A service provided to the public, in which children of school or pre-school age are cared for during established business hours, including Montessori schools.

DECK. A horizontal, unenclosed platform with or without attached railings, seats, trellises or other features, attached or functionally related to a principal use or site and at any point extending more than three feet above ground.

DEPARTMENT STORE. A business that is conducted under a single owner's name wherein a variety of unrelated merchandise and services are housed enclosed and are exhibited and sold directly to the customer for whom the goods and services are furnished.

DEPOSITION. Any rock, soil, gravel, sand or other material deposited naturally or by humans into a waterbody, watercourse, floodplains or wetlands.

DISTRICT. A section or sections of the city for which the regulations and provisions governing the use of buildings and lands are uniform for each class of use permitted therein.

DOG KENNEL. Any place where three dogs or more over six months of age are boarded, bred and/or offered for sale, except as a veterinary clinic.

DRIVE-IN ESTABLISHMENT. An establishment that accommodates the patron's automobile from which the occupants may receive a service or in which products purchased from the establishment may be consumed.

DWELLING. A structure designed or used as the living quarters for one or more families.

DWELLING - SINGLE-FAMILY. A residence designed for or occupied by one family only.

DWELLING - TWO-FAMILY. A residence designed for or occupied by two families only, with separate housekeeping and cooking facilities for each. This would include single-family homes with an apartment in the basement. A **TWO-FAMILY DWELLING (DUPLEX)** with rooming unit(s) shall be considered and classified as a **MULTI-FAMILY DWELLING**.

DWELLING UNIT. A single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

DWELLING MULTI - FAMILY. A building designed for or occupied by more than two families.

EFFICIENCY APARTMENT. A dwelling unit consisting of one principal room exclusive of bathroom, hallway, closets or dining alcove.

ELDERLY (SENIOR CITIZEN) HOUSING. A public agency owned or controlled multi-dwelling building with open occupancy limited to elderly persons.

ESSENTIAL SERVICES. The erection, construction or maintenance by public utilities or municipal or other governmental agencies of underground or overhead communications, gas, electrical, steam or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduit cables, fire alarm boxes, traffic signals, hydrants, street signs and other similar equipment and accessories in connection therewith, reasonably necessary for furnishing of adequate service by public utilities or municipal or other governmental agencies or for the public health or safety or general welfare.

EQUAL DEGREE OF ENCROACHMENT. A method of determining the location of encroachment lines so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows. This is determined by considering the effect of encroachment on the hydraulic efficiency of the floodplain along both sides of a stream for a significant reach.

EXTRACTIVE USE. The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other non-metallic minerals and peat not regulated under M.S. §§ 93.44 to 93.51, as amended from time to time.

FAMILY. One or more persons related by blood, marriage, adoption or other legal relationship, occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, club, fraternity or hotel. Legal relationships shall include guardianship, foster parent/child or any other relationship which is created by court order.

FEEDLOT. A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For the purpose of this chapter, open lots used for feeding and rearing of poultry (poultry ranges) shall be considered **ANIMAL FEEDLOTS**. Pastures shall not be considered **FEEDLOTS**.

FENCE. Any partition, structure, wall or gate erected as a dividing marker, barrier or enclosure.

FOREST LAND CONVERSION. The clear-cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

GENERAL DEVELOPMENT LAKE. These lakes are generally large, deep lakes or lakes of varying sizes and depths with high levels and mixes of existing development. These lakes often are extensively used for recreation and are usually heavily developed around the shore. Second and third tiers of development are fairly common.

GROUP CARE FACILITY. A facility which provides resident services to seven or more individuals of whom one or more are unrelated. These individuals are disabled, aged or disabled, are undergoing rehabilitation, and are provided services to meet their needs. Category includes uses such as homes for the physically disabled, mentally retarded, chemically dependent, foster children, maternity shelters and half-way houses.

GUEST COTTAGE. A structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.

GUEST ROOM. A room occupied by one or more guests for compensation and in which no provision is made for cooking, but not including rooms in a dormitory for sleeping purposes primarily.

HEIGHT OF BUILDING. The vertical distance measured from the grade level to the highest point of the roof.

HOME OCCUPATION. An occupation, profession, activity or use carried on in a dwelling unit which is clearly incidental and secondary to the use of the building for dwelling purposes, which does not change the character thereof

HOTEL. Any building or portion thereof occupied as the more or less temporary abiding place of individuals and containing six or more guest rooms, designated or intended to be used, let or hired out to be occupied, or which are occupied by six or more individuals for compensation.

IMPERVIOUS SURFACE. An artificial or natural surface through which water, air or roots cannot penetrate.

INTENSIVE VEGETATION CLEARING. The complete removal of trees or shrubs in a contiguous patch, strip, row or block.

INTERMITTENT STREAM. A stream or portion of a stream that flows only in direct response to precipitation.

JUNK YARD. Land or buildings where waste, discarded or salvaged materials are bought, sold, exchanged, stored, cleaned, packed, disassembled or handled, including, but not limited to, scrap metal, rags, paper, hides, rubber products, glass products, lumber products and products resulting from the wrecking of automobiles or other vehicles.

LAND RECLAMATION. The process of the reestablishment of acceptable topography (i.e., slopes), vegetative cover, soil stability and the establishment of safe conditions appropriate to the subsequent use of the land.

LOADING SPACE. The portion of a lot or plot designed to serve the purpose of loading or unloading all types of vehicles.

LOT. A parcel of land occupied or capable of being occupied by one or more structures.

LOT, DEPTH. The mean horizontal distance between the front and rear lot lines.

LOT, WIDTH. The mean width measured at right angles to its depth.

LOT AREA. The total horizontal area within the lot lines of a lot exclusive of any portion of the right-of-way of any public roadway.

LOT OF RECORD. Any lot which, individually or as a part of a subdivision, has been recorded in the office of the Recorder of the Deeds of the county.

MANUFACTURED HOUSING. (See **MOBILE HOMES**.) A factory-built, single-family, detached housing unit that is manufactured according to the National Manufactured Housing Construction and Safety Act of 1974, being 42 U.S.C. §§ 5401 et seq. and shall include manufactured homes or mobile homes.

MARINA. An area of concentrated small craft mooring, where ancillary facilities may be provided for some or all of such services as fueling, sewage pumpout, boat launching, boat repair and boat storage; except that, **MARINA** does not mean temporary docks associated with riparian residential development if the mooring area is of a size not to exceed the resource limitations of the site and the needs of the residents of the development.

MOBILE HOME. Any type of potentially mobile structure which is designed, constructed and equipped for use as a single-family dwelling unit suitable for year-round occupancy, not drawn by its own power, but with its own permanently attached metal frame undercarriage to which wheels may be attached.

MOBILE/MANUFACTURED HOME PARK. A parcel of land under single ownership that has been planned and improved for the placement of manufactured housing for dwelling purposes.

MOTEL. A building or group of detached, semi-detached or attached buildings containing guest rooms or units, each of which has a separate entrance directly from the outside of the building, or corridor, with garage or parking space conveniently located to each unit, and which is designed, used or intended to be used primarily for the accommodation of transient guests traveling by automobile.

MOTOR FUEL STATION. A place where gasoline is stored only in underground tanks, kerosene or motor oil and lubricants or grease, for operation of automobiles, are retailed directly to the

public on the premises, and including minor accessories and services for automobiles, but not including, major repairs and rebuilding.

NON-CONFORMITY. A use or activity which lawfully existed prior to the adoption, revision or amendment of this chapter, but which fails by reason of the adoption, revision or amendment to conform to the use district in which it is located.

NON-CONFORMING STRUCTURE. Any structure that does not meet the limitations on structure size and location on a lot, for the district in which the structure is located, or for the use to which the structure is being put.

NON-CONFORMING USE. A lawful use of land that does not comply with the use regulations for its zoning district, but which complied with applicable regulations at the time the use was established.

OBSTRUCTION. Any construction or excavation related vehicle, equipment, fence, structure, bulk waste container, building or construction materials or debris, barricade, cone, sign, barrel or other thing or object that is placed, planted, left or erected in or upon a roadway or sidewalk that would in any manner prevent or restrict public use of or access to any part of the roadway or sidewalk or restrict the drainage system of the roadway or sidewalk.

OPEN SPACE. An area that is intended to provide light and air, and is designed for either environmental, scenic or recreational purposes. **OPEN SPACE** may include, but not limited to, lawns, decorative planting, walkways, active and passive recreation areas, playgrounds, fountains, swimming pools, wooded areas and watercourses. **OPEN SPACE** shall not be deemed to include driveways, parking lots or other surfaces designed or intended for vehicular travel.

PERMITTED USE. A use which may be lawfully established in a particular district or districts; provided, it conforms with all requirements, regulations and performance standards (if any) of the districts.

PLANNED UNIT DEVELOPMENT. Land under unified control to be planned and developed as a whole in a single development operation or a definitely programmed series of development operations or phases. A **PLANNED DEVELOPMENT** includes principal and accessory structures and uses substantially related to the character and purposes of the planned development. A **PLANNED DEVELOPMENT** is built according to general and detailed plans that include not only streets, utilities, lots and building location, and the like, but also site plans for all buildings as are intended to be located, constructed, used and related to each other, and plans for other uses and improvements on the land as related to the buildings. A **PLANNED DEVELOPMENT** includes a program for the provisions, operations and maintenance of the areas, facilities and improvements as will be common use by some or all of the occupants of the planned development district, but which will not be provided, operated or maintained at the general public expense.

PRINCIPAL STRUCTURE. A structure in which is conducted the principal use of the lot on which it is situated.

PRINCIPAL USE. The primary use of land or structure, as distinguished from a secondary or accessory use.

PUBLIC WATERS. Any waters of the state, as defined in M.S. § 103G.005, Subds. 14 and 15, as amended from time to time; not including, however, a lake, pond or flowage of less than ten acres in size or a river or stream having a total drainage area less than two square miles. In addition, bodies of water created by private users, where there was no previous shoreland (for a designated private use authorized by the Commissioner of Natural Resource) shall also be considered **PUBLIC WATERS**. The official determination of the size and physical limits of drainage areas of rivers and streams shall be made by the Commissioner of Natural Resources. The official size of lakes, ponds or flowages shall be the area listed in the Division of Waters, Soils and Minerals Bulletin 25, an inventory of state lakes, or in the event that lakes, ponds or flowages are not listed therein, official determination of size and physical limits shall be made by the Commissioner. The Commissioner shall have administration over the use, allocation and control of public waters and wetlands. For purposes of statutes other than M.S. §§ 103G.005, 103A.201 and 103G.101, as amended from time to time, the term **PUBLIC WATERS** shall include those wetlands as defined as Types 3, 4 and 5 in the U.S. Fish and Wildlife Circular No. 39 (1971) and are two and one-half acres or larger in size in incorporated areas.

SCREENING. The presence of an artificial barrier, vegetation or topography which makes any structure on any property visually inconspicuous.

SENSITIVE RESOURCE MANAGEMENT. The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over ground water or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding or occurrence of flora or fauna in need of special protection.

SETBACK. The minimum horizontal distance between a structure and property line. Distances are to be measured from the most outwardly extended portion of the structure.

SIGNIFICANT HISTORIC SITE. Any archaeological site, standing structure or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of M.S. § 307.08, as amended from time to time. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the State Archaeologist or the Director of the State Historical Society. All unplatted cemeteries are automatically considered to be **SIGNIFICANT HISTORIC SITES**.

STRUCTURE. Anything constructed or erected, the use of which requires a fixed location on the ground, including, in addition to buildings, billboards, carports, porches, decks and other building features, but not including sidewalks, drives, fences and patios.

SUBDIVISION. Land that is divided for the purpose of sale, rent or lease, including planned unit developments.

SURFACE WATER-ORIENTED COMMERCIAL USE. The use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts and restaurants with transient docking facilities are examples of the use.

TOE OF THE BLUFF. The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler slope above. If no break in the slope is apparent, the top of the bluff shall be determined to be the upper end of a 50-foot segment, measured on the ground, with an average slope exceeding 18%.

TOP OF THE BLUFF. The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from gentler to steeper slope above. If no break in the slope is apparent, the toe of the bluff shall be determined to be the lower end of a 50-foot segment, measured on the ground, with an average slope exceeding 18%.

TOWNHOUSES. Structures housing three or more dwelling units of not more than two stories each and contiguous to each other only by sharing of one common wall, the structures to be of the town or row house type as contrasted to multiple-dwelling apartment structures. No single structure shall contain in excess of eight dwelling units and each dwelling unit shall have separate and individual front and rear entrances.

TRAVEL TRAILER. Any vehicle or structure designed and used for human living quarters which meets all of the following qualifications:

- (a) Is not used as the permanent residence of the owner or occupant;
- (b) Is used for temporary living quarters by the owner or occupant while engaged in recreational or vacation activities; and
- (c) Is towed or otherwise transported, by its own or by other motive power on public streets or highways incidental to the recreational or vacation activity.

USE. The purpose or activity for which the land or building thereon is designated, arranged or intended, or for which it is occupied, utilized or maintained, and shall include the performance of the activity, as defined by the performance standards of this chapter.

VARIANCE. A relaxation of the terms of the zoning ordinance where the variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the chapter would result in unnecessary and undue hardship. As used in this chapter, a ***VARIANCE*** is authorized only for area, size of structure, size of yards, setback and side yard requirements, and parking requirements; establishment or expansion of a use otherwise prohibited shall not be allowed by ***VARIANCE***, nor shall a ***VARIANCE*** be granted because of the presence of non-conformities in the zoning district or adjoining zoning districts.

WATER-ORIENTED ACCESSORY STRUCTURE OR FACILITY. A small, above-ground building or other improvement, except stairways, fences, docks and retaining walls, which, because of

the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of the structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses and detached decks.

WATERBODY. A body of water (lake, pond) in a depression of land or expanded part of a river, or an enclosed basin that holds water and is surrounded by land.

WATERSHED. The area drained by the natural and artificial drainage system, bounded peripherally by a bridge or stretch of high land dividing drainage areas.

WETLANDS.

(a) An area where water stands near, at, or above the soil surface during a significant portion of most years, saturating the soil and supporting a predominantly aquatic form of vegetation, and which may have the following characteristics;

1. Vegetation belonging to the marsh (emergent aquatic) bog, fen, sedge, meadow, shrubland, southern lowland forest (lowland hardwood), and northern lowland forest (conifer swamp) communities. (These communities correspond roughly to wetland types 1, 2, 3, 4, 6, 7 and 8 described by the United States Fish and Wildlife Service, Circular 39, 1971 Edition);

2. Mineral soils with grey horizons or organic soils belonging to the Histosol order (peat and muck); and

3. Soil which is water-logged or covered with water at least three months of the year.

(b) Swamps, bogs, marshes, potholes, wet meadows and sloughs are wetlands, and properly may be shallow waterbodies, the waters of which are stagnant or actuated by very feeble currents, and may at times be sufficiently dry to permit tillage, but would require drainage to be made arable.

(c) The edge of a wetland is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

YARD. An open space on the lot which is occupied and unobstructed from its lowest level to the sky. A **YARD** extends along a lot line at right angles to the lot line to a depth or width specified in the yard regulations for the zoning district in which the lot is located.

YARD, FRONT. A yard extending across the full width of the lot and lying between the front line of the lot and the nearest line of the building. For lots where more than one yard fronts a public street (such as corner lots), all yards that front a public street shall be considered front yards for their entire width for purposes of establishing setback requirements.

YARD, REAR. A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the building.

YARD, SIDE. A yard extending from the front yard to the rear yard and lying between the side line of the lot and the nearest line of the building.

ZONING ADMINISTRATOR. The person appointed by the City Council to grant zoning certificates and, following Council approval, conditional uses or variances. (Ord. 125, 2nd Series, passed 12-15-2003; Ord. 165, 2nd Series, passed 8-1-2017; Ord. 172, 2nd Series, passed 12-18-2018)

§ 152.003 ESTABLISHMENT OF ZONING DISTRICTS AND MAP.

(A) *Establishment of districts.* For the purpose of this chapter, the city is hereby divided into nine zoning districts and four special overlay districts, all of which are described in this chapter. These prescribed district regulations for land use and building and development standards shall be enforced uniformly within each district. The purpose of the district, permitted uses and yard and lot requirements are listed for each general land use district. Any use not permitted by right or located in a city utility easement shall require a conditional use permit.

(1) *Residential districts.* Districts designated for residential use, R-1, R-2 and R-3, are limited to uses normally associated with residential neighborhoods. The uses include schools, churches and parks. However, under the provisions of PUD (planned unit development), planned residential projects are permitted, under conditional use permit, which may include limited business facilities integrated into neighborhood design:

- (a) R-1, Single-Family Residential District;
- (b) R-2, Urban Residential District; and
- (c) R-3, Multi-Family Residential District.

(2) *Agricultural-Open Space District.* This district, A-O, will allow suitable areas of the city to be retained and utilized for low density residential, open space and/or agricultural uses: A-O, Agricultural-Open Space District.

(3) *Commercial districts.* Districts designed for commercial use B-1, B-2 and B-3 are limited to business activities and certain residential uses. Establishment of compact commercial districts provides for more efficient extension of city utilities and services. Most industrial uses are separated from other uses in order to maximize access and reduce hazards typically associated with industrial uses. However, research industrial uses and light industrial uses are permitted if they are of a nature that hazards are not present and they meet specific requirements set forth in this chapter:

- (a) B-1, Neighborhood Business District;

(b) B-2, Highway Business District; and

(c) B-3, Central Business District.

(4) *Industrial districts.* The districts designated for industry, I-1 and I-2, provide suitable space for future industrial development performance standards, parking specifications and yard regulations are set forth in the chapter in order to ensure safe industrial development that is compatible with adjacent uses:

(a) I-1, Light Industrial District; and

(b) I-2, Heavy Industrial District.

(5) *Special districts.* The purpose of these districts, FP, W and S, are to promote public health, safety and general welfare. The PUD district is to provide for the integration and coordination of land parcels as well as the combination of varying types of residential, commercial and industrial uses:

(a) FP, Floodplain District;

(b) W, Wetlands Systems District;

(c) S, Shoreland District; and

(d) PUD, Planned Unit Development District.

(B) *Zoning map.* The location and boundaries of the districts established by this chapter are hereby set forth in the zoning map entitled “Zoning Map of Windom”. The map on file with the Zoning Administrator, and hereinafter referred to as the “zoning map”, which map and all of the notations, references and other information shown thereon shall have the same force and effect as if fully set forth herein and thereby made a part of this chapter by reference.

(C) *Annexations.* No annexation petition shall be considered unless and until a hearing has also been petitioned for placing the annexed territory in a zoning district or districts.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.004 DISTRICT USE REGULATION.

Unless otherwise allowed by the provisions of this chapter, it is unlawful to use or permit the use of any building or premises for any purpose other than as stated herein. The use is further subject to all of the terms, limitations and other provisions of this chapter having general or special applications to various uses or classes of uses. No building permit shall be issued for any purpose inconsistent with land uses permitted in the affected district, or inconsistent with a variance or conditional use permit duly granted in accordance with the city code.

(Ord. 125, 2nd Series, passed 12-15-2003) Penalty, see § 152.999

§ 152.005 ZONING ADMINISTRATOR.

(A) An administrative staff member designated by the City Council who shall be responsible for the enforcement of this chapter.

(B) The duties of the Zoning Administrator shall be as follows:

(1) Examine all applications pertaining to the use of land, buildings or structures, take appropriate action on the applications when in conformance with the provisions of this chapter, including granting approval and issuing permits; schedule public hearings when necessary and complete the processing of applications pursuant to the provisions of this chapter;

(2) Attend all scheduled meetings and hearings of the Planning Commission and Zoning Board of Appeals and Adjustments in an ex-officio capacity;

(3) Periodically inspect buildings, structures and uses of land to determine compliance with the provisions of this chapter;

(4) Take any action authorized by this chapter, the city code or other existing laws to ensure compliance with or to prevent violation of the provisions of this chapter;

(5) Keep a record of all non-conforming uses within the zoning districts of the city;

(6) Notify the City Attorney of any violation of a provision of this chapter indicating the nature of the violation; and

(7) Maintain permanent records of all permits, zoning certificates, certificates of zoning compliance, maps, amendments, conditional uses and variances; and, on request, provide information to any person having a proprietary or tenancy interest in any specific property or to any individual seeking an understanding or clarification of the regulations and procedures stipulated in this chapter. (Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.006 SCHEDULE OF FEES, CHARGES AND EXPENSES.

(A) The Council, by resolution, may establish a schedule of fees, charges and expenses and a collection procedure for zoning permits, certificates of zoning compliance, conditional use permits, appeals application and other matters pertaining to this chapter.

(B) This schedule of fees shall be available in the office of the Zoning Administrator and may be altered or amended only by the Council by resolution. (Ord. 125, 2nd Series, passed 12-15-2003)

DISTRICT REGULATIONS

§ 152.020 RESTRICTIONS.

Where the conditions imposed by any provision of this chapter are either more or less restrictive than comparable conditions imposed by other city code provision, rule or regulation of the city, the city code provision, rule or regulation which imposes the more restrictive condition, standard or requirement shall prevail. The Zoning Administrator shall determine which is more “restrictive” and appeals from the determination may be made in the manner provided herein.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.021 ALL-ENCOMPASSING.

No building, structure or land be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed or reconstructed, moved or altered, except in conformity with all district regulations herein specified.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.022 NON-REDUCTION.

No yard or lot existing at the time of passage of this chapter shall be reduced in area or dimension below the minimum requirements of this chapter. Yards or lots created after the effective date of this chapter shall meet, at least, the minimum requirements established by this chapter.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.023 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES.

Where uncertainty exists as to boundaries to districts as shown on the official zoning map, the following rules shall apply:

(A) *Streets*. Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be constructed to follow the centerlines;

(B) *Lot lines*. Boundaries indicated as approximately following platted lot lines shall be construed as following the lot lines;

(C) *City limits*. Boundaries indicated as approximately following city limits shall be construed as following city limits;

(D) *Railroads*. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;

(E) *County drains*. Boundaries indicated as approximately following the centerlines of county drains or other bodies of water shall be construed to follow the centerlines;

(F) *Extensions*. Boundaries indicated as parallel to or extensions of features indicated in divisions (A) through (E) above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map or field survey; and

(G) *Vacated ways*. Whenever any street, alley or other public way is vacated in the manner authorized by law, the zoned district adjoining each side of the street, alley or public way shall be automatically extended to the center of the vacation and all included in the vacation shall then, and henceforth, be subject to any and all regulations of the extended districts.
(Ord. 125, 2nd Series, passed 12-15-2003)

A-O (AGRICULTURAL-OPEN SPACE DISTRICT)

§ 152.035 PURPOSE.

The “A-O” Agricultural-Open Space District is intended to provide a district which will allow suitable areas of the city to be retained and utilized for low density residential, open space and/or agricultural uses, prevent rapid urbanization and provide economy in public expenditures for public utilities and service.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.036 PERMITTED USES.

(A) Single-family dwellings, minimum width of the structure at its narrowest point shall not be less than 22 feet;

(B) Farming and agricultural related buildings and structures subject to state pollution control standards, but not including commercial feed lots or other commercial operations;

(C) Public parks, recreational areas, wildlife areas and game refuges;

(D) Nurseries and tree farms;

(E) Essential services;

(F) Day care facilities serving 12 or fewer persons, residential care facilities serving six or fewer persons, and group family day care facilities licensed under Minn. Rules parts 9502.0315 to 9502.0445, serving 14 or fewer persons; and

(G) Accessory uses per § 152.039.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.037 CONDITIONAL USES.

- (A) Municipal buildings;
- (B) Planned unit developments (PUD);
- (C) Commercial outdoor recreational areas;
- (D) Commercial riding stables;
- (E) Vet clinics;
- (F) Kennels;
- (G) Camping facilities;
- (H) Cemeteries;

(I) Other uses similar in nature to those uses listed in this section and which in the opinion of the City Planning Commission will not be detrimental to the integrity of the district; and

(J) Manufactured home parks.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.038 YARD AND LOT REQUIREMENTS.

	<i>Single-Family</i>	<i>All Other Uses</i>	<i>Accessory Structures</i>
Minimum lot area (sq. ft.)	7,000	7,000	-
Minimum lot width at setback line (ft.)	100	100	-
Minimum lot depth (ft.)	120	120	-
Minimum rear yard setback (ft.)	25	25	[2]
Minimum front yard setback (ft.)	25	25	25

	<i>Single-Family</i>	<i>All Other Uses</i>	<i>Accessory Structures</i>
Minimum side yard setback (ft.)	[1]	[1]	5
Maximum lot coverage	35%	35%	-
Maximum height (ft.)	35	35	15
<p>NOTES TO TABLE: [1] A total of 20% of lot width at front yard setback divided evenly on each side of the structure. [2] Five feet unless a garage entrance faces onto a street, avenue or alley, the minimum setback will be 18 feet from the property line to accommodate a vehicle from encroaching onto public right-of-way. A setback of 10 feet is required if there is a utility easement.</p>			

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.039 ACCESSORY USES AND BUILDINGS PERMITTED.

(A) Home occupations;

(B) Garage space: all single-family homes built, assembled or placed for sheltered, off-street parking for two standard sized automobiles; and

(C) Storage and farm buildings.

(Ord. 125, 2nd Series, passed 12-15-2003)

R-1 (SINGLE-FAMILY RESIDENTIAL DISTRICT)

§ 152.050 PURPOSE.

The single-family residential district is designed for low density single-family residences and provide certain private and public facilities and services that are compatible with the neighborhood.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.051 PERMITTED USES.

(A) Single-family dwellings, minimum width of the structure at its narrowest point shall not be less than 22 feet;

(B) Manufactured housing per § 152.365;

- (C) Public parks and playgrounds;
- (D) Essential services;
- (E) Accessory uses per § 152.054;
- (F) Home occupations per §§ 152.350 through 152.354;
- (G) Signs per §§ 152.440 through 152.462; and

(H) Day care facilities serving 12 or fewer persons, residential care facilities serving six or fewer persons, and group family day care facilities licensed under Minn. Rules parts 9502.0315 to 9502.0445, serving 14 or fewer persons.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.052 CONDITIONAL USES.

- (A) Cemeteries;
- (B) Non-profit recreational uses;
- (C) Nursery schools;
- (D) Hospitals and clinics for humans;
- (E) Public utility buildings;
- (F) Water recreation and storage;
- (G) Fire stations;
- (H) Municipal buildings and libraries;
- (I) Two-family dwellings;
- (J) Planned unit residential project;
- (K) Greenhouses;
- (L) Nursing homes;
- (M) Second garages;

(N) Churches; and

(O) Private, public and parochial schools.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.053 YARD AND LOT REQUIREMENTS.

	<i>One-Family</i>	<i>All Other Uses</i>	<i>Accessory Structures</i>
Minimum lot area (sq. ft.)	12,000	12,000	-
Minimum lot width at setback: line (ft.)	100	100	-
Minimum lot depth (ft.)	120	120	-
Minimum rear yard setback (ft.) building line to lot line	25	25	**
Minimum front yard setback (ft.) building line to lot line	25	25	25
Minimum side yard setback (ft.)	*	*	5
Maximum lot coverage	35%	35%	-
Maximum building height (ft.)	35		15

NOTES TO TABLE:

* A total of 20% of lot width at front yard setback divided evenly on each side of the structure. Side yard setback on corner lots shall be the same as the front yard setback.

** Five feet unless a garage entrance faces onto a street, avenue or alley, the minimum setback will be 18 feet from the property line to accommodate a vehicle from encroaching onto public right-of-way. A setback of 10 feet is required if there is a utility easement.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.054 ACCESSORY USES AND BUILDINGS PERMITTED.

(A) Home occupations;

(B) Garage space: all single-family homes built, assembled or placed on residential lots must provide, at the minimum, access to and space for sheltered, off-street parking for two standard sized automobiles;

(C) Storage buildings: these structures are to be used exclusively for the storage of household, yard and related supplies and equipment; and

(D) See §§ 152.325 through 152.330 for additional restrictions.
(Ord. 125, 2nd Series, passed 12-15-2003; Ord. 165, 2nd Series, passed 8-1-2017)

R-2 (URBAN RESIDENTIAL DISTRICT)

§ 152.065 PURPOSE.

The Urban District is designated for land that is presently developed in predominantly urban residential lots. The purpose of this district is to permit the continuation and limited expansion of the more densely populated, established sections of the city.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.066 PERMITTED USES.

(A) Single-family dwellings, minimum width of the structure at its narrowest point shall not be less than 22 feet;

(B) Two-family dwellings;

(C) Manufactured housing per § 152.365;

(D) Essential services;

(E) Accessory uses per § 152.069;

(F) Public parks and playgrounds;

(G) Home occupations per §§ 152.350 through 152.354; and

(H) Day care facilities serving 12 or fewer persons, residential care facilities serving six or fewer persons, and group family day care facilities licensed under Minn. Rules parts 9502.0315 to 9502.0445, serving 14 or fewer persons.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.067 CONDITIONAL USES.

(A) Cemeteries;

(B) Private, public and parochial schools;

(C) Home occupations that do not meet the permitted use requirements per §§ 152.350 through 152.354;

(D) Non-profit recreational uses;

(E) Nursery schools;

(F) Nursing homes;

(G) Hospitals and clinics for humans;

(H) Boarding and lodging houses subject to a maximum of eight accommodation units;

(I) Offices and quasi-public facilities of philanthropic or charitable institutions;

(J) Public utility buildings;

(K) Fire stations;

(L) Funeral homes;

(M) Water recreation and storage;

(N) Municipal buildings, libraries, museums and art exhibition centers;

(O) Multiple-family dwellings;

(P) Planned unit residential projects;

(Q) Neighborhood commercial;

(R) Churches; and

(S) Manufactured home parks.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.068 YARD AND LOT REQUIREMENTS.

	<i>One-Family</i>	<i>Two-Family</i>	<i>Accessory Structures</i>
Minimum lot area	7,000	7,000	-
Minimum lot width at setback line (ft.)	70	70	-

Windom - Land Usage

	<i>One-Family</i>	<i>Two-Family</i>	<i>Accessory Structures</i>
Minimum lot depth (ft.)	100	100	-
Minimum rear yard setback (ft.) building line to lot line	25	25	**
Minimum front yard setback (ft.) building line to lot line	25	25	25
Minimum side yard setback (ft.)	*	*	5
Maximum lot coverage	40%	40%	-
Maximum building height (ft.)	35	35	15
NOTES TO TABLE:			
* A total of 20% of lot width at front yard setback divided evenly on each side of the structure. Side yard setback on corner lots shall be the same as the front yard setback.			
** Five feet unless a garage entrance faces onto a street, avenue or alley, the minimum setback shall be 18 feet from the property line to accommodate a vehicle from encroaching onto public right-of-way. A setback of 10 feet is required if there is a utility easement.			

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.069 ACCESSORY USES AND BUILDINGS PERMITTED.

(A) Home occupations per §§ 152.350 through 152.354;

(B) Garage space: all single-family homes built, assembled or placed on residential lots must provide, at the minimum, access to and space for sheltered, off-street parking for two standard sized automobiles;

(C) Storage buildings: these structures are to be used exclusively for the storage of household, yard and related supplies and equipment; and

(D) See §§ 152.325 through 152.330 for additional restrictions.

(Ord. 125, 2nd Series, passed 12-15-2003; Ord. 165, 2nd Series, passed 8-1-2017)

R-3 (MULTI-FAMILY RESIDENTIAL DISTRICT)**§ 152.080 PURPOSE.**

R-3, the Multi-Family Residential District, is designated for apartment complexes, townhouses, retirement complexes and other innovative multi-family developments.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.081 PERMITTED USES.

- (A) Two-family dwellings;
- (B) Multiple-family dwellings;
- (C) Planned unit residential projects per §§ 152.190 through 152.193;
- (D) Public parks and playgrounds;
- (E) Retirement, nursing and convalescent homes;
- (F) Accessory uses per § 152.084;
- (G) Essential services; and

(H) Day care facilities serving 12 or fewer persons, residential care facilities serving six or fewer persons, and group family day care facilities licensed under Minn. Rules parts 9502.0315 to 9502.0445, serving 14 or fewer people.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.082 CONDITIONAL USES.

- (A) Cemeteries;
- (B) Non-profit recreational uses;
- (C) Nursery schools;
- (D) Public, private and parochial schools;
- (E) Hospitals and clinics for humans;
- (F) Public utility buildings;

(G) Hotels, motels and tourist homes for transient guests;

(H) Fire stations;

(I) Funeral homes;

(J) Water recreation and water storage;

(K) Municipal buildings and libraries;

(L) Manufactured home parks;

(M) Neighborhood commercial; and

(N) Churches.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.083 YARD AND LOT REQUIREMENTS.

	<i>Multiple-Family</i>	<i>Accessory Structure</i>
Minimum lot area (sq. ft.)	*	-
Minimum lot width at front yard setback (ft.)	100	-
Minimum lot depth (ft.)	120	-
Minimum rear yard setback (ft.)	25	**
Minimum front yard setback (ft.)	25	25
Minimum side yard setback (ft.)	***	5
Maximum lot coverage	40%	-
Maximum height (ft.)	45	15

NOTES TO TABLE:

* Not less than 12,000 sq. ft. for each multiple-family dwelling having 4 dwelling units or less, and not less than 750 additional sq. ft. for each additional unit.

** Five feet unless a garage entrance faces onto a street, avenue or alley, the minimum setback will be 18 feet from the property line to accommodate a vehicle from encroaching onto public right-of-way. A setback of 10 feet is required if there is a utility easement.

*** A total of 20% of lot width at front yard setback divided evenly on each side of the structure. Side yard setback on corner lots shall be the same as the front yard setback.

(Ord. 125, 2nd Series, passed 12-15-2003; Ord. 172, 2nd Series, passed 12-18-2018)

§ 152.084 ACCESSORY USES AND BUILDINGS PERMITTED.

(A) Home occupations;

(B) Storage buildings: these structures are to be used exclusively for the storage of household, yard and related supplies and equipment; and

(C) See §§ 152.325 through 152.330 for additional restrictions.

(Ord. 125, 2nd Series, passed 12-15-2003; Ord. 165, 2nd Series, passed 8-1-2017)

§ 152.085 USABLE OPEN SPACE.

Except for elderly (senior citizen) housing, each multiple-family dwelling site shall contain at least 350 square feet of usable open space for each dwelling unit contained therein. Open space shall not include driveways, parking lots or other surfaces designated or intended for vehicular use.

(Ord. 125, 2nd Series, passed 12-15-2003)

B-1 (NEIGHBORHOOD BUSINESS DISTRICT)**§ 152.095 PURPOSE.**

The B-1, Neighborhood Business District, is intended to identify suitable compact areas within the city for the maintenance and development of commercial service nodes which offer convenience services and retail goods to adjacent residential neighborhoods. The commercial clusters may have limited operations which serve patrons in automobiles, subject to issuance of a conditional use permit, but are primarily pedestrian oriented for the convenience of local residents.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.096 PERMITTED USES.

(A) Retail businesses;

(B) Offices;

(C) Single-family dwellings, minimum width of the structure at its narrowest point shall not be less than 22 feet;

(D) Two-family dwellings;

(E) Multiple-family dwellings;

(F) Home occupations per §§ 152.350 through 152.354;

(G) Essential services; and

(H) Accessory uses per § 152.099.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.097 CONDITIONAL USES.

(A) Self-service establishments;

(B) Entertainment facilities;

(C) Eating and drinking establishments;

(D) Banks;

(E) Studios;

(F) Automotive service station;

(G) Churches;

(H) Drive-up facilities;

(I) Public utility building;

(J) Car wash; and

(K) Funeral homes.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.098 YARD AND LOT REQUIREMENTS.

(A) Minimum lot width: 50 feet;

(B) Minimum lot depth: 100 feet;

(C) Front yard setback: 25 feet;

- (D) Side yard setback: 10% of lot frontage to a maximum of ten feet;
- (E) Rear yard setback: 15 feet;
- (F) Detached accessory structures, both side and rear setbacks: five feet;

(G) Minimum lot area: 5,000 square feet;

(H) Allowable percentage of lot coverage (all structures): 50%;

(I) Maximum height for principal structures: 35 feet; and

(J) Maximum height for accessory structures: 15 feet.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.099 ACCESSORY USES AND STRUCTURES PERMITTED.

Those uses and structures directly associated with the principal business.

(Ord. 125, 2nd Series, passed 12-15-2003)

B-2 (HIGHWAY BUSINESS DISTRICT)

§ 152.110 PURPOSE.

B-2, Highway Business District, is designed to provide areas for commercial establishments that offer a broad range of goods and services largely to accommodate automobile-oriented customers. Uses would be primarily highway-oriented, provide compact and convenient shopping areas, and means of safe access and egress to abutting roads and highways.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.111 PERMITTED USES.

(A) Shopping centers, malls or plazas;

(B) Office parks or complexes;

(C) Eating and drinking establishments;

(D) Hotels and motels;

(E) Auto sales, service and repair;

(F) Retail businesses;

(G) Commercial recreation and entertainment centers;

- (H) Essential services;
- (I) Accessory uses per § 152.114;
- (J) Supply yards (lumber yards and the like); and
- (K) Banks.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.112 CONDITIONAL USES.

- (A) Light manufacturing;
- (B) Churches;
- (C) Educational institutions;
- (D) Planned unit development;
- (E) Livestock sales or auction centers and confinement buildings;
- (F) Single-family residential;
- (G) Water recreation and water storage;
- (H) Fire station and municipal buildings;
- (I) Public utility buildings;
- (J) Wholesale buildings;
- (K) Gas/service stations per § 152.475;
- (L) Car wash per § 152.476; and

(M) Other highway-oriented uses as determined appropriate by the Planning Commission.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.113 YARD AND LOT REQUIREMENTS.

- (A) Minimum lot area: 12,000 square feet;

(B) Minimum lot width: 100 feet;

(C) Minimum lot depth: 120 feet;

(D) Front yard setback: 25 feet;

(E) Side yard setback: a total of 20% of lot width at front yard setback divided evenly on each side of the structure. Side yard setbacks on corner lots shall be the same as the front yard setback;

(F) Rear yard setback: 15 feet;

(G) Rear yard setback abutting "R" district boundary: 30 feet;

(H) Detached accessory structures setback: 20 feet;

(I) Allowable percentage of lot coverage (all structures): 60%;

(J) Maximum height: 60 feet;

(K) Maximum height of accessory buildings: 15 feet.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.114 ACCESSORY USES AND STRUCTURES PERMITTED.

Those uses and structures directly associated with the principal business.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.115 SPECIAL DISTRICT PROVISIONS.

(A) *Traffic and circulation.*

(1) All commercial buildings or structures and their accessory uses shall be accessible to and from nearby public streets and sidewalks by driveways and walkways surfaced with a hard, all-weather, durable, dust-free material and properly drained.

(2) Vehicular traffic generated by a business use shall be channeled and controlled in a manner that will avoid congestion on the public streets, traffic hazards and excessive traffic through residential areas, particularly truck traffic.

(3) No areas used by motor vehicles other than driveways serving an ingress and egress to the commercial site shall be located within the public street right-of-way.

(4) Wherever possible, the placement of structures in the B-2 District shall be such that a service or frontage road may be constructed yet retain sufficient lot area for parking and internal vehicular circulation.

(B) *Screening.* All principal, accessory and conditional uses, except business signs, which are situated within 50 feet of a residential district, shall be screened and buffered from the district by a land separation of open space which shall have a minimum depth of 30 feet and shall include a required wall or fence of not less than 90% opacity and not less than five feet, nor more than seven feet, in height above the level of the residential district property at the district boundary. All required screening devices shall be designed so that they are architecturally harmonious with the principal structures on the site and they shall be properly maintained so as not to become unsightly, hazardous or less opaque than originally constructed. A greenbelt planting strip shall consist of evergreen trees and/or deciduous trees and plants and shall be of sufficient width and density to provide an effective visual screen. This planting strip shall be designed to provide substantial visual screening, a minimum height of six feet.

(C) *Landscaping.* All exposed ground areas surrounding or within a principal or accessory use including street boulevards, which are not devoted to drives, sidewalks, patios or other uses shall be landscaped with grass, shrubs, trees or other ornamental landscape materials. All landscaped areas shall be kept neat, clean and uncluttered. No landscaped area shall be used for parking of vehicles or the storage or display of materials, supplies or merchandise.

(D) *Storage, displays.* All materials, supplies, merchandise or other similar matter not on display within a completely enclosed building within the B-2 District, or within the confines of a 100% opaque wall or fence not less than five feet high. Merchandise which is offered for sale as described heretofore may be displayed beyond the confines of a building in the B-2 District, but the area occupied by the outdoor display shall not constitute a greater number of square feet than 10% of the ground floor area of the building housing the principal use, unless the merchandise is of a type customarily displayed outdoors such as garden supplies.

(E) *Performance standards.* All business operations and activities including, but not limited to, the production, processing, cleaning, servicing, testing or repair of materials, goods or products shall conform with this chapter.

(Ord. 125, 2nd Series, passed 12-15-2003)

B-3 (CENTRAL BUSINESS DISTRICT)

§ 152.130 PURPOSE.

The B-3, Central Business District, is designed for providing the core service and retail businesses ample space to develop and allow those services to be accessed conveniently by residents and other

customers. All businesses and services located in this district shall be of beneficial nature to the city and promote orderly development and generate economic use of land.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.131 PERMITTED USES.

- (A) Retail businesses;
- (B) Eating and drinking establishments;
- (C) Personal and professional services;
- (D) Offices;
- (E) Hotels;
- (F) Municipal buildings and libraries;
- (G) Trade and vocational schools;
- (H) Commercial recreation;
- (I) Animal clinics;
- (J) Hospitals;
- (K) Essential services; and
- (L) Accessory uses.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.132 CONDITIONAL USES.

- (A) Water recreation and water storage;
- (B) Research laboratories;
- (C) Public utility buildings;
- (D) Planned unit business project;
- (E) Multiple-family dwellings;

- (F) Wholesale business;
- (G) Supply yards;
- (H) Churches;
- (I) Fraternal organizations;
- (J) Light manufacturing;
- (K) Rental storage facilities;
- (L) Drive-up facilities;
- (M) Automotive service station per § 152.475;
- (N) Car wash per § 152.476;
- (O) Manufactured home parks;
- (P) Auto sales, service and repair; and

(Q) Other uses similar to those uses listed in this section, and which in the opinion of the City Planning Commission will not be detrimental to the integrity of the district.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.133 YARD AND LOT REQUIREMENTS.

- (A) Minimum lot width: 25 feet;
- (B) Minimum lot depth: 100 feet;
- (C) Maximum height: 35 feet;

(D) Rear yard setback requirements: no rear yard setback is required, except as hereinafter provided. When required, the rear yard requirements shall be 25 feet.

(1) A rear yard setback is required for buildings containing any dwelling units.

(2) A rear yard setback is required for any lot of which the rear or side line abuts a residential district (R-1, R-2 or R-3).

(E) Front yard setback requirements: no front yard setback is required on property abutting a public right-of-way; and

(F) Side yard setback requirements: no side yard setback is required, except as hereinafter provided. When required, the side yard setback shall be 10% of the lot width. A side yard setback is required for any lot of which the side line abuts a residential district.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.134 ACCESSORY USES AND STRUCTURES PERMITTED.

Those uses and structures directly associated with the principal business.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.135 SPECIAL DISTRICT PROVISIONS.

(A) *Storage displays.* All materials, supplies, merchandise or other similar matter not on display for direct sales, rental or lease to the ultimate consumer or user shall be stored within a completely enclosed building within the B-3 District or within the confines of a 100% opaque wall or screening device.

(B) *Exceptions to the off-street parking and loading.* Up to 100% of the total required off-street parking spaces may be waived if adequate off-street parking capacity exists or will be provided through public parking lots and parking garages.
(Ord. 125, 2nd Series, passed 12-15-2003)

I-1 (LIGHT INDUSTRIAL DISTRICT)

§ 152.150 PURPOSE.

I-1, Light Industrial District, provides space for the establishment of warehousing and light industrial development.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.151 PERMITTED USES.

(A) Governmental buildings;

(B) Vehicle, implement and/or equipment sales, services and repair;

- (C) Trade and vocational schools;
- (D) Research and testing laboratories;
- (E) Supply yards (lumber yards and the like);
- (F) Warehousing of non-explosive material or equipment;
- (G) Truck terminals;
- (H) Wholesale businesses;
- (I) Radio and television offices and stations;
- (J) Freight and parcel shipping facilities;
- (K) Rental establishments;
- (L) Recreational vehicle/trailer sales, service and repair;
- (M) Essential services;
- (N) Storm water retention areas; and

(O) The production, assembly or processing of the following materials, goods or products where no process involved will produce noise, vibration, air pollution, fire hazard or noxious emission which could disturb or endanger neighboring properties:

- (1) Advertising specialties;
- (2) Awnings, canopies and window treatments;
- (3) Bakery, candy, dairy and other food products;
- (4) Bottling facilities;
- (5) Ceramic products;
- (6) Clothing;
- (7) Computer and related components;
- (8) Cosmetics, drugs and other pharmaceutical products;

- (9) Electrical, plumbing and heating supplies and service;
- (10) Film processing;
- (11) Furniture, cabinets and similar wood/upholstery products;
- (12) Ice facilities;
- (13) Jewelry, watches and clocks;
- (14) Metal castings, stampings and extrusions (non-ferrous);
- (15) Metal finishing, fabrication and welding;
- (16) Monuments;
- (17) Musical instruments;
- (18) Office machines;
- (19) Optical goods;
- (20) Packing facilities;
- (21) Packing and crating establishments;
- (22) Printing and publishing;
- (23) Plastic injection molding and extrusion;
- (24) Sheet metal products;
- (25) Small home appliances;
- (26) Textile;
- (27) Tool and die operations;
- (28) Tools, hardware and plumbing appliances; and
- (29) Toys and novelties.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.152 CONDITIONAL USES.

- (A) Retail businesses;
 - (B) Personal and professional services; and
 - (C) All other uses not listed in § 152.151.
- (Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.153 YARD AND LOT REQUIREMENTS.

- (A) Minimum lot area: 20,000 square feet;
 - (B) Minimum lot width: 100 feet;
 - (C) Minimum lot depth: 200 feet;
 - (D) Front yard setback: 25 feet;
 - (E) Side yard setback: 15 feet;
 - (F) Side yard detached accessory structures: five feet;
 - (G) Rear yard setback: 30 feet;
 - (H) Rear yard setback accessory structures: 12 feet;
 - (I) Corner setback: 25 feet;
 - (J) Setback from "R" district boundary: 30 feet;
 - (K) Maximum height principal structure: 40 feet; and
 - (L) Allowable lot coverage (all structures): 40%.
- (Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.154 ACCESSORY USES AND BUILDINGS PERMITTED.

Those uses and structures directly associated with the principal business.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.155 SPECIAL DISTRICT PROVISIONS.

(A) *Landscaping.* All open areas of any site, lot, tract or parcel shall be graded to provide proper drainage, and except for areas used for parking, drives or storage, shall be landscaped with trees, shrubs or planted ground cover. It shall be the owner's responsibility to see that this landscaping is maintained in an attractive and a well-kept condition. All adjacent vacant lots, tracts or parcels under the same ownership shall also be properly maintained.

(B) *Storage.* All raw materials, supplies, finished or semi-finished products and equipment shall be stored in an orderly manner with all materials stored in neat and well organized stacks, piles or other orderly method appropriate for the material. In no event shall junk, rubbish, debris, weeds or tall grass, by-products, salvage and inoperable equipment or any other material or matter not used in the normal course of business be allowed to accumulate, or become offensive in any manner, to any measurable degree whatsoever. The Council may require all raw materials, supplies, finished or semi-finished products and equipment shall be stored within a completely enclosed building or within the confines of a 100% opaque wall or fence not less than five feet high; provided, however, that, motor vehicles necessary to the operation of the principal use and not more than three-quarter ton capacity may be stored within the permitted parking areas.

(C) *Screening.*

(1) All principal, accessory and conditional uses, except business signs, which are situated within 30 feet of a residential district, shall be screened and buffered from the district by a separation of open space which shall include a required fence or vegetative screening of not less than 90% opacity and not less than five feet, nor more than seven feet, in height above the level of the residential district property at the district boundary. Loading docks in the I-1 District shall be screened so as not to be visible from any public street right-of-way within a residential district.

(2) All required screening devices shall be designed so that they are architecturally harmonious with the principal structures on the site and they shall be properly maintained so as not to become unsightly, hazardous or less opaque than when originally constructed.

(Ord. 125, 2nd Series, passed 12-15-2003)

I-2 (HEAVY INDUSTRIAL DISTRICT)**§ 152.170 PURPOSE.**

I-2, Heavy Industrial District, provides space for a wide variety of industrial establishments which may operate to their maximum advantage without adversely affecting other nearby similar or dissimilar uses and activities.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.171 PERMITTED USES.

(A) Research and testing laboratories;

(B) Bottling plant;

(C) Heavy equipment manufacture, sales, service or repair;

(D) Manufacture, processing and fabrication of clay, concrete, wood, plastic and metal products;

(E) Agriculture;

(F) Trucking or freight terminal;

(G) Warehousing; and

(H) Essential services.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.172 CONDITIONAL USES.

(A) Wrecking and salvage yards;

(B) Chemical fertilizer plant;

(C) Fuel and explosive material storage tanks and terminals;

(D) Planned unit industrial park;

(E) Automotive service stations per § 152.475;

(F) Car washes per § 152.476;

(G) Meat processing plants; and

(H) Other uses similar in nature to those uses listed in this section and which in the opinion of the City Planning Commission, will not be detrimental to the integrity of the district.

(Ord. 125, 2nd Series, passed 12-15-2003; Ord. 172, 2nd Series, passed 12-18-2018)

§ 152.173 YARD AND LOT REQUIREMENTS.

(A) Minimum lot area: 20,000 square feet;

- (B) Minimum lot width: 100 feet;
 - (C) Minimum lot depth: no requirement stipulated;
 - (D) Front yard setback: 25 feet;
 - (E) Side yard setback: 20 feet;
 - (F) Side yard detached accessory structures: five feet;
 - (G) Rear yard setback: 50 feet;
 - (H) Rear yard detached accessory structures: 12 feet;
 - (I) Corner setbacks: 30 feet;
 - (J) Setbacks from “R” District boundary: 75 feet;
 - (K) Maximum height principal structure: 45 feet;
 - (L) Maximum height accessory structure: 25 feet; and
 - (M) Allowable lot coverage (all structures): 60%.
- (Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.174 ACCESSORY USES AND STRUCTURES PERMITTED.

Those uses and structures directly associated with the principal business.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.175 SPECIAL DISTRICT PROVISIONS.

(A) *Landscaping.* All open areas of any site, lot, tract or parcel shall be graded to provide proper drainage, and except for areas used for parking, drives or storage, shall be landscaped with appropriate dust-free and attractive material. The landscaping shall conform with the development plan approved at the time the building permit was issued. It shall be the owner’s responsibility to see that the lot area is maintained in a well-kept condition. All vacant lots, tracts or parcels abutting and under the same ownership shall be properly maintained.

(B) *Storage.* All raw materials, supplies finished or semi-finished products and equipment shall be stored in an orderly manner with all materials stored in neat and well organized stacks, piles or other orderly method appropriate for the material. In no event shall junk, rubbish, debris, weeds or tall grass, by-products, salvage and inoperable equipment or any other material or matter not used in the normal

course of business be allowed to accumulate, or become offensive in any manner, to any measurable degree whatsoever. The Council may require all raw materials, supplies, finished or semi-finished products and equipment shall be stored within a completely enclosed building, or within the confines of a 100% opaque wall or fence not less than five feet high; provided, however, that, motor vehicles necessary to the operation of the principal use may be stored within the permitted parking lot areas. (Ord. 125, 2nd Series, passed 12-15-2003)

PUD (PLANNED UNIT DEVELOPMENTS)

§ 152.190 PURPOSE.

(A) This subchapter is established to provide comprehensive procedures and standards designed for both district and conditional use planned unit developments to allow the development of neighborhoods or portions thereof incorporating a variety of residential types and non-residential uses. Recognizing that traditional density, bulk, setbacks, use and subdivision regulations which may be useful in protecting the character of substantially developed areas, may be appropriate to control development in less developed areas.

(B) Specifically, the PUD process, by allowing variation from the strict provisions of this chapter related to setbacks, height, lot area, width and depth, yards and the like is intended to encourage:

(1) Innovations in residential development to the end that the growing demands for housing at all economic levels may be met by greater variety in tenure, type, design and citing of dwellings and by the conservation and efficient use of land in the developments;

(2) Higher standards of site and building design through the use of trained and experienced land planners, architects and landscape architects;

(3) More convenience in location of accessory commercial and service areas;

(4) The preservation and enhancement of desirable site characteristics such as natural topography and geologic features and the preservation of soil erosion;

(5) A creative use of land and related physical development which allows a phased and orderly transition of land from rural to urban uses;

(6) An efficient use of land resulting in smaller networks of utilities and streets thereby lower housing costs and public investments;

(7) A development pattern in harmony with the objectives of the comprehensive plan; and

(8) A more desirable environment than would be possible through the strict application of zoning and subdivision regulations of the city.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.191 GENERAL REQUIREMENTS AND STANDARDS.

(A) *Ownership.* An application for PUD approval must be filed by the landowner or jointly by all landowners of the property included in a project. The application and all submissions must be directed to the development of the property as a unified whole. In the case of multiple ownership, the approved final plan shall be binding to all owners.

(B) *Comprehensive plan consistency.* The proposed PUD shall be consistent with the comprehensive plan.

(C) *Sanitary sewer plan consistency.* The proposed PUD shall be consistent with the comprehensive sewer plan.

(D) *Common open space.* Common open space at least sufficient to meet the minimum requirements established in the comprehensive plan and complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of the residents of the PUD shall be provided within the area of the PUD.

(E) *Operating and maintenance requirements for PUD common open space facilities.* Whenever common open space or service facilities are provided within the PUD, the PUD plan shall contain provisions to assure the continued operation and maintenance of the open space and service facilities to a predetermined reasonable standard. Common open space and service facilities within a PUD may be placed under the ownership of one or more of the following, as approved by the Council:

(1) Dedicated to public, where a community-wide use is anticipated and the Council agrees to accept the dedication;

(2) Landlord control, where only use by tenants is anticipated; and

(3) Property owners association; provided, all of the following conditions are met.

(a) Prior to the use or occupancy or sale or the execution of contracts for sale of an individual building unit, parcel, tracts, townhouse, apartment or common area, a declaration of covenants, conditions and restrictions or an equivalent document or a document such as specified by M.S. § 515.11, and a set of floor plans such as specified by M.S. § 515.13, shall be filed with the city, the filing with the city to be made prior to the filings of the declaration or document or floor plans with the recording officers of the county.

(b) The declaration of covenants, conditions and restrictions or equivalent document shall specify that deeds, leases or documents of conveyance affecting buildings, units, parcels, tracts, townhouses or apartments shall subject the properties to the terms of the declaration.

(c) The declaration of covenants, conditions and restrictions shall provide that an owner's association or corporation shall be formed and that all owners shall be members of the association or corporation which shall maintain all properties and common areas in good repair and which shall assess individual property owners proportionate shares of joint or common costs. This declaration shall be subject to the review and approval of the City Attorney. The intent of this requirement is to protect the property values of the individual owner through establishing private control.

(d) The declaration shall additionally, amongst other things, provide that in the event the association or corporation fails to maintain properties in accordance with the applicable rules and regulations of the city or fails to pay taxes or assessments on properties as they become due and in the event the city incurs any expenses in enforcing its rules and regulations, which the expenses are not immediately reimbursed by the association or corporation, then the city shall have the right to assess each property its pro rata share of the expenses. The assessments, together with interest thereon and costs of collection, shall be a lien on each property against which each assessment is made.

(e) Membership must be mandatory for each owner and any successive buyer.

(f) The open space restrictions must be permanent and not for a given period of years.

(g) The association must be responsible for liability insurance, local taxes and the maintenance of the open space facilities to be deeded to it.

(h) The property owner must pay his or her pro rata share of the cost of the association by means of an assessment to be levied by the association which meets the requirements for becoming a lien on the property in accordance with state statutes.

(i) The association must be able to adjust the assessment to meet changing needs.

(j) The by-laws and rules of the association and all covenants and restrictions to be recorded must be approved by the Council prior to the approval of the final PUD plan.

(F) *Staging of public and common open space.* When a PUD provides for common or public open space and is planned as a staged development over a period of time, the total area of common or public open space or land escrow security in any stage of development shall, at a minimum, bear the same relationship to the total open space to be provided in the entire PUD as the stages or units completed or under development bear to the entire PUD.

(G) *Density.* The maximum allowable density in a PUD shall be determined by reference to the comprehensive plan. Within that limit, the exact density allowable shall be determined by standards

agreed upon between the applicant and the city. Whenever any PUD is to be developed in stages, no stage shall, when averaged with all previously completed stages, have a residential density that exceeds 125% of the proposed residential density of the entire PUD.

(H) *Utilities.* In any PUD, all utilities, including telephone, electricity, gas and telecable shall be installed underground.

(I) *Utility connections.*

(1) *Water connections.* Where more than one property is served from the same service line, individual unit shut-off valves shall be provided as required by the City Engineer.

(2) *Sewer connections.* Where more than one unit is served by a sanitary sewer lateral which exceeds 300 feet in length, provision must be made for a manhole to allow adequate cleaning and maintenance of the lateral. All maintenance and cleaning shall be the responsibility of the property owners association or owner.

(J) *Roadways.* All streets shall conform to the design standards contained in Ch. 151 of this code of ordinances, as may be amended, unless otherwise approved by the Council.

(K) *Landscaping.* In any PUD, landscaping shall be provided according to a plan approved by the Council, which shall include a detailed planting list with sizes and species indicated as part of the final plan. In assessing the landscaping plan, the Council shall consider the natural features of the particular site, the architectural characteristics of the proposed structure and the overall scheme of the PUD plan.

(L) *Urban development and availability of public services.* All development will be carefully phased so as to ensure that all developable land will be accorded a present vested right to develop at such time as services and facilities are available. Lands which have the necessary available municipal facilities and services will be granted approval in accordance with existing city code provisions and development techniques. Land which lacks the available facilities and services will be granted approval for development at times as the facilities and services have been made available by the continuing public improvement program or at the time when the developer agrees to furnish the facilities or improvements put forth by the city or other public agency. No PUD will be permitted in areas not having city water and sanitary sewer available.

(M) *Townhouse, quadraminium, cooperative and condominium apartments.*

(1) No single townhouse structure shall contain more than eight dwelling units.

(2) Minimum unit lot frontage for townhouses shall be not less than 20 feet.

(3) Townhouses, quadraminiums, cooperatives and condominiums shall be subdivided on an individual unit basis according to the provisions of division (E)(3) above.

(N) *Setbacks.*

(1) The front and side yard restrictions at the periphery of the planned unit development site at a minimum shall be the same as imposed in the respective districts.

(2) No building shall be located less than 15 feet from the back of the curb line along those roadways which are part of the internal street pattern.

(3) No building within the project shall be nearer to another building than one-half the sum of the building heights of the two buildings.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.192 SUBMISSION REQUIREMENTS.

Ten copies of the following exhibits, analyses and plans shall be submitted as applicable to the Planning Commission and Council during the PUD process, at the times specified in § 152.193.

(A) *General concept stage.*

(1) General information:

(a) The landowner's name and address and his or her interest in the subject property;

(b) The applicant's name and address if different from the landowner;

(c) The names and addresses of all professional consultants who have contributed to the development of the PUD plans being submitted, including attorney, land planner, engineer and surveyor; and

(d) Evidence that the applicant has sufficient control over the subject property to effectuate the proposed PUD, including a statement of all legal, beneficial, tenancy and contractual interests held in or affecting the subject property and including an up to date certified abstract of title or registered property report, and other evidence as the City Attorney may require to show the status of title or control of the subject property.

(2) Present status:

(a) The address and legal description of the subject property;

(b) The existing zoning classification and present use of the subject property and all lands within 1,000 feet of the subject property; and

(c) A map depicting the existing development of the subject property and all land within 1,000 feet thereof and showing the precise location of existing streets, property lines, easements, water mains and storm and sanitary sewers, with invert elevations on and within 100 feet of the subject property.

(3) A written statement generally describing the proposed PUD and the market which it is intended to serve and its demand showing its relationship to the comprehensive plan and how the proposed PUD is to be designed, arranged and operated in order to permit the development and use of neighboring property in accordance with the applicable regulations of the city;

(4) Graphic reproductions of the existing site conditions at a scale of 100 feet. All of the graphics should be the same scale as the final plan to allow easy cross reference. The use of overlays is recommended for clear reference:

(a) Contours: minimum two-foot intervals;

(b) Location, type and extent of tree cover;

(c) Slope analysis;

(d) Location and extent of waterbodies, wetlands and streams and floodplains within 300 feet of the subject property;

(e) Significant rock outcroppings;

(f) Existing drainage patterns;

(g) Vistas and significant views; and

(h) Soil conditions as they affect development.

(5) Schematic drawing of the proposed development concept including, but not limited to, the general location of major circulation elements, public and common open space, residential and other land uses;

(6) A statement of the estimated total number of dwelling units proposed for the PUD and a tabulation of the proposed approximate allocations of land use expressed in acres and as a percent of the total project area, which shall include at least the following:

(a) Area devoted to residential uses;

(b) Area devoted to residential use building types;

(c) Area devoted to common open space;

Windom - Land Usage

- (d) Area devoted to public open space;
- (e) Approximate area devoted to streets;
- (f) Approximate area devoted to and number of off-street parking and loading spaces and related access;
- (g) Approximate area and floor area devoted to commercial uses; and
- (h) Approximate area and floor area devoted to industrial or office use.

(7) When the PUD is to be constructed in stages during a period of time extending beyond a single construction season, a schedule for the development of the stages or units shall be submitted stating the approximate beginning and completion date for each stage or unit and the proportion of the total PUD public or common open space and dwelling units to be provided or constructed during each stage and the overall chronology of development to be followed from stage to stage;

(8) When the proposed PUD includes provisions for public or common open space or service facilities, a statement describing the provision that is to be made for the care and maintenance of the open space or service facilities;

(9) General intents of any restrictive covenants that are to be recorded with respect to property included in the proposed PUD;

(10) The Planning Commission may excuse an applicant from submitting any specific item of information or document required in this stage, which it finds to be unnecessary to the consideration of the specific proposal for PUD approval; and

(11) The Planning Commission may require the submission of any additional information or documentation which it may find necessary or appropriate to full consideration of the proposed PUD or any aspect or stage thereof.

(B) *Development stage.* Development stage submission should depict and outline the proposed implementation of the general concept stage for the PUD. Information from the general concept stage may be included for background and to provide a basis for the submitted plan.

- (1) The development stage submissions shall include, but not be limited to:
 - (a) Zoning classification required for development stage submission and any other public decisions necessary for implementation of the proposed plan;
 - (b) Ten sets of preliminary plans, drawn to scale of not less than one inch equals 100 feet (or scale requested by the Administrator) containing at least the following information:

1. Proposed name of the development (which shall not duplicate nor be similar in pronunciation to the name of any plat theretofore recorded in the county where the subject property is situated);

2. Property boundary lines and dimensions of the property and any significant topographical or physical features of the property;

3. The location, size, use and arrangement including height in stories and feet and total square feet of ground area coverage and floor area of proposed buildings, including manufactured homes and existing buildings which will remain, if any;

4. Location, dimensions and number of all driveways, entrances, curb cuts, parking stalls, loading spaces and access aisles, and all other circulation elements including bike and pedestrian; and the total site coverage of all circulation elements;

5. Location, designation and total area of all common open space;

6. Location, designation and total area proposed to be conveyed or dedicated for public open space, including parks, playgrounds, school sites and recreational facilities;

7. Proposed lots and blocks, if any, and numbering system;

8. The location, use and size of structures and other land uses on adjacent properties;

9. Detailed sketches and provisions of proposed landscaping;

10. General grading and drainage plans for the developed PUD; and

11. Any other information that may have been required by the city staff, Planning Commission or Council in conjunction with the approval of the general concept plan.

(c) An accurate legal description of the entire area within the PUD for which final development plan approval is sought;

(d) A tabulation indicating the number of residential dwelling units and expected population;

(e) A tabulation indicating the gross square footage, if any, of commercial and industrial floor space by type of activity (e.g., drug store, dry cleaning, supermarket);

(f) Preliminary architectural plans indicating use, floor plan, elevations and exterior wall finishes of proposed buildings, including manufactured homes, and uses;

(g) A detailed site plan, suitable for recording, showing the physical layout, design and purpose of all streets, easements, right-of-way, utility lines and facilities, lots, block, public and common open space, general landscaping plan, structures, including manufactured homes, and uses;

(h) Preliminary grading and site alteration plan illustrating changes to existing topography and natural site vegetation. The plan should clearly reflect the site treatment and its conformance with the approved concept plan;

(i) Sketch plan, preliminary and final plat prepared in accordance with Ch. 151 of this code of ordinances, as may be amended;

(j) A soil erosion control plan acceptable to watershed districts, Department of Natural Resources, Soil Conservation Service or any other agency with review authority clearly illustrating erosion control measures to be used during construction and as permanent measures;

(k) A statement summarizing all changes which have been made in any document, plan date or information previously submitted, together with revised copies of any document, plan or data; and

(l) Other and further information as the city staff, Planning Commission or Council shall find necessary to a full consideration of the entire proposed PUD or any stage thereof.

(2) The Planning Commission may excuse an applicant from submitting any specific item of information or document required in this section, which it finds to be unnecessary to the consideration of the specific proposal for PUD approval.

(C) *Final plan stage.* After approval of a general concept plan for the PUD and approval of a development stage plan for a section of the proposed PUD, the applicant will submit the following material for review be the city staff prior to issuance of a building permit:

(1) Proof of recording any easements and restrictive covenants prior to the sale of any land or dwelling unit within the PUD and of the establishment and activation of any entity that is to be responsible for the management and maintenance of any public or common open space or service facility;

(2) All certificates, seals and signatures required for the dedication of land and recordation of documents;

(3) Final architectural working drawings of all structures;

(4) Final engineering plans and specifications for streets, utilities and other public improvements, together with a community/developer agreement for the installation of the improvements and financial guarantee for the completion of the improvements; and

(5) Any other plan, agreements or specifications necessary for the city staff to review the proposed construction. All work must be in conformance with the State and Uniform Building Codes. (Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.193 PROCEDURE FOR PROCESSING A PUD.

(A) *Application conference.* Upon filing of an application for PUD, the applicant of the proposed PUD shall arrange for and attend a conference with the Zoning Administrator. At the conference, the applicant shall be prepared to generally describe his or her proposal for a PUD. The primary purpose of the conference shall be to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of his or her proposal for the area for which it is proposed and its conformity to the provisions of this chapter before incurring substantial expense in the preparation of plans, surveys and other data.

(B) *General concept plan.*

(1) *Purpose.* The general concept plan provides an opportunity for the applicant to submit a plan to the city showing his or her basic intent and the general nature of the entire development without incurring substantial cost. If deemed necessary by the city, the concept plan can serve as the basis for public hearing so that the proposal may be publicly considered at an early stage. The following elements of the proposed general concept plan represent the immediately significant elements which the city shall review and for which a decision shall be rendered:

- (a) Overall maximum PUD density range;
- (b) General location of major streets and pedestrian ways;
- (c) General location and extent of public and common open spaces;
- (d) General location of residential and non-residential land uses with approximate type and intensities of development;
- (e) Staging and time schedule of development; and
- (f) Other special criteria for development.

(2) *Schedule.*

(a) The developer meets with the Zoning Administrator to discuss the proposed development;

(b) The developer submits the necessary data as required in division (A) above and division (B)(1) above at least ten days prior to the Planning Commission meeting;

(c) A technical staff report shall be prepared on the proposed development, and distributed to the Planning Commission and the applicant prior to the meeting;

(d) The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed development;

(e) Planning Commission makes a recommendation to the Council on the general concept plan; and

(f) Council reviews all recommendations and approves/denies applications.

(3) *Optional submission of development stage plan.* In cases of single stage PUDs or where the applicant wishes to begin the first stage of a multiple stage PUD immediately, he or she may, at his or her option initially submit development stage plans for the proposed PUD. In that case, the applicant shall comply with all provisions of the city code applicable to submission of the development stage plan and the Planning Commission and Council shall grant or deny development stage plan approval in accordance with the provisions of division (C) below.

(4) *Effect of concept plan approval.* Unless the applicant shall fail to meet the time schedules for filing development stage and final plans or shall fail to proceed with development in accordance with the plans as approved or shall in any other manner fail to comply with any condition of this chapter or of any approval granted pursuant to it, a general concept plan which has been approved shall not be modified, revoked or otherwise impaired pending the application of development stage and final plans by any action of the city without the consent of the applicant.

(5) *Limitation on general concept plan approval.* Unless a development stage plan covering at least ten dwelling units or the area designated in the general concept plan as the first stage of the PUD, whichever is greater, has been filed within six months from the date Council grants general concept plan approval, or in any case where the applicant fails to file development stage and final plans and to proceed with development in accordance with the provisions of this chapter and of an approved general concept plan, the approval may be revoked by Council action. In that case, the Council shall forthwith adopt a resolution repealing the general concept plan approval for that portion of the PUD that has not received final approval and reestablishing the zoning and other city code provisions that would otherwise be applicable. Upon application by the applicant, the Council, at its discretion, may extend for additional periods not in excess of six months each, the filing deadline for any development stage plan when, for good cause shown, the extension is necessary.

(C) *Development stage.*

(1) *Purpose.* The purpose of the development stage plan is to provide a specific and particular plan upon which the Planning Commission will base its recommendation to the Council and with which substantial compliance is necessary for the preparation of the final plan.

(2) *Submission of development stage.* Upon approval of the general concept plan, and within the time established in division (B)(5) above, the applicant shall file with the Zoning Administrator a development stage plan consisting of the information and submissions required by division (B) above for the entire PUD or for one or more stages thereof in accordance with a staging plan approved as part of the general concept plan. The development stage plan shall refine, implement and be in substantial conformity with the approved general concept plan.

(3) *Review and action by city staff and Planning Commission.*

(a) Immediately upon receipt of a completed development stage plan, the Zoning Administrator shall refer the plan to the following city staff and/or official bodies for the indicated action:

1. The City Attorney for legal review of all documents;
2. The City Engineer for review of all engineering data and the city/developer agreement;
3. The Building Official for review of all building plans;
4. The Zoning Administrator for review of all plans for compliance with the intent, purpose and requirements of this chapter and conformity with the general concept plan and comprehensive plan;
5. The Planning Commission for review and recommendation to the Council;
6. When appropriate, as determined by the Zoning Administrator to the Park and Recreation Board for review and recommendations; and
7. When appropriate, as determined by the Zoning Administrator to other special review agencies such as the watershed districts, soil conservation services, highway departments or other affected agencies.

(b) All staff designated in divisions (C)(3)(a)1. through (C)(3)(a)4. above shall submit their reports in writing to the Planning Commission and the applicant.

(4) *Schedule.*

(a) The developer meets with Zoning Administrator and city staff to discuss specific development plans.

(b) The applicant shall file the development stage application within six months after concept plan review, together with all supporting data and filing fee as established by Council resolution.

(c) Within 60 days after verification by the staff that the required plan and supporting data is adequate, the Planning Commission shall hold a public hearing.

(d) The Zoning Administrator, upon verification of the application, shall instruct the City Administrator to set a public hearing for the next regular meeting of the Planning Commission. The Planning Commission shall conduct the hearing, and report its findings and make recommendations to the Council. Notice of the hearing shall consist of a legal property description, description of request and map detailing property location, and be published in the official newspaper at least ten days prior to the hearing and written notification of the hearing shall be mailed at least ten days prior to all owners of land within 350 feet of the boundary of the property in question.

(e) Failure of a property owner to receive the notice shall not invalidate any proceedings as set forth in this chapter.

(f) After the public hearing has been set, the Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate and provide general assistance in preparing a recommendation on the action to the Council.

(g) The Planning Commission and city staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, the information to be declared necessary to establish performance conditions in relation to all pertinent sections of this chapter.

(h) The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed development.

(i) Within 60 days of the public hearing, or a further time as may be agreed to by the applicant, the Planning Commission shall itself review the reports and plans and submit its written report and recommendations to the Council and applicant. The report shall contain the findings of the Planning Commission with respect to the conformity of the development stage plan to the approved general concept plan. Should any changes be found to exist, the Commission shall comment with respect to the merit or lack of merit of any departure of the development stage plan from substantial conformity with the concept plan and with respect to the compliance of the development stage plan with the provisions of this chapter and all other applicable federal, state and local codes and city code provisions. If the Planning Commission shall find conformity or any changes merit approval and the Commission shall further find the development stage plan to be in all other respects complete and in compliance with this chapter and other applicable federal, state and local codes and city code provisions, it shall recommend approval of the plans. If the Planning Commission shall find that the plan does not conform and/or is not in compliance with this chapter or other applicable codes, it shall recommend denial. If the Planning Commission fails to act within the time specified herein, it shall be deemed to have recommended the plan for approval.

(j) Within 30 days of receipt of the report and recommendation of the Planning Commission, the Council shall grant approval, resubmit the plan to the Planning Commission for further consideration of specified items or deny approval of the plan.

(k) The Zoning Administrator shall instruct the City Attorney to draw up a PUD Agreement which stipulates the specific terms and conditions approved by the Council and accepted by the applicant. This agreement shall be signed by the Mayor, City Administrator and the applicant within 30 days of Council approval of the development stage plan. Where the development stage plan is to be resubmitted or denied approval, the Council action shall be by written report setting forth the reasons for its action. In all cases, a certified copy of the document evidencing Council action shall be promptly delivered to the applicant by the Zoning Administrator.

(5) *Limitation on detailed plan approval.* Unless a final plan covering the area designated in the development plan as the first stage of the PUD has been filed within six months from the date Council grants development stage plan approval, or in any case where the applicant fails to file final plans and to proceed with development in accordance with the provisions of this chapter and/or an approved development stage plan, the approval shall expire. Upon application by the applicant, the Council at its discretion may extend, for not more than six months, the filing deadline for any final plan when, for good cause shown, the extension is necessary. In any case where development plan approval expires, the Council shall forthwith adopt a resolution repealing the general concept plan approval and the development stage plan approval for that portion of the PUD that has received final plan approval and reestablishing the zoning and other city code provisions that would otherwise be applicable.

(6) *Site improvements.* At any time following the approval of a development stage plan by the Council, the applicant may, pursuant to the applicable provisions of the city code apply for, and the Zoning Administrator and Building Official may issue, grading permits for the area within the PUD for which development stage plan approval has been given.

(D) *Final plan.*

(1) *Purpose.* The final plan is to serve as a complete, thorough and permanent public record of the PUD and the manner in which it is to be developed. It shall incorporate all prior approved plans and all approved modifications thereof resulting from the PUD process. It shall serve in conjunction with other city code provisions as the land use regulation applicable to the PUD. The final plan is intended only to add detail to, and to put in final form, the information contained in the general concept plan and the development stage plan and shall conform to the development stage plan in all respects.

(2) *Schedule.*

(a) Upon approval of the development stage plan, and within the time established by division (C)(5) above, the applicant shall file with the Zoning Administrator a final plan consisting of the information and submissions required by § 152.192(C) for the entire PUD or for one or more stages. This application will be considered at the next possible regular Planning Commission meeting.

(b) Within 30 days, the findings and recommendations of the Planning Commission shall be forwarded to the Council for consideration. If the Planning Commission fails to act within the time specified herein, it shall be deemed to have recommended the plan for approval.

(c) Within 30 days of receipt of the findings and recommendations of the Planning Commission, the Council shall grant approval or denial of the request.

(d) Within 30 days of its approval, the applicant shall cause the final plan, or portions thereof as are appropriate, to be recorded with the County Recorder or Register of Titles. The applicant shall provide the city with a signed copy verifying county recording within 40 days of the date of approval.

(3) *Building and other permits.* Except as otherwise expressly provided herein, upon receiving notice from the Zoning Administrator that the approved final plan has been recorded and, upon application of the applicant pursuant to the applicable city code provisions, all appropriate officials of the city may issue building and other permits to the applicant for development, construction and other work in the area encompassed by the approved final plan; provided, however, that, no permit shall be issued unless the appropriate official is first satisfied that the requirements of codes and city code provisions in which are applicable to the permit sought, have been satisfied.

(4) *Limitation on final plan approval.*

(a) Within one year after the approval of a final plan for PUD, or a shorter time as may be established by the approved development schedule, construction shall commence in accordance with the approved plan. Failure to commence construction within the period shall, unless an extension shall have been granted as hereinafter provided, automatically render void the PUD permit and all approvals of the PUD plan and the area encompassed within the PUD shall thereafter be subject to those provisions of this chapter, and other city code provisions, applicable in the district in which it is located. In that case, the Council shall forthwith adopt an ordinance repealing the PUD permit and all PUD approvals and reestablishing the zoning and other city code provisions that would otherwise be applicable.

(b) The time limit established by this division (D)(4) may, at the discretion of the Council, be extended for not more than one year.

(5) *Inspections during development.*

(a) Following final plan approval of a PUD, or a stage thereof, the Zoning Administrator shall, at least annually until the completion of development, review all permits issued and construction undertaken and compare actual development and with the approved development schedule.

(b) If the Zoning Administrator finds that development is not proceeding in accordance with the approved schedule, or that it fails in any other respect to comply with the PUD plans as finally approved, he or she shall immediately notify the Council. Within 30 days of the notice, the Council shall either by ordinance revoke the PUD permit, and the land shall thereafter be governed by the regulations applicable in the district in which it is located; or shall take the steps as it shall deem necessary to compel compliance with the final plans as approved; or shall require the landowner or applicant to seek an amendment of the final plan.

(Ord. 125, 2nd Series, passed 12-15-2003)

W (WETLANDS SYSTEM DISTRICT)**§ 152.205 PURPOSE.**

A district relating to lowlands, marshes, wetlands, drainageways, waterbodies and watercourses regulating alteration and development of the lands and providing for the issuance of permits thereof, and specifically to:

(A) Reduce danger to the health, safety and welfare of the residents of the city by protecting surface and ground water supplies from the impairment which results from incompatible land uses and alterations, and by providing safe and sanitary drainage;

(B) Restrict and control land development so it will not impede the flow of flood water or cause danger to life or property;

(C) Designate suitable land uses that are compatible with the preservation of the natural vegetation and marshes which are a principal factor in the maintenance of constant rates of water flow through the year and which sustain species of wildlife and plant growth;

(D) Regulate runoff of surface waters from developed areas to prevent pollutants such as motor oils, sand, salt and other foreign materials from being carried directly into the nearest natural stream, lake or other public or private waters;

(E) Regulate the alteration of wetland systems to prevent excessive sediment pollution, increased and rapid water runoff, excessive nutrient runoff pollution and to maintain the aesthetic appearance of the wetlands; and

(F) Prevent the development of structures in areas which will adversely affect the public passage and use of creeks, marshes, lowlands and watercourses within the city.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.206 DISTRICT APPLICATION.

(A) The "W" Wetland Systems District shall be applied to and superimposed upon all residential, commercial or industrial districts contained herein existing or amended by text and map of this chapter. The regulations and requirements imposed by the "W" Wetland Systems District shall be in addition to floodplain and shoreland and those established for the district which jointly apply. Under the joint application of districts, the more restrictive requirements shall apply.

(B) The Wetland Systems District within the city is defined and established to include those areas which include any watercourse, natural drainage system, waterbody or wetland, that may be subject to

periodic flooding, overflow or seasonally high water tables. The district boundary lines shall be established at the edge of the aforesaid areas as depicted on the city's wetland system map.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.207 PERMITTED USES.

The following operations and uses are permitted in the Wetland Systems District as a matter of right, subject to any other applicable code, city code provisions or law:

- (A) Grazing, farming, nurseries, gardening and harvesting of crops;
- (B) Sustained-yield forestry and tree farms;
- (C) Conservation of soil vegetation, water, fish and wildlife;
- (D) Scientific research and educational activities that teach principles of ecology and conservation;
- (E) Leisure activities such as hiking, nature studies, canoeing, boating, camping, water-skiing, skin-diving, horseback riding, field trails and general outdoor recreation including play and sporting areas that are not inconsistent with the intent of this chapter; and
- (F) Essential services.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.208 PROHIBITED USES.

Except as may hereinafter be conditionally permitted, it is unlawful for any person to:

- (A) Place, deposit or permit to be deposited, debris, fill or any material including structures into, within or upon a waterbody, watercourse or wetland, floodplain or natural drainage system;
- (B) Dig, dredge or in any other way alter or remove any material from waterbodies, watercourses, wetlands, floodplains or natural drainage system;
- (C) Erect structures for human habitation;
- (D) Create ponds, dam or relocate any watercourse, or change the natural drainage system;
- (E) Clear and/or cut trees or other vegetation;
- (F) Permanently store materials;

(G) Erect signs; and/or

(H) Dispose of waste materials, including, but not limited to, sewage, rubbish and other discarded materials.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.209 DEVELOPMENT REGULATIONS.

(A) Landowners or developers desiring to develop land or construct any dwelling or other artificial obstruction on land located within any of the Wetlands District within the city shall first submit a conditional use permit application, as regulated in §§ 152.545 through 152.551, and a plan of development, hereinafter, referred to as a “wetland systems impact plan”, which shall set forth proposed provision of sediment control, water management, maintenance of landscaped features and any additional matters intended to improve or maintain the quality of the environment. A plan shall set forth proposed changes requested by the applicant and affirmatively disclose what, if any, change will be made in the natural condition of the earth, including loss or change of earth ground cover, destruction of trees, grade changes and its effect, if any, upon lakes, streams, watercourses and marshes, lowlands and wetlands in the area. The plan shall minimize tree removal, ground cover change, loss of natural vegetation and grade changes as much as possible, and shall affirmatively provide for the relocation or replanting of as many trees as possible which are proposed to be removed. The purpose of the wetland systems impact plan shall be to eliminate as much as possible potential pollution, erosion and siltation.

(B) For lakes, ponds or flowages, no structure, except boathouses, piers and docks, shall be placed at an elevation such that the lowest floor, including basement floor, is less than three feet above the highest known water level. In those instances where sufficient data on known high water levels are not available, the elevation of the permanent shoreland vegetation shall be used as the estimated high water elevation. When all is required to meet this elevation, the fill shall be allowed to stabilize and construction shall not begin until the property has been inspected by the Building Official.

(Ord. 125, 2nd Series, passed 12-15-2003)

S (SHORELAND DISTRICT)

§ 152.220 GENERALLY.

The shorelands within the city are hereby designated as shoreland districts and the requirements set forth in this chapter shall govern the development and other activities within these districts. The classification of the shoreland areas shall govern the use, alteration and development of these areas according to the classification.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.221 DISTRICT APPLICATION.

The “S” Shoreland District shall be applied to and superimposed upon all zoning districts as contained herein as existing or amended by the text and map of this chapter. The regulations and requirements imposed by the “S” Shoreland District shall be in addition to those established for districts which jointly apply. Under joint application of districts, the more restrictive requirements shall apply. (Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.222 BOUNDARIES.

The boundaries of the Shoreland District are established within the following distances from the ordinary high water mark of the surface water depending on the size of the surface water as indicated on the shoreland district maps.

<i>Surface Water</i>	<i>Distance (ft.) *</i>
Greater than 10 acres (Table 1)	1,000
Rivers and streams (draining an area greater than 2 square miles)	300**
NOTES TO TABLE:	
* The practical distance may be less whenever the waters involved are bounded by topographical divides which extend landward from the waters for lesser distances and prevent flowage toward the surface water.	
** The distance requirement shall be increased to the limit of the floodplain when greater than 300 feet.	

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.223 SHORELAND CLASSIFICATION.

(A) *General.* The surface waters affected by this subchapter and which require controlled development of their shoreland (Shoreland District) are shown on the map designated as the official “Shoreland Map of the City of Windom” which is properly approved and part of this chapter and filed with the Zoning Administrator and found consistent with the criteria found in M.S. § 103F.221 and protected waters inventory map for the county. Surface waters generally greater than ten acres and given an identification number as defined herein are listed on Table 1. Other surface waters affected by this chapter, generally having less than ten acres are classified as wetland systems and thus regulated under the provisions of that district.

<i>DNR Identification Number</i>	<i>Name</i>	<i>Classification</i>
17-22	Cottonwood Lake	General development lake
17-25P	Unnamed basin	General development lake

<i>Table 1: Shoreland Classification</i>		
<i>DNR Identification Number</i>	<i>Name</i>	<i>Classification</i>
N/A	Des Moines River	Agricultural river
N/A	Perkins Creek	Tributary river segment

(B) *Land use district descriptions.* The land use districts established in this subchapter and the delineation of land use district boundaries on the official zoning map, shall be consistent with the goals, policies and objectives of the comprehensive land use plan and the following criteria, considerations and objectives.

(1) *General considerations and criteria for all land uses.*

- (a) Preservation of natural areas;
- (b) Present ownership and development of shoreland areas;
- (c) Shoreland soil types and their engineering capabilities;
- (d) Topographic characteristics;
- (e) Vegetative cover;
- (f) In-water physical characteristics, values and constraints;
- (g) Recreational use of the surface water;
- (h) Road and service center accessibility;
- (i) Socioeconomic development needs and plans as they involve water-related land resources;
- (j) The land requirements of industry which, by its nature, requires location in shoreland areas; and
- (k) The necessity to preserve and restore certain areas having significant historical or ecological value.

(2) *Factors and criteria for planned unit developments.*

- (a) Existing recreational use of the surface waters and likely increases in use associated with planned unit developments;

- (b) Physical and aesthetic impacts of increased density;
- (c) Suitability of lands for the planned unit development approach;
- (d) Level of current development in the area; and
- (e) Amounts and types of ownership of undeveloped lands.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.224 SHORELAND DISTRICT USES.

For lake and river classes, districts and uses:

- P = Permitted Uses
- C = Conditional Uses
- N = Prohibited Uses

(A) *Residential district.* The residential district is primarily intended to allow low- to medium-density seasonal and year-round residential uses on lands suitable for those uses. Some non-residential uses with minimum impacts on residential uses are allowed if properly managed under conditional use procedures. The residential district is the shoreland covered by the same area delineated by Single-Family Residential (R-1) and Urban Residential (R-2) Districts.

	<i>General Development Lakes</i>		<i>Agricultural Rivers</i>		<i>Tributary River Segments</i>	
	<i>R-1</i>	<i>R-2</i>	<i>R-1</i>	<i>R-2</i>	<i>R-1</i>	<i>R-2</i>
Boarding home	P	P	P	P	P	P
Essential services	P	P	P	P	P	P
Extractive uses	C	C	C	C	C	C
Family day care	P	P	P	P	P	P
Parks and historic sites	C	C	C	C	P	P
Semi-public	C	C	C	C	P	P
Single-family dwelling	P	P	P	P	P	P
Two-family dwelling	N	P	C	C	C	C

(B) *High density residential district.* A high density residential district is intended for use on lands with heterogeneous mixes of soils, vegetation and topography that are not well suited for residential

development using standard lot-block subdivisions. The high density residential district is the shoreland covered by the same area delineated by Multi-Family (R-3) and Neighborhood Business (B-1) Districts.

	<i>General Development Lakes</i>	<i>Agricultural Rivers and Tributary River Segments</i>
Boarding home	P	P
Dwelling, quadraminium	P	P
Dwelling, triplex	P	P
Dwelling, two-family	P	P
Essential devices	P	P
Extractive uses	N	N
Family day care	P	P
Nursing homes	C	C
Parks and historic sites	C	C
Residential planned unit developments	C	C
Retail and commercial activities	C	C
Semi-public	C	C
Surface water-oriented commercial*	C	C
NOTES TO TABLE:		
*As accessory to a residential planned unit development.		

(C) *Special protection district.* A special protection district is intended to be used for two basic purposes. The first purpose is to limit and properly manage development in areas that are generally unsuitable for development or uses due to flooding, erosion, limiting soil conditions, steep slopes or other major physical constraints. The second purpose is to manage and preserve areas with special historical, natural or biological characteristics. The special protection district is the shoreland covering the same area delineated by the Agricultural-Open Space (A-O) District.

	<i>General Development</i>	<i>Agricultural River</i>	<i>Tributary River Segment</i>
Agricultural cropland and pasture	P	P	P
Essential services	P	P	P
Extractive uses	C	C	C
Forest management	P	P	P
Parks and historic sites	C	C	C

Windom - Land Usage

	<i>General Development</i>	<i>Agricultural River</i>	<i>Tributary River Segment</i>
Sensitive resource management	P	P	P
Single detached residential	C	C	C

(D) *Shoreland Commercial Business District.* The Shoreland Commercial Business District is the shoreland covering the same area as delineated by the Highway Business (B-2) and the Central Business (B-3) Districts. The purpose of the Shoreland Commercial Business District is to manage development and uses in the underlying business districts to comply with the state shoreland regulations.

(1) All permitted and conditional uses designated in the B-2 District shall be the same permitted or conditional uses in the B-2 District covering the same area as the Shoreland Commercial Business District.

(2) All permitted and conditional uses designated in the B-3 District shall be the same permitted or conditional uses in the B-3 District covering the same area as the Shoreland Commercial Business District.

(E) *Shoreland industrial district.* The Shoreland Industrial District is the shoreland covering the same area as delineated by the Light Industrial (I-1) and Heavy Industrial (I-2) Districts. The purpose of the Shoreland Industrial District is to manage development and uses in the underlying industrial districts to comply with the state shoreland regulations.

(1) All permitted and conditional uses designated in the I-1 District shall be the same permitted or conditional uses in the I-1 District covering the same area as the Shoreland Industrial District.

(2) All permitted and conditional uses designated in the I-2 District shall be the same permitted or conditional uses in the I-2 District covering the same area as the Shoreland Industrial District.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.225 RESIDENTIAL LOT SIZE.

All single detached, two-family, triplex and quad-residential lots created after the date of adoption of the shoreland controls (1991) must meet or exceed the dimensions in Table 2, and the following.

(A) *Lots.* Lots must not be occupied by any more dwelling units than indicated in Table 2. Residential subdivisions with dwelling unit densities exceeding those in Table 2 can only be allowed if designed and approved as residential planned unit developments. Only land above the ordinary high water mark of public waters can be used to meet lot area standards, and lot width standards must be met at both the ordinary high water level and the building line. Sewered lot dimensions may only be used if publicly owned sewer system service is available to the property.

(B) *Guest cottages.* One guest cottage may be allowed on single-family lots meeting or exceeding the two-family dwelling unit lot dimensions identified in Table 2, and the following.

(1) For lots exceeding the minimum lot dimensions for two-family dwelling unit lots, the guest cottage must be located within the smallest two-family dwelling unit that could be created including the principal dwelling unit.

(2) A guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height.

(3) A guest cottage must be located or designed to reduce its visibility as viewed from the public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions.

(C) *Public water access and control access.* Lots intended as controlled access to public waters or as recreation areas for use by owners of non-riparian lots within subdivisions are permissible and must meet or exceed the following standards.

(1) Public water accesses must meet the width and size requirements for residential lots and be suitable for the intended uses of controlled access lots.

(2) If docking, mooring or over-water storage of more than six watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by the percent of the requirements for riparian residential lots for each watercraft beyond six, consistent with the following table:

<i>Controlled Access Lot Frontage Requirements</i>	
<i>Ratio of Lake Size to Shore Length (acres/mile)</i>	<i>Required Increase in Frontage (%)</i>
Less than 100	25
100 - 200	20
201 - 300	15
302 - 400	10
Greater than 400	5

(3) A controlled access lot must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of non-riparian lots in the subdivision who are provided riparian access rights on the access lot.

Windom - Land Usage

<i>Table 2: Minimum Size and Width above the Normal High Water Mark</i>			
	<i>Cottonwood Lake and Unnamed Basin (17-25P) (sq. ft./ft.)</i>	<i>Perkins Creek (ft.)</i>	<i>Des Moines River (ft.)</i>
Quadraminium non-riparian lot			
sewered	32,000/245	190	375
non-sewered	160,000/490	250	375
Quadraminium riparian lot			
sewered	49,000/255	190	375
non-sewered	80,000/340	250	375
Single detached non-riparian lot			
sewered	10,000/75	75	150
non-sewered	40,000/150	100	150
Single detached riparian lot			
sewered	15,000/75	75	150
non-sewered	20,000/150	100	150
Triplex non-riparian lot			
sewered	25,000/190	150	300
non-sewered	125,000/375	200	300
Triplex riparian lot			
sewered	38,000/195	150	300
non-sewered	60,000/260	200	300
Two-family non-riparian lot			
sewered	17,500/135	115	225
non-sewered	80,000/265	150	225
Two-family riparian lot			
sewered	26,000/135	115	225
non-sewered	40,000/180	150	225

<i>Table 3: Structure Setbacks*</i>		
	<i>Cottonwood Lake and Unnamed Basin (17-25P)</i>	<i>Des Moines River and Perkins Creek</i>
From top of bluff	30 feet	30 ft.
Non-sewered	75 feet	100 ft.
On-site sewage treatment system setback from the ordinary high water mark	50 feet	75 ft.
Sewered	50 feet	50 ft.
NOTES TO TABLE: * Exceptions to structure setbacks standards. Where structures exist on the adjoining lots on both sides of a proposed building site, the structure setbacks may be altered without a variance to conform to the adjoining setbacks, provided the proposed building site is not located in shore or bluff impact zone.		

(4) Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the non-significant conflict activities include swimming, sunbathing or picnicking. The covenants must limit the total number of watercraft allowed to be continuously moored, docked or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topography and vegetation alterations. They must also require all parking areas, storage buildings and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.226 PLACEMENT AND HEIGHT OF STRUCTURES.

(A) *Placement of structures on lots.* When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level; provided, the proposed building site is not located in a shore impact zone or in a bluff impact zone.

(B) *Structure and on-site sewage system setbacks from ordinary high water level.*

(1) On-site sewage system setbacks are identified in Table 3 above in § 152.225.

(2) One water-oriented accessory structure designed in accordance with the design criteria for structures provisions of this subchapter and shall be set back a minimum distance of ten feet from the ordinary high water level.

(C) *Additional structure setbacks.* The following additional structure setbacks apply, regardless of the classification of the waterbody.

(1) *Bluff impact zones.* Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

(2) *Uses without water-oriented needs.* Uses without water-oriented needs must be located on lots or parcels without public waters frontage or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions. (Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.227 DESIGN CRITERIA FOR STRUCTURES.

See Table 4 for additional setback and size requirements.

(A) *High water elevations.* Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:

(1) For Cottonwood Lake (17-22) and unnamed basin (17-25P), by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the ordinary high water level, whichever is higher;

(2) For the Des Moines River and Perkins Creek, by placing the lowest floor at least three feet above the flood of record, if data are available. If data are not available, by placing the lowest floor at least three above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with parts 6120.2500 to 6120.6200 governing the management of floodplain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities.

<i>Table 4: Setbacks and Size Requirements Regardless of the Classification of the Waterbody</i>	
Additional structure setbacks	
Right-of-way line of federal, state or county highway	50 ft.
Right-of-way line of town road, public street or roads not classified	30 ft.
Top of bluff	30 ft.
Unplatted cemetery	50 ft.
Landings - maximum area	32 sq. ft.

<i>Table 4: Setbacks and Size Requirements Regardless of the Classification of the Waterbody</i>	
Maximum building height (except churches and non-residential agricultural structures)	25 ft.
Maximum impervious surface to area ratio	25%
Minimum agricultural use (crop and pasture) from the ordinary high water mark	50 ft.
Side yard setback	20 ft.
Stairways and lifts - maximum width	4 ft.
Water accessory structures [limit 1]	
Maximum area	250 sq. ft.
Maximum height	10 ft.
Setback from ordinary high water mark	10 ft.

(3) Each lot may have one water-oriented accessory structure not meeting the normal structure setback provided for in this subchapter if the water-oriented accessory structure complies with the following provisions.

(a) The structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight feet above grade at any point.

(b) The setback of the structure or facility from the ordinary high water level must be at least ten feet.

(c) The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions.

(d) The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area.

(e) The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities.

(f) As an alternative for general development waterbodies, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet; provided, the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline.

(g) Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this division (A)(3), if the structure is constructed of flood-resistant materials

to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

(B) *Stairways, lifts and landings.* Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements.

(1) Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties and planned unit developments.

(2) Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public open-space recreational properties and planned unit development.

(3) Canopies or roofs are not allowed on stairways, lifts or landings.

(4) Stairways, lifts and landings may be either constructed above ground on posts or pilings, or placed into the ground; provided, they are designed and built in a manner that ensures control of soil erosion.

(5) Stairways, lifts and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical.

(6) Facilities such as ramps, lifts or mobility paths for physically disabled persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of divisions (B)(1) through (B)(5) above.

(C) *Significant historic sites.* No structures may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.

(D) *Steep slopes.* The Zoning Administrator must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

(E) *Height of structures.* All structures in residential districts, except churches and non-residential agricultural structures, must not exceed 25 feet in height.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.228 SHORELAND ALTERATIONS.

Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping and protect fish and wildlife habitat.

(A) *Vegetation alterations.*

(1) Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by this subchapter are exempt from the vegetation alteration standards that follow.

(2) Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in § 152.231(C), is allowed subject to the following standards.

(a) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if erosion control and sedimentation plan is developed and approved by the Soil and Water Conservation District in which the property is located.

(b) In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities; provided that:

1. The screening of structures, vehicles or other facilities as viewed from the water, assuming summer, leaf-on conditions, is substantially reduced;
2. Along rivers, existing shading of water surfaces is preserved; and
3. The above provisions are not applicable to the removal of trees, limbs or branches that are dead, diseased or pose safety hazards.

(B) *Shoreland alterations.* Vegetative alterations and excavations or grading and filling necessary for the construction of structures and sewage treatment systems under validly issued permits for these facilities are exempt from the vegetative alteration standards in this section and separate permit requirements for grading and filling. However, the grading and filling conditions must be met for the issuance of permits for structures and sewage treatment systems.

(1) The removal of natural vegetation shall be restricted to prevent erosion into public waters, to consume nutrients in the soil and to preserve shoreland aesthetics.

(2) Clear-cutting is prohibited, except as necessary for placing public roads, utilities, structures and parking areas.

(3) Natural vegetation shall be restored insofar as feasible after any construction project.

(4) Selective cutting of trees and underbrush is allowed as long as sufficient cover is left to make cars and structures inconspicuous when viewed from the water.

(C) *Grading and filling.* Grading, filling and excavations necessary for the construction of structures, sewage treatment systems and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this subchapter must be incorporated into the issuance of permits for construction of structures, sewage treatment systems and driveways.

(D) *Public roads, parking areas.* Public roads and parking areas are regulated by this subchapter.

(E) *Permit required.* Notwithstanding division (A) above, a grading and filling permit will be required for:

(1) The movement of more than ten cubic yards of material on steep slopes within shore or bluff impact zones; and

(2) The movement of more than 50 cubic yards of material outside of steep slopes and shore or bluff impact zones.

(F) *Considerations, conditions.* The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:

(1) Grading or filling in any type 2, 3, 4, 6, 7 or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland:

(a) Sediment and pollutant trapping and retention;

(b) Storage of surface runoff to prevent or reduce flood damage;

(c) Fish and wildlife habitat;

(d) Recreational use;

(e) Shoreline or bank stabilization; and

(f) Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others. This evaluation must also include a determination of

whether the wetland alteration being proposed requires permits, reviews or approvals by other local, state or federal agencies such as a watershed district, the State Department of Natural Resources or the United States Army Corps of Engineers. The applicant will be so advised.

(2) Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;

(3) Mulches or similar materials must be used, where necessary, for temporary bare soil coverage and a permanent vegetation cover must be established as soon as possible;

(4) Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;

(5) Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service;

(6) Fill or excavated material must not be placed in a manner that creates an unstable slope;

(7) Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30% or greater;

(8) Fill or excavated material must not be placed in bluff impact zones;

(9) Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner under M.S. § 103G.245, as amended from time to time;

(10) Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and

(11) Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the ordinary high water mark, and the height of the riprap above the ordinary high water mark does not exceed three feet.

(G) *Connections to public waters.*

(1) Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons and harbors, must be controlled by local shoreland controls.

(2) Permission for excavations may be given only after the Commissioner has approved the proposed connection to public waters.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.229 PLACEMENT AND DESIGN OF ROADS, DRIVEWAYS AND PARKING AREAS.

(A) Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

(B) Roads, driveways and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.

(C) Public and private watercraft access ramps, approach roads and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions stated herein are met. For private facilities, the grading and filling provisions of this subchapter must be met.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.230 STORM WATER MANAGEMENT.

The following general and specific standards shall apply.

(A) When possible, existing natural drainageways, wetlands and vegetated soil surfaces must be used to convey, store, filter and retain storm water runoff before discharge to public waters.

(B) Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.

(C) When development density, topographic features and soil and vegetation conditions are not sufficient to adequately handle storm water runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways and ponds may be used. Preference must be given to designs using surface drainage, vegetation and infiltration rather than buried pipes and human-made materials and facilities.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.231 SPECIAL PROVISIONS FOR COMMERCIAL, INDUSTRIAL, PUBLIC/SEMI-PUBLIC AND EXTRACTIVE USES.

(A) *Commercial, industrial, public/semi-public use standards.*

(1) Surface water-oriented commercial uses and industrial, public or semi-public uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters.

(2) These uses with water-oriented needs must meet the following standards.

(a) In addition to meeting impervious coverage limits, setbacks and other zoning standards of this subchapter, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures.

(b) Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need.

(c) Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards.

1. No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the County Sheriff.

2. Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as produce brands and prices, must not be located higher than ten feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters.

3. Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

(B) *Location.* Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

(C) *Extraction use standards.*

(1) *Site development and restoration plan.* An extraction use site development and restoration plan must be developed, approved and followed over the course of operation of the site. The site must address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated

vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion and must clearly explain how the site will be rehabilitated after extractive activities end.

(2) *Setbacks for processing machinery.* Processing machinery must be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs. (Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.232 CONDITIONAL USES.

(A) Conditional uses allowed within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established community-wide.

(B) The following additional evaluation criteria and conditions apply within shoreland areas.

(1) *Evaluation criteria.* A thorough evaluation of the waterbody and the topographic, vegetation and soils conditions on the site must be made to ensure:

(a) The prevention of soil erosion or other possible pollution of public waters, both during and after construction;

(b) The visibility of structures and other facilities as viewed from public waters is limited;

(c) The site is adequate for water supply and on-site sewage treatment; and

(d) The types, uses and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate the watercraft.

(2) *Conditions attached to conditional use permits.* The Planning and Zoning Commission, upon consideration of the criteria listed above and the purposes of this subchapter, shall attach the conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this subchapter. The conditions may include, but are not limited to, the following:

(a) Increased setbacks from the ordinary high water level;

(b) Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and

(c) Special provisions for the location, design and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.233 WATER SUPPLY AND SEWAGE TREATMENT.*(A) Water supply.*

(1) Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the State Department of Health and the State Pollution Control Agency.

(2) Private wells must be located, constructed, maintained and sealed in accordance with or in a more thorough manner than the Water Well Construction Code of the State Department of Health.

(B) Sewage treatment. Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows.

(1) Publicly owned sewer systems must be used where available.

(2) All private sewage treatment systems must meet or exceed the State Pollution Control Agency's standards for individual sewage treatment systems contained in the document titled, "Individual Sewage Treatment Systems Standards, Ch. 7080", a copy of which is adopted by reference and declared to be a part of this subchapter.

(3) On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in Table 3 of this subchapter.

(4) All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in division (B)(5) below. If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on-site field investigations.

(5) Evaluation criteria:

(a) Depth to the highest known or calculated ground water table or bedrock;

(b) Soil conditions, properties and permeability;

(c) Slope; and

(d) The existence of lowlands, local surface depressions and rock outcrops.

(C) Non-conforming treatment systems. Non-conforming sewage treatment systems shall be regulated and upgraded in accordance with the provisions of this subchapter.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.234 NON-CONFORMITIES.

All legally established non-conformities as of the effective date of this subchapter may continue, but they will be managed according to applicable state statutes and other regulations of the city for the subjects of alterations and additions, repair after damage, discontinuance of use and intensification of use; except that, the following standards will also apply.

(A) *Construction on non-conforming lots of record.*

(1) Lots of record in the office of the County Recorder on the effective date of local shoreland controls that do not meet the residential lot size requirements of this subchapter may be allowed as building sites without variances from lot size requirements; provided, the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this subchapter are met.

(2) A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the Board of Adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.

(3) If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the residential lot size requirements of this subchapter, the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the residential lot size requirements of this subchapter as much as possible.

(B) *Additions/expansions to non-conforming structures.*

(1) All additions or expansions to the outside dimensions of an existing non-conforming structure must meet the setback, height and other requirements of this subchapter. Any deviation from these requirements must be authorized by a variance pursuant to this subchapter.

(2) Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met.

(a) The structure existed on the date the structure setbacks were established.

(b) A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure.

(c) The deck encroachment toward the ordinary high water level does not exceed 15% of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive.

(d) The deck is constructed primarily of wood, and is not roofed or screened.

(C) *Non-conforming sewage treatment systems.*

(1) A sewage treatment system not meeting the requirements of this subchapter must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered non-conforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.

(2) The Council has notified the DNR Commissioner of its work plan to identify non-conforming sewage treatment systems. The city will require upgrading or replacement of any non-conforming system identified by this program within a reasonable period of time which will not exceed two years. Sewage systems installed according to all applicable local shoreland management standards adopted under M.S. § 103F.201, as amended from time to time, in effect at the time of installation may be considered as conforming unless they are determined to be failing; except that, systems using cesspools, leaching pits, seepage pits or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the State Pollution Control Agency's Ch. 7080 for design of on-site sewage treatment systems, shall be considered non-conforming.

(3) The city shall develop and implement the work plan to identify and upgrade sewage treatment systems that are inconsistent with the sewage treatment system design criteria identified in this subchapter, exclusive of the appropriate setback from the ordinary high water level in §§ 152.226 and 152.227.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.235 SUBDIVISION, PLATTING PROVISIONS.

(A) *Land suitability.* Each lot created through subdivision, including planned unit developments authorized under this subchapter, must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the city shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety or welfare of future residents of the proposed subdivision or of the city.

(B) *Consistency with other controls.* Subdivisions must conform to all official controls of the city. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with the provisions of this subchapter can be provided for every lot.

Each lot shall meet the minimum lot size and dimensional requirements of this subchapter, including at least a minimum contiguous lawn area, that is free of limiting factors sufficient for the construction of two standard soil treatment systems. Lots that would require use of holding tanks must not be approved.

(C) *Information requirements.* Sufficient information must be submitted by the applicant for the city to make a determination of land suitability. The information shall include at least the following:

(1) Topographic contours at ten-foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics;

(2) The surface water features required in M.S. § 505.021, Subd. 8, as amended from time to time, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;

(3) Adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests or other methods;

(4) Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments and aquatic vegetation; and proposed methods for controlling storm water runoff and erosion, both during and after construction activities;

(5) Location of 100-year floodplain areas and floodway districts from existing adopted maps or data; and

(6) A line or contour representing the ordinary high water level, the “toe” and the “top” of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

(D) *Dedications.* When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of storm water and significant wetlands.

(E) *Platting.* All subdivisions that create five or more lots or parcels that are two and one-half acres or less in size shall be processed as a plat in accordance with M.S. Ch. 505, as amended from time to time. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after these official controls were enacted unless the lot was approved as part of a formal subdivision.

(F) *Controlled access or recreational lots.* Lots intended as controlled accesses to public waters or for recreational use areas for use by non-riparian lots within a subdivision must meet or exceed the sizing criteria requirements of this subchapter.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.236 PUDS IN THE DISTRICT.

(A) *Types of PUDs permissible.* Planned unit developments (PUDs) are allowed for new projects on undeveloped land, redevelopment of previously built sites or conversions of existing buildings and land in the High Density Residential Land Use District as identified in this subchapter and the shoreland map.

(B) *Processing of PUDs.*

(1) Planned unit developments must be processed as a conditional use, except that an expansion to an existing commercial PUD involving six or less new dwelling units or sites since the effective date of this subchapter is permissible as a permitted use; provided, the total project density does not exceed the allowable densities calculated in the project density evaluation procedure requirements of this section.

(2) Approval cannot occur until the environmental review process (EAS/EIS) is complete.

(C) *Application for a PUD.* The applicant for a PUD must submit the following documents prior to final action being taken on the application request:

(1) A site plan and/or plat for the project showing locations or property boundaries, surface water features, existing and proposed structures and other facilities, land alterations, sewage treatment and water supply systems (where public systems will not be provided), and topographic contours at ten-foot intervals or less. When a PUD is a combined commercial and residential development, the site plan and/or plat must indicate and distinguish which buildings and portions of the project are residential, commercial or a combination of the two.

(2) A property owner's association agreement (for residential PUDs) with mandatory membership, and all in accordance with the maintenance and design criteria requirements of this section.

(3) Deed restrictions, covenants, permanent easements or other instruments that:

(a) Properly address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft and construction of commercial buildings in residential PUDs; and

(b) Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in the maintenance and design criteria requirements of this section.

(4) When necessary, a master plan/drawing describing the project and the floor plan for all commercial structures to be occupied.

(5) Those additional documents as requested by the Zoning Administrator that are necessary to explain how the PUD will be designed and will function.

(D) *Site “suitable area” evaluation.* Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation in division (E) below.

(1) The project parcel must be divided into tiers by locating one or more lines approximately parallel to a line that identifies the ordinary high water level at the following intervals, proceeding landward:

<i>Shoreland Tier Dimensions</i>		
	<i>Unsewered (ft.)</i>	<i>Sewered (ft.)</i>
General development lakes - first tier	200	200
General development lakes - second and additional tiers	267	200
All river classes	300	300

(2) The suitable area within each tier is next calculated by excluding from the tier area all wetlands, bluffs or land below the ordinary high water level of public waters. This suitable area and the proposed project are then subjected to either the residential or commercial planned unit development density evaluation steps to arrive at an allowable number of dwelling units or sites.

(E) *Residential PUD “base” density evaluation.* The procedures for determining the “base” density of a PUD and density increase multipliers are as follows. Allowable densities may be transferred from any tier to any other tier further from the waterbody, but must not be transferred to any other tier closer.

(1) *Residential PUD “base” density evaluation.* the suitable area within each tier is divided by the single residential lot size standard for lakes or for rivers, the single residential lot width standard times the tier depth, unless the city has specified an alternative minimum lot size for rivers which shall then be used for each tier. Proposed locations and numbers of dwelling units or sites for the residential planned unit developments are then compared with the tier, density and suitability analyses herein and the design criteria in division (F) below.

(2) *Commercial PUD “base” density evaluation.*

(a) Determine the average inside living area size of dwelling units or sites within each tier, including both existing and proposed units and sites. Computation of inside living area sizes need not include decks, patios, stoops, steps, garages or porches and basements, unless they are habitable space.

(b) Select the appropriate floor area from the following table:

<i>Commercial Planned Unit Development Floor Area Ratios* Public Waters Classes</i>			
<i>*Average Unit Floor Area (sq. ft.)</i>	<i>Sewered General Development Lakes; First Tier on Unsewered General Development Lakes; Urban, Agricultural, Tributary River Segments</i>	<i>Second and Additional Tiers on Unsewered General Development Lakes; Recreational Development Lakes, Transition and Forested River Segments</i>	<i>Natural Environment Lakes and Remote River Segments</i>
200	.040	.020	.010
300	.048	.024	.012
400	.056	.028	.014
500	.065	.032	.016
600	.072	.038	.019
700	.082	.042	.021
800	.091	.046	.023
900	.099	.050	.025
1,000	.108	.054	.027
1,100	.116	.058	.029
1,200	.125	.064	.032
1,300	.133	.068	.034
1,400	.142	.072	.036
1,500	.150	.075	.038
NOTES TO TABLE:			
* For average unit floor areas less than shown, use the floor area ratios listed for 200 square feet. For areas greater than shown, use the ratios listed for 1,500 square feet. For recreational camping areas, use the ratios listed at 400 square feet. Manufactured home sites in recreational camping areas shall use a ratio equal to the size of the manufactured home, or if unknown, the ratio listed for 1,000 square feet.			

(c) Multiply the suitable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.

(d) Divide the total floor area by tier computed in division (E)(2)(b), above, by the average inside living area size determined in division (E)(2)(a) above. This yields a base number of dwelling units and sites for each tier.

(e) Proposed locations and numbers of dwelling units or sites for the commercial planned unit development are then compared with the tier, density and suitability analyses herein and the design criteria in division (F) below.

(3) *Density increase multipliers.*

(a) Increases to the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standards in this subchapter are met or exceeded and the design criteria in division (F) below are satisfied. The allowable density increases in division (E)(3)(b) below will only be allowed if structure setbacks from the ordinary high water level are increased to at least 50% greater than the minimum setback, or the impact on the waterbody is reduced an equivalent amount through vegetative management, topography or additional means acceptable to the city and the setback is at least 25% greater than the minimum setback.

(b) Allowable dwelling unit or dwelling site density increases for residential or commercial planned unit developments:

<i>Density Evaluations Tiers</i>	<i>Maximum Density Increase Within Each Tier (percent)</i>
First	50
Second	100
Third	200
Fourth	200
Fifth	200

(F) *Maintenance and design criteria.*(1) *Maintenance and administration requirements.*

(a) *General.* Before final approval of a planned unit development, adequate provisions must be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.

(b) *Open space preservation.* Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means must be provided to ensure long-term preservation and maintenance of open space. The instruments must include all of the following protections:

1. Commercial uses prohibited (for residential PUDs);
2. Vegetation and topographic alterations other than routine maintenance prohibited;
3. Construction of additional buildings or storage of vehicles and other materials prohibited; and

4. Uncontrolled beaching of watercraft prohibited.

(c) *Development organization and functioning.* Unless an equally effective alternative community framework is established, when applicable, all residential planned unit developments must use an owner's association with the following features:

1. Membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers;
2. Each member must pay a prorated share of the association's expenses, and unpaid assessments can become liens on units or sites;
3. Assessments must be adjustable to accommodate changing conditions; and
4. The association must be responsible for insurance, taxes and maintenance of all commonly owned property and facilities.

(2) *Open space requirements.* Planned unit developments must contain open space meeting all of the following criteria:

- (a) At least 50% of the total project area must be preserved as open space;
- (b) Dwelling units or sites, road rights-of-way or land covered by road surfaces, parking areas or structures, except water-oriented accessory structures or facilities, are developed areas and shall not be included in the computation of minimum open space;
- (c) Open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries;
- (d) Open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public;
- (e) Open space may include subsurface sewage treatment systems if the use of the open space is restricted to avoid adverse impacts on the systems;
- (f) Open space must not include commercial facilities or uses, but may contain water-oriented accessory structures or facilities;
- (g) The appearance of open space areas, including topography, vegetation and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means; and
- (h) The shore impact zone, based on normal structure setbacks, must be included as open space. For residential PUDs, at least 50% of the shore impact zone area of existing developments or at

least 70% of the shore impact zone area of new developments must be preserved in its natural or existing state. For commercial PUDs, at least 50% of the shore impact zone must be preserved in its natural state.

(3) *Erosion control and storm water management.* Erosion control and storm water management plans must be developed and the PUD must:

(a) Be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant; and

(b) Be designed and constructed to effectively manage reasonably expected quantities and qualities of storm water runoff. Impervious surface coverage within any tier must not exceed 25% of the tier area; except that, for commercial PUDs, 35% impervious surface coverage may be allowed in the first tier of general development lakes with an approved storm water management plan and consistent with the shoreland alterations provisions of this subchapter.

(4) *Centralization and design of facilities.* Centralization and design of facilities and structures must be done according to the following standards.

(a) Planned unit developments must be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the State Department of Health and the placement, height and design criteria for structures, and the water supply and sewage treatment requirements of this subchapter. On-site sewage treatment systems must be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors must be provided for a replacement soil treatment system for each sewage system.

(b) Dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high water level, elevation above the surface water features and maximum height. Setbacks from the ordinary high water level must be increased in accordance with the residential and commercial PUD density evaluation requirements of this subchapter for developments with density increases.

(c) Shore recreation facilities, including, but not limited to, swimming areas, docks and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to ground water and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring or docking of watercraft must not exceed one for each allowable dwelling

unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor). Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.

(d) Structures, parking areas and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color or other means acceptable to the city, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.

(e) Accessory structures and facilities, except water-oriented accessory structures, must meet the required principal structure setback and must be centralized.

(f) Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in §§ 152.226 and 152.227 and are centralized.

(5) *Conversions.* The city may allow existing resorts or other land uses and facilities to be converted to residential planned unit developments if all of the following standards are met.

(a) Proposed conversions must be initially evaluated using the same procedures for residential planned unit developments involving all new construction. Inconsistencies between existing features of the development and these standards must be identified.

(b) Deficiencies involving water supply and sewage treatment, structures, color, impervious coverage, open space and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit.

(c) Shore and bluff impact zone deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:

1. Removal of extraneous buildings, docks or other facilities that no longer need to be located in shore or bluff impact zones;

2. Remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water; and

3. If existing dwelling units are located in shore or bluff impact zones, conditions are attached to approvals of conversions that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.

(d) Existing dwelling unit or dwelling site densities that exceed standards required by this division (F)(5)(d) may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high

densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems or other means.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.237 VARIANCES.

(A) Variances may be granted by the Council upon application as required by this chapter in extraordinary cases, but only when the proposed use is determined to be in the public interest. When considering variance requests, the Council must consider whether property owners have reasonable use of the lands without the variances, whether existing sewage treatment systems on the properties need upgrading before additional development is approved. Whether properties are used seasonally or year-round, whether variances are being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.

(B) No variance shall be granted which the Council determines will or has a tendency to:

(1) Result in the placement of an artificial obstruction which will restrict the passage of storm and flood water in a manner as to increase the height of flooding, except obstructions approved by the Watershed Districts in conjunction with sound floodplain management;

(2) Result in incompatible land uses or which would be detrimental to the protection of surface and ground water supplies;

(3) Be not in keeping with land use plans and planning objectives for the city or which will increase or cause danger to life or property;

(4) Be inconsistent with the objectives of encouraging land uses compatible with the preservation of the natural land forms, vegetation and the marshes and wetlands within the city;

(5) No variance shall be granted that would allow any use that is prohibited in the zoning district in which the subject property is located; and

(6) No permit or variance shall be issued unless the applicant has submitted a shoreland impact plan as required and set forth in this subchapter. In granting any variance, the Council may attach conditions as it deems necessary to ensure compliance with the purpose and intent of this subchapter. (Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.238 ADMINISTRATION.

(A) *Enforcement.* The Zoning Administrator is responsible for the administration and enforcement of this subchapter. It is unlawful to violate the provisions of this subchapter or fail to comply with any

of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses). Violations of this subchapter can occur regardless of whether or not a permit is required for a regulated activity pursuant to this section.

(B) *Permits required.*

(1) A permit is required for the construction of buildings or building additions (and including such related activities as construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by the shoreland alterations provisions of this subchapter. Application for a permit shall be made to the Zoning Administrator on the forms provided. The application shall include the necessary information so that the Zoning Administrator can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.

(2) A permit authorizing an addition to an existing structure shall stipulate that an identified non-conforming sewage treatment system, as defined herein, shall be reconstructed or replaced in accordance with the provisions of this subchapter.

(3) The Zoning Administrator shall issue a certificate of zoning compliance for each activity requiring a permit as specified herein. This certificate will specify that the use of land conforms to the requirements of this subchapter. Any use, arrangement or construction at variance with that authorized by permit shall be deemed unlawful and punishable as provided in division (A) above.

(4) The Board of Adjustment shall hear and decide requests for variances in accordance with the rules that it has adopted for the conduct of business. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required herein shall also include the Board of Adjustment's summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

(C) *Notification to the Department of Natural Resources.*

(1) Copies of all notices of any public hearings to consider variances, amendments or conditional uses under the city's shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked at least ten days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.

(2) A copy of approved amendments and subdivision/plats, and final decisions granting variances or conditional uses under the city's shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked within ten days of final action.

(Ord. 125, 2nd Series, passed 12-15-2003) Penalty, see § 152.999

AIRPORT ZONING**§ 152.250 DEVELOPMENT AND LAND USE.**

Development and land use within and around the Windom Municipal Airport shall be regulated by the City of Windom-County of Cottonwood Joint Airport Zoning Board and the Windom Municipal Airport Zoning Ordinance.

(Ord. 125, 2nd Series, passed 12-15-2003)

SPECIFIC REGULATIONS**§ 152.265 COMPLIANCE.**

Except as hereinafter provided, no building, structure or land shall be used or occupied, and no building or structure or part thereof shall be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.

(Ord. 125, 2nd Series, passed 12-15-2003) Penalty, see § 152.999

§ 152.266 BUILDING REGULATIONS.

No building or other structure shall hereafter be erected or altered to exceed the height; to accommodate or house a greater number of families; to occupy a greater percentage of lot area; or, to have narrower or smaller rear yards, front yards, side yards or other open spaces than therein required; or in any other manner contrary to the provisions of this chapter.

(Ord. 125, 2nd Series, passed 12-15-2003) Penalty, see § 152.999

§ 152.267 AREA REQUIREMENTS.

(A) No part of a yard, or other open space, or off-street parking or loading space required for or in connection with any building for the purpose of complying with this chapter shall be included as a part of a yard, open space or off-street parking or loading space similarly required for any other building, except as modified hereinafter.

(B) No yard or lot existing before the enactment of this chapter shall be reduced in size or area below the minimum requirements set forth herein. Yards or lots created after the enactment of this chapter shall meet at least the minimum requirements established by this chapter.

(Ord. 125, 2nd Series, passed 12-15-2003) Penalty, see § 152.999

§ 152.268 MINIMUM REQUIREMENTS.

(A) In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of public health, safety, convenience, comfort, prosperity or general welfare.

(B) Whenever the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive or that imposing the higher standards shall govern.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.269 PLATTED AND UNPLATTED PROPERTY.

(A) Any person desiring to improve property shall submit to the Building Official a plot plan of the premises and information on the location and dimensions of existing and proposed buildings, location of easements crossing the property, encroachments and any other information which may be necessary to ensure conformance to city code provisions.

(B) All buildings shall be so placed so that they will not obstruct future streets which may be constructed by the city in conformity with existing streets and according to the system and standards employed by the city.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.270 DWELLING ON ANY LOT OF RECORD.

A lot of record existing upon the effective date of this chapter in a residential district, which does not meet the requirements of this chapter as to area or width may be utilized for single-family detached dwelling purposes; provided, the measurements of the area or width are within 70% of the requirements of this chapter, yard and other open space requirements shall be in conformance with this chapter; except that, side yard setback requirements are permitted to have a width of not less than five feet.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.271 HEIGHT LIMITATIONS NOT APPLICABLE.

The height limitations stipulated in this chapter shall not apply to the following:

(A) Essential service structures, architectural features and the like;

(B) Church spires, belfries, cupolas and domes, monuments, water towers, fire and hose towers, observation towers, transmission towers, chimneys, smoke stacks, flag poles, radio and television

towers, mast and aerials; also parapet walls extending not more than three feet above the limiting height of the building;

(C) Elevator penthouses (elevator machinery loft), monitors and scenery lofts, provided no linear dimension of any such structure exceeds 50% of the corresponding street lot line frontage. Fire hose or cooling towers, elevators, gas holders or other structures incorporated into a principal structure where a manufacturing process requires a greater height shall be excepted; and

(D) No excluded roof equipment or structural element extending beyond the limited height of a building may occupy more than 25% of the area of the roof, nor exceed ten feet unless otherwise noted. (Ord. 125, 2nd Series, passed 12-15-2003) Penalty, see § 152.999

§ 152.272 YARD AND FRONTAGE LIMITATIONS NOT APPLICABLE.

(A) The yard and frontage limitations stipulated elsewhere in this chapter shall not apply to the following: in any district where front yards are required and where 40% or more of the frontage on one side of a street between two intersecting streets is developed with buildings that have front yards that are greater or less than the required front yard in the district, no building shall project beyond the average front yard so established.

(B) Where the varying average front yard setback has been so established, no variance action shall be required for structure placement. (Ord. 125, 2nd Series, passed 12-15-2003) Penalty, see § 152.999

§ 152.273 YARD SPACE, GENERAL.

(A) Any building, structure or use hereafter erected, altered or established shall comply with the yard space requirements of the district in which it is located except as specified in this section.

(B) The required yard space for any building, structure or use shall be contained on the same lot as the building, structure or use and the required yard space shall fall entirely in a district or districts in which the principal use is permitted.

(C) Any required yard space shall be open from 30 inches above the ground to the sky, except as specified elsewhere in this chapter. (Ord. 125, 2nd Series, passed 12-15-2003) Penalty, see § 152.999

§ 152.274 PLACEMENT OF SINGLE- AND TWO-FAMILY RESIDENTIAL STRUCTURES ON LARGE LOTS.

In any residential district where a single- or two-family structure is to be developed on large lots which could later be re-subdivided and still meet the dimensional and area requirements for another lot

for the district in which it is situated, it is desirable, but not mandatory, for the structure to be placed in a manner which would permit the later re-subdivision.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.275 YARD SPACE ENCROACHMENTS; PROJECTIONS INTO YARDS.

(A) *General.* The following projections may be permitted into any front, rear or exterior side yard adjoining a street lot line:

(1) Cornices, sills, belt courses, eaves and other ornamental features to a distance of not more than two feet, six inches;

(2) Fire escapes to a distance of not more than four feet, six inches;

(3) Landings, patios, porches and other similar structures, no more than 20% of the setback; provided, the structure has its floor no higher than the entrance floor of the building;

(4) Bay windows and chimneys to a distance of not more than three feet; provided that, the features do not occupy, in the aggregate, more than one-third the length of the building wall on which they are located;

(5) Canopies to a distance of not more than four feet, six inches; and

(6) Balconies, in residential districts, to a distance of not more than eight feet; provided that, the balconies do not occupy, in the aggregate, more than one-third the length of the building wall on which they are located.

(B) *Interior side yards.* Subject to the limitations for features projecting into front yards, the features may also project into required yards adjoining interior side lot lines; provided that, the distance shall not exceed one-fifth of the required least width of the side yard and not more than three feet in any case.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.276 YARD SPACE EXCEPTION, STEEP SLOPES.

In any residential district where natural grade of a lot within the required front yard has an average slope, normal to the front lot line at every point along the line, of a degree or percent of slope that it is not practicable to provide a driveway with a grade 12% or less to a private garage conforming to the requirements of this chapter, the garage may be located within the front yard, but not in any case closer than 12 feet to the street line.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.277 ERECTION OF MORE THAN ONE PRINCIPAL STRUCTURE ON A LOT.

In any district, more than one structure housing a permitted or permissible principal use may be erected on a single lot; provided that, yard and other requirements of this chapter shall be met for each structure as though it were on an individual lot.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.278 HOUSING PROJECTS UTILIZING THE “ZERO LOT LINE” CONCEPT.

Every development proposal in a R-2 or R-3 Residential District which is designed so as to place the principal structure abutting a side property line in order to have only one open side yard, must file with the Zoning Administrator a signed copy of the covenant assuring access through the adjacent yard for purposes of repairs and general maintenance. The covenant is mandatory and the issuance of any certificate of zoning compliance shall be contingent on the filing.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.279 ACCESSORY BUILDINGS.

In case an accessory building is attached to the principal building, it shall be made structurally a part of the principal building and shall comply in all respects with the requirements of this chapter applicable to the principal building. See § 152.325 et seq. for additional provisions regulating accessory structures.

(Ord. 125, 2nd Series, passed 12-15-2003; Ord. 165, 2nd Series, passed 8-1-2017)

§ 152.280 FENCES IN RESIDENTIAL DISTRICTS.

In any residential district, fences for decorative screening or confinement purposes may be constructed on any lot. All fences constructed shall follow the regulations of this chapter. See §§ 152.420 through 152.428 for specific requirements for fences and screening.

(Ord. 125, 2nd Series, passed 12-15-2003; Ord. 172, 2nd Series, passed 12-18-2018)

§ 152.281 DETERMINATION OF YARD REQUIREMENTS.

Before issuing any permit, a determination shall be made by the Zoning Administrator as to what constitutes the rear yard and the side yard. After the determination has been made, no future permits on

the premises shall be issued which are not in full compliance with the determination. As to premises on which there are existing structures, the determination shall also be made with reference to applications for permits.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.282 DWELLING UNIT RESTRICTION.

No cellar, basement, garage, tent or accessory building shall, at any time, be used as an independent residence or dwelling unit.

(Ord. 125, 2nd Series, passed 12-15-2003) Penalty, see § 152.999

§ 152.283 SOLAR ENERGY SYSTEMS.

Solar energy systems and solar and earth-sheltered structures shall be a permitted use in all districts; provided, the system is in compliance with minimum lot requirements, setbacks and the State Building Code. See §§ 152.390 through 152.396 for permitting and operation requirements and standards for solar systems.

(Ord. 125, 2nd Series, passed 12-15-2003; Ord. 172, 2nd Series, passed 12-18-2018)

§ 152.284 USES NOT PROVIDED FOR WITHIN ZONING DISTRICTS.

(A) Whenever in any zoning district a use is neither specifically permitted nor denied, the use shall be considered unlawful. In such case, the Council or the Planning Commission, on their own initiative or upon request, may conduct a study to determine if the use is acceptable based upon criteria outlined below and, if so, what zoning district would be most appropriate and the determination as to conditions and standards relating to development of the use. The Council, Planning Commission or property owner, upon receipt of the staff study, shall, if appropriate, initiate an amendment to this chapter to provide for the particular use under consideration or shall find the use is not compatible for development within the city.

(B) The Council or Planning Commission shall consider possible adverse effects to the proposed amendment or conditional use. Its judgment shall be based upon (but not limited to) the following factors:

- (1) The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official comprehensive land use plan;
- (2) The proposed site is or will be compatible with present and future land uses of the area;
- (3) The proposed use conforms with all performance standards contained herein;

(4) The proposed use will not tend to or actually depreciate the area which it is proposed; and

(5) The proposed use can be accommodated with existing public services and will not overburden the city's service capacity.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.285 ESSENTIAL SERVICES.

(A) (1) The purpose of this section is to provide for the installation of essential services such as telephone lines, pipelines, electric transmission lines and substations in a manner that the health, safety and welfare of the city will not be adversely affected.

(2) Essential services should also be installed in cognizance of existing and projected demands for the services.

(B) All underground telephone lines, pipelines for local distribution, underground electric transmission lines and overhead electric transmission lines and substations less than 33 KV, when installed in any public right-of-way in any zoning district, shall require a special permit approved by the Zoning Administrator.

(C) All underground telephone lines, pipelines for local distribution, underground electric transmission lines and overhead electric transmission lines less than 33 KV, which are intended to serve more than one parcel and are proposed to be installed at locations other than in public right-of-way, shall require a special permit issued by the city after approval by the Zoning Administrator. Approval by the Zoning Administrator shall be based upon the information furnished in the following procedural requirements.

(1) Prior to the installation of any of the previous essential services, the owner of the service shall file with the Zoning Administrator all maps and other pertinent information as deemed necessary for an engineering review of the proposed project.

(2) The Zoning Administrator shall transmit the map and accompanying information to a registered engineer for review and recommendations regarding the project's relationship to the comprehensive plan and/or city code provisions and parts thereof.

(3) The Engineer shall report in writing to the Zoning Administrator his or her findings as to the compliance of the proposed project with the comprehensive plan and city code provisions.

(4) In considering applications for the placement of essential services, as required in this section, the aforesaid city staff shall consider the effect of the proposed project upon the health, safety and general welfare of the city, as existing and as anticipated and the effect of the proposed project upon the comprehensive plan.

(5) Upon receiving the approval of an acceptable engineering review, the Zoning Administrator shall issue a special permit for the installation and operation of the applicant's essential services. If the Engineer's report recommends the denial of the permit causing the Zoning Administrator to deny its issuance, the applicant may appeal the decision to the Board of Appeals and Adjustments under the rules and procedures as set forth in §§ 152.565 through 152.568.

(D) All transmission pipelines (i.e., pipelines not required for local distributing network) and overhead transmission and substation lines in excess of 33 KV shall be a conditional use in all districts subject to the following procedural requirements.

(1) Prior to the installation of any of the previous essential services, the owner of the service shall file with the Zoning Administrator, all maps and other pertinent information as deemed necessary for the Planning Commission to review the proposed project.

(2) The Zoning Administrator shall transmit the map and accompanying information to the Planning Commission for its review and recommendations regarding the project's relationship to the comprehensive plan and parts thereof. As part of this review, there shall be a written report from the Engineer.

(3) The Planning Commission shall hold the necessary public hearings as prescribed by this chapter for conditional use.

(4) The Planning Commission shall report in writing to the Council its findings as to compliance of the proposed project with the comprehensive plan.

(5) In considering the applications for the placement of essential services, as required by this section, the Council shall consider the advice and recommendations of the Planning Commission and the effect of the proposed project upon the health, safety and general welfare of the city, existing and anticipated; and the effect of the proposed project upon the comprehensive plan.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.286 OPT-OUT OF M.S. § 462.3593.

Pursuant to authority granted by M.S. § 462.3593, Subd. 9, the city opts-out of the requirements of M.S. § 462.3593, which defines and regulates temporary family health care dwellings.
(Ord. 155, 2nd Series, passed 8-2-2016)

INDUSTRIAL PERFORMANCE STANDARDS

§ 152.300 GENERAL.

(A) All uses shall comply with the requirements of this subchapter.
2017 S-3

(B) In order to determine whether a proposed use will conform to the requirements of this chapter, the Council may also obtain the services of a qualified consultant or the Council may request the assistance of the responsible regulatory agency.

(C) Costs for services shall be borne by the applicant.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.301 FIRE PROTECTION.

Fire protection and fighting equipment acceptable to the Uniform Fire Code and the Board of Fire Underwriters shall be readily available when any activity involving the handling or storage of flammable or explosive materials is conducted.

(Ord. 125, 2nd Series, passed 12-15-2003) Penalty, see § 152.999

§ 152.302 ELECTRICAL DISTURBANCE.

No activity shall cause continuous or repetitive electrical disturbance adversely affecting the operation of other electrical equipment in the vicinity.

(Ord. 125, 2nd Series, passed 12-15-2003) Penalty, see § 152.999

§ 152.303 NOISE.

Noise which is determined to be objectionable because of volume, frequency or beat shall be muffled or otherwise controlled, except fire sirens and related apparatus used solely for public purposes shall be exempt from this requirement.

(Ord. 125, 2nd Series, passed 12-15-2003) Penalty, see § 152.999

§ 152.304 SMOKE.

The maximum amount of smoke emission permissible shall be determined by use of standard Ringlemann Chart issued by the U.S. Bureau of Mines. No smoke of a shade darker than No. 2 will be allowed.

(Ord. 125, 2nd Series, passed 12-15-2003) Penalty, see § 152.999

§ 152.305 VIBRATIONS.

Vibrations detectable without instruments on neighboring property in any district shall be prohibited.
(Ord. 125, 2nd Series, passed 12-15-2003) Penalty, see § 152.999

§ 152.306 ODORS.

In any district, no malodorous gas or matter shall be permitted which is so objectionable as to damage property interests on any neighboring lot.

(Ord. 125, 2nd Series, passed 12-15-2003) Penalty, see § 152.999

§ 152.307 AIR POLLUTION.

No pollution of air by flyash, dust, vapors or other substance shall be permitted which is harmful to health, animals, vegetation or other property.

(Ord. 125, 2nd Series, passed 12-15-2003) Penalty, see § 152.999

§ 152.308 GLARE.

Lighting devices which produce objectionable direct or reflected glare on adjoining properties or thoroughfares shall not be permitted.

(Ord. 125, 2nd Series, passed 12-15-2003) Penalty, see § 152.999

§ 152.309 EROSIONS.

No erosion by wind or water shall be permitted which will carry objectionable substances onto neighboring properties.

(Ord. 125, 2nd Series, passed 12-15-2003) Penalty, see § 152.999

§ 152.310 WATER POLLUTION.

Water pollution shall be subject to the standards established by the State Pollution Control Agency (MPCA).

(Ord. 125, 2nd Series, passed 12-15-2003)

ACCESSORY STRUCTURES IN RESIDENTIAL DISTRICTS**§ 152.325 GENERAL REQUIREMENTS.**

(A) Each residential lot on which a principal dwelling has been constructed shall be allowed an accessory building not exceeding 200 square feet in area without a building permit.

(B) All accessory buildings shall be constructed of new materials and shall comply with all the requirements of the following section. Prior to the construction or installation of an accessory building or any structure listed in division (C) below, the property owner shall contact Gopher State One Call to determine the location of underground utilities.

(C) Buildings such as gazebos, outdoor living rooms, pool enclosures and similar buildings are not included in the calculation of total accessory floor area, but are subject to the ground coverage and setback requirements in the following section.

(D) No more than two detached accessory buildings and one structure listed in division (C) above shall be constructed or installed on any lot without a variance.

(E) Accessory buildings shall not occupy over 30% of the area of the rear yard.

(F) All structures on a lot, including the dwelling, any accessory building(s), and any structure listed in division (C) above, shall not occupy over 35% of the total lot area in R-1 Districts and shall not occupy over 40% of the total lot area in R-2 and R-3 Districts.

(G) No accessory building or structure, other than a fence or temporary construction, may be constructed prior to the time of construction of the principal building or structure on the lot

(H) No commercial business shall be conducted in a garage or accessory building on a residential lot except as permitted under § 152.350 et seq.

(I) No accessory building, other than a new building, may be moved into the city without a prior inspection of the building by the Windom Building Official. No accessory building may be relocated from one lot to another lot in the city without a prior inspection of the building by the Windom Building Official.

(Ord. 165, 2nd Series, passed 8-1-2017)

§ 152.326 ACCESSORY BUILDING SETBACKS.

(A) No accessory use, garage, accessory building, gazebo, outdoor living room, pool enclosure, or any other structure shall be placed in the required front yard setback of a property. Neither any detached garage nor accessory building shall extend farther than the front of the dwelling on the property.

(B) The property owner(s) must have sufficient space on his/her/their own property to access any detached garage in the rear yard.

(C) Any detached garage or accessory building shall be placed at least five feet from side and rear property lines.

(D) Any detached garage or accessory building cannot be placed on a utility easement without a conditional use permit. If a conditional use permit to allow placement on a utility easement is granted, the building must be movable (on skids) and must not be placed on a concrete slab in the event that utility work is necessary.

(E) Any detached garage and/or accessory building, including those less than 200 square feet, shall be placed at least six feet from any attached garage, dwelling, and any other structure on the property. (Ord. 165, 2nd Series, passed 8-1-2017)

§ 152.327 ACCESSORY BUILDING STANDARDS.

(A) The construction of garages and accessory buildings in excess of 200 square feet shall include: The type of construction and building materials similar to the principal building on the lot. Approved building materials include new dimensional lumber or new material that has been approved by the city's Building Department. Metal buildings and pole buildings in excess of 200 square feet to be constructed in R-1, R-2 or R-3 Districts will require a variance.

(B) Truck and/or van boxes are not approved accessory buildings and will not be allowed for use as accessory buildings. No temporary storage container may be placed on any lot without prior approval of the Building Department and then only for a period of not more than 60 days.

(C) The total square footage of any one detached garage or accessory building on any lot shall not exceed 1,152 square feet (36 feet by 32 feet) without a variance.

(D) The height of any detached garage or accessory building shall not exceed 15 feet, except that the height of any detached garage or accessory building on lots exceeding 15,000 square feet shall not exceed 20 feet without a variance. Height shall be measured from grade to the uppermost peak of the building or structure.

(Ord. 165, 2nd Series, passed 8-1-2017)

§ 152.328 ACCESSORY SPACE FOR TWO-FAMILY DWELLINGS.

The total area of garages and accessory buildings for a two-family dwelling shall be limited to 776 square feet per unit without a variance.

(Ord. 165, 2nd Series, passed 8-1-2017)

§ 152.329 ACCESSORY BUILDINGS ON UNDEVELOPED LOTS.

If a property owner(s) own(s) an undeveloped lot which adjoins the lot on which his/her/their personal residence is located ("principal lot") and would like to construct an additional garage or accessory building on the undeveloped lot, the undeveloped lot shall be combined with the principal lot

under one parcel number. The total square footage of the combined lots shall be used in calculating the total accessory space (detached garage and/or accessory buildings) allowable on the combined lots. Construction of the additional accessory building is subject to requirements of the City Code. (Ord. 165, 2nd Series, passed 8-1-2017)

§ 152.330 GROUND COVERAGE OF ACCESSORY SPACE.

For purposes of this subchapter, accessory ground coverage includes the total floor area of any detached garage and accessory building on the lot (or combined lots included under one parcel number). The maximum accessory ground coverage (total accessory floor area) for residential lots shall not exceed the following or 30% of the area of the rear yard, whichever is less, without a variance:

(A) Lots 8,000 square feet or less in area: Total accessory floor area shall not exceed 900 square feet without a variance.

(B) Lots over 8,000 square feet and not exceeding 10,000 square feet in area: Total accessory floor area shall not exceed 1,000 square feet without a variance.

(C) Lots over 10,000 square feet and not exceeding 12,000 square feet in area: Total accessory floor area shall not exceed 1,200 square feet without a variance.

(D) Lots over 12,000 square feet and not exceeding 15,000 square feet in area: Total accessory floor area shall not exceed 1,500 square feet without a variance.

(E) Lots over 15,000 square feet and not exceeding 17,000 square feet in area: Total accessory floor area shall not exceed 1,700 square feet without a variance.

(F) Lots over 17,000 square feet and not exceeding 20,000 square feet in area: Total accessory floor area shall not exceed 1,900 square feet without a variance.

(G) Lots over 20,000 square feet in area: Total accessory floor area shall not exceed 2,000 square feet without a variance.

(Ord. 165, 2nd Series, passed 8-1-2017)

HOME OCCUPATIONS**§ 152.350 GENERAL.**

The regulation of home occupations within residential structures is intended to ensure that the occupational use is clearly accessory or secondary to the principal dwelling use and that compatibility is maintained with surrounding residential uses.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.351 APPLICATION.

(A) For purposes of this section, home occupations, as defined in this chapter, shall be further defined to distinguish permitted home occupations from conditionally permitted home occupations.

(B) Accordingly, all home occupations which satisfy the permitted home occupation criteria shall be considered as accessory uses.

(C) Home occupations which fail to satisfy the permitted home occupation criteria in the R-1 Single-Family Residential District shall be prohibited.

(D) Home occupations which fail to satisfy the permitted home occupation criteria in other districts shall require a conditional use permit, as provided for in the conditional use provisions of this chapter and may be established upon conditions set forth in the approved permit.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.352 PERMITTED HOME OCCUPATIONS.

(A) Permitted home occupations in the R-1 Single-Family Residential District shall consist of:

(1) Businesses which require no special space within the principal building to be designed or arranged for the use, so that it would require any major internal or external alterations or involve construction or features not customary to dwellings (either by color, materials or construction, lighting, sound or noise, vibration or electrical interference and the like);

(2) Businesses that will not generate pedestrian or vehicular traffic beyond that which is reasonable or normal to the district in which located;

(3) Businesses that employ only residents of the premises;

(4) Businesses that use partly or exclusively, no more than 25% or 150 square feet of one floor, whichever is least, including accessory buildings;

Windom - Land Usage

(5) Businesses that require no signs other than personal or address signs; and

(6) Businesses that primarily render services off the premises, in contrast to those that require customers to come directly to the premises for the business service to be rendered.

(B) Permitted home occupations in other districts shall consist of:

(1) Businesses that require no unreasonable use of materials or mechanical equipment not recognized as being part of and compatible with normal household use;

(2) Businesses that will not generate pedestrian or vehicular traffic beyond that reasonable or normal to the district in which located;

(3) Businesses that will not involve the unreasonable or inappropriate use of commercial vehicles for delivery of occupational materials to or from the premises;

(4) Businesses where no accessory building or space outside of the principal building shall be exclusively used;

(5) Businesses that require no special space within the principal building to be designed or arranged for the use so that it would require any major internal or external alterations or involve construction features not customary to dwellings (either by color, materials, construction, lighting, sound or noise, vibration, electrical interference and the like);

(6) The home occupation shall be conducted by a member of the family residing in the dwelling unit with not more than one employee who is not a member of the family residing in the dwelling unit;

(7) Businesses that use partly or exclusively, no more than 25% or 300 square feet of one floor, whichever is least, including accessory buildings; and

(8) Business signs per § 152.444.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.353 CONDITIONALLY PERMITTED HOME OCCUPATIONS.

Conditionally permitted home occupations in districts other than the R-1 Single-Family Residential District shall consist of those home occupations which do not meet the requirements of § 152.352(B).
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.354 BED AND BREAKFAST FACILITIES.

(A) *District application.* Bed and breakfast facility are allowed within any residential district of the city subject to the approval of a conditional use permit.

(B) *Conditions of approval.* A bed and breakfast facility may be allowed; provided that:

- (1) A maximum of four bed and breakfast units may be established in a structure;
- (2) The facility shall have a state license (hotel and food) and comply with Building and Fire Codes as may be required or applicable;
- (3) The facility shall be owner- or manager-occupied;
- (4) The principal structure shall have a minimum size of 1,500 gross square feet and shall be located on a lot which meets the minimum lot size of the district in which it is located;
- (5) All bed and breakfast units shall be established within the principal structure;
- (6) Not more than the equivalent of one full-time person shall be employed by the bed and breakfast facility who is not a resident of the structure;
- (7) Dining and other facilities shall not be open to the public, but shall be used exclusively by registered guests and residents;
- (8) No liquor may be sold on the premises;
- (9) Two off-street parking spaces shall be provided for the home, plus one space for each bed and breakfast unit;
- (10) Not more than one identification sign not exceeding two square feet in area may be attached to each wall which faces a street. The sign shall be reflective of the architectural features of the structure and may not be internally illuminated or lighted between 10:00 p.m. and 6:00 a.m.; and
- (11) Adequate lighting shall be provided between the principal structure and the parking area for safety purposes. Any additional external lighting is prohibited.
(Ord. 125, 2nd Series, passed 12-15-2003)

MANUFACTURED HOUSING AND HOME PARKS

§ 152.365 MANUFACTURED HOMES GENERALLY.

(A) Manufactured homes, as defined in this chapter, are permitted uses in R-1 and R-2 Districts subject to the following of these guidelines.

(B) All manufactured homes shall be constructed after 6-15-1976 and bear the HUD certification seal.

(C) The minimum width of the structure at its narrowest point shall not be less than 22 feet.

(D) All dwellings shall be placed on a continuous permanent foundation in compliance with the state code as adopted by the city.

(E) Hitches and/or other visible transport equipment shall be removed.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.366 MANUFACTURED HOME PARKS GENERALLY.

Manufactured home parks, as defined by M.S. § 327.14, Subd. 3, as amended from time to time, are permitted by M.S. § 426.357, Subd. 1b, as amended from time to time, as a conditional use in all zoning districts that allow construction or placement of a building used or intended to be used by two or more families.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.367 MINIMUM REQUIREMENTS FOR MANUFACTURED HOME PARKS.

The following minimum requirements shall apply to all new manufactured home parks and expansions of existing parks.

(A) *General.*

(1) The minimum area for a new manufactured home park is five acres.

(2) The minimum number of spaces completed and ready for occupancy before the first occupancy is permitted in a new park shall be ten units.

(3) Each manufactured home site within the park shall have a minimum area of 3,500 square feet.

(4) No manufactured home site shall be closer than 35 feet to any adjacent property.

(5) No less than 10% of the manufactured home park shall be improved for recreational activities for residents of the park.

(B) *Site plan.*

(1) At the time of application for a conditional use permit, the applicant must submit a site plan to the city. The site plan shall include:

- (a) The name and address of all owners and developers of the proposed manufactured home court;
 - (b) The legal description and lot size in acres of the proposed park;
 - (c) The location and size of all manufactured home lots, convenience establishments, storage areas, recreation areas and facilities, landscaping, existing tree growth, water areas, roadways, sidewalks and parking sites;
 - (d) Detailed landscaping and grading plans and specifications;
 - (e) Plans for sanitary sewage disposal, surface drainage, fire hydrants, water systems, electrical services, gas services, cable television, street lighting and topography diagrams;
 - (f) Location and size of all public roadways abutting the manufactured home park and all street and sidewalk accesses from the street and sidewalk to the manufactured home court;
 - (g) Preliminary road construction plans and specifications including cross-section and curb details;
 - (h) Preliminary floor plans and elevation for all permanent structures;
 - (i) Description and method of disposing of garbage and refuse;
 - (j) Staging and timing of construction program regardless of whether the entire area will be developed at one time or in stages; and
 - (k) Other reasonable information as shall be required by the city.
- (2) The scale for all drawings shall be one inch to 100 feet.
- (3) The Planning Commission shall review the site plan and submit its recommendation to the City Council.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.368 OFF-STREET PARKING AND STREET REQUIREMENTS.

Each manufactured home lot shall have a hard-surfaced, off-street parking space of two automobiles. All parking shall be completely within the confines of the lot. All streets shall be hard-surfaced and have a minimum width of 20 feet.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.369 ACCESSORY USES AND BUILDINGS PERMITTED IN MANUFACTURED HOME PARK.

(A) Home occupations;

(B) Garage space. All single-family homes built, assembled or placed on residential lot must provide, at the minimum, access to and space for sheltered, off-street parking for two standard sized automobiles;

(C) Storage buildings. These structures are to be used exclusively for the storage of household, yard and related supplies and equipment; and

(D) See §§ 152.325 through 152.330 for additional restrictions.
(Ord. 125, 2nd Series, passed 12-15-2003; Ord. 165, 2nd Series, passed 8-1-2017)

§ 152.370 CONVERSION.

If a manufactured home park is converted to another use requiring a variance or zoning change, the Planning Commission must give notice of hearing to each occupant.

(Ord. 125, 2nd Series, passed 12-15-2003)

Statutory reference:

Related provisions, see M.S. § 327C.095

WIND ENERGY CONVERSION SYSTEMS (WECS)**§ 152.385 GENERAL REQUIREMENTS.**

Wind energy conversion systems (WECS) are allowed as a conditional use in all zoning districts of the city, subject to City Council approval through the conditional use permit process. Proposed WECS shall meet the following minimum conditions.

(A) *Tower access.* Climbing access to the WECS tower shall be limited either by means of a fence six feet high around the tower base with a locking portal, or by limited tower climbing apparatus to no lower than 12 feet from the ground.

(B) *Noise.* The noise level of the system shall not exceed those prescribed by State Regulation NCP 1 and 2 noise standards, 11-27-1974.

(C) *Height.* The total height of the tower (including any portion of the rotor or axis extending above the tower) shall not exceed the horizontal line. Example: for a 100-foot high tower, a minimum of a 100-foot clear zone in each direction around the base of the tower is required. When the proposed height exceeds these requirements or if the proposed horizontal distance extends beyond a lot line or into a public way, the following information shall be submitted:

(1) Dimensional representation of the various structural components of the tower construction including the base and footings;

(2) Design data which shall indicate basis of design, including manufacturer's dimensional drawings, installation and operation instructions; and

(3) Certification by an independent registered professional engineer is required to show the design is sufficient to withstand wind load requirements for structures as established by the local Building Construction Codes.

(D) *Setback.* No part of the system shall be closer than ten feet of any property line.

(E) *Wind and icing loads.* The tower and the tower footing shall be engineered to withstand wind and icing loads for this geographical area.

(F) *Attesting.* The following must be attested to by the commercial system manufacturer or a certified engineer:

(1) The system has a type of automatic shutdown to render it inoperable in conditions of imbalance or excessive wind speeds;

(2) The blade design and materials are adequate to ensure safe operation in an urban area; and

(3) The wind turbine and wind turbine tower are compatible.

(G) *Interference.* The operation of the WECS shall not cause radio or television interference.

(H) *Limited use.* Wind energy conversion systems installed in accordance with the requirements of this subchapter shall not generate power as a commercial enterprise as defined by the Public Utilities Commission.

(I) *Airspace*. A WECS, if interconnected to an electric utility distribution system, shall meet the interconnect requirements of the electric utility company. In any case, the interconnect shall include a manual disconnect which complies with the National Electric Code.

(J) *Code*. Construction, design and installation of a WECS shall comply with all local, State, National Electrical Codes and FAA requirements in effect at the time of installation.
(Ord. 125, 2nd Series, passed 12-15-2003; Ord. 172, 2nd Series, passed 12-18-2018)

§ 152.386 PLANS.

Each application for a building permit shall be accompanied by a dimensional representation of the tower plan containing the following information:

(A) Property lines;

(B) Proposed location of tower on site;

(C) Location of all existing structures on site;

(D) All above-ground utility lines;

(E) All underground utility lines within a radius equal to the proposed WECS height; and

(F) Boundaries of all adjacent utility easements or reserved areas.

(Ord. 125, 2nd Series, passed 12-15-2003)

SOLAR SYSTEMS

§ 152.390 PURPOSE AND INTENT; APPLICABILITY.

(A) The city believes it is in the public interest to encourage renewable energy systems that have a positive impact in energy conservation with limited adverse impact on the community. While the city strongly encourages increased energy conservation and improved energy efficiency, the city also finds that increased use of appropriate renewable energy systems will be an important part of improving urban sustainability.

(B) The renewable energy regulations are intended to supplement existing zoning ordinances and land use practices and ensure these systems are appropriately designed, sited, and installed. These regulations are in place to balance the need to improve energy sustainability through increased use of

renewable energy systems with concerns for preservation of public health, welfare, and safety, as well as environmental quality, visual and aesthetic values, and existing neighborhood social and ecological stability.

(C) The requirements of this subchapter shall apply to all small-scale solar energy systems (residential, commercial, multi-family and condominium).
(Ord. 156, 2nd Series, passed 8-2-2016)

§ 152.391 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACTIVE/SOLAR ENERGY EQUIPMENT/SYSTEM. A solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.

BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV) SYSTEMS. A solar energy system that consists of integrating photovoltaic modules into the building structure by replacing typical building material, such as the roof or the facade and which does not alter the relief of the roof.

FLUSH-MOUNTED SOLAR PANEL. Photovoltaic panels and tiles that are installed flush to the surface of a roof and which cannot be angled or raised.

FREESTANDING OR GROUND-MOUNTED SOLAR ENERGY SYSTEM. A solar energy system that is installed directly in the ground or by means of brackets or poles and is not attached or affixed to an existing structure.

PHOTOVOLTAIC (PV) SYSTEMS. A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells, that generate electricity whenever light strikes them.

QUALIFIED SOLAR INSTALLER. A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved. Such training shall include the proper use of special precautionary techniques and personal protective equipment, as well as the skills and techniques necessary to distinguish exposed energized parts from other parts of electrical equipment and to determine the nominal voltage of exposed live parts.

ROOF OR BUILDING-MOUNTED SOLAR SYSTEM. A solar power system in which solar panels are mounted on top of the structure of a roof either as a flush-mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle.

SOLAR COLLECTOR. A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

SOLAR ENERGY SYSTEM. A set of devices whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating, cooling, electricity generation, or water heating.

SOLAR FARM. A commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or other conversion technology, for the primary purpose of wholesale sales of generated electricity. A solar farm is the principal land use for the parcel on which it is located.

SOLAR PANEL. A device for the direct conversion of solar energy into electricity.

SOLAR THERMAL SYSTEMS. Solar thermal systems directly heat water or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.

(Ord. 156, 2nd Series, passed 8-2-2016)

§ 152.392 PERMITS AND STANDARDS.

(A) *Roof-top and building-mounted solar collectors.* Rooftop and building-mounted solar collectors are permitted in all zoning districts in the city subject to the following conditions:

(1) Building permits shall be required for installation of all rooftop and building-mounted solar collectors.

(2) Notwithstanding the height limitations of the zoning district, roof or building-mounted solar energy systems shall not extend higher than three feet above the ridge level of a roof on a structure with a gable, hip or gambrel roof and shall not extend higher than ten feet above the surface of the roof when installed on a flat or shed roof.

(3) An engineer licensed with the State of Minnesota shall be required to determine whether or not the roof system is structurally capable of supporting the solar collectors.

(B) *Ground-mounted and freestanding solar collectors.* Ground-mounted and freestanding solar collectors are accessory structures in all zoning districts. No permit may be issued for ground-mounted and freestanding solar collectors except by conditional use permit, except for lots in excess of 20,000 square feet which meet the following conditions. All ground-mounted and freestanding solar collectors shall comply with the following conditions:

(1) Building permits are required for the installation of all ground-mounted or freestanding solar collectors.

(2) The location of the solar collector shall meet all applicable setback requirements for accessory structures in the zoning district in which it is located.

(3) The height of the solar collector and any mounts shall not exceed 15 feet when oriented at maximum tilt.

(4) Solar energy equipment shall be located in a manner to reasonably minimize view blockage for surrounding properties and shading of property to the north, while still providing adequate solar access for collectors.

(5) Solar energy collectors shall be screened when possible and practicable through the use of architectural features, earth berms, landscaping, or other screening which will harmonize with the character of the property and surrounding area.

(6) Solar energy systems are to be located in the rear yard only.

(C) *Solar thermal systems.* Solar thermal systems are permitted in all zoning districts subject to the following condition: Building permits are required for the installation of all solar thermal systems.

(D) *Solar farms.* No permits may be issued for any type of solar farm except by conditional use permit. All solar farms shall comply with the following conditions:

(1) Building permits are required for solar farms.

(2) No solar farm may be erected on less than ten acres.

(3) All solar farms will require a perimeter fence no less than six feet in height.

(Ord. 156, 2nd Series, passed 8-2-2016)

§ 152.393 PLANNING, DESIGN, AND COMPLIANCE.

(A) *Plan applications.* Plan applications for solar energy systems shall be accompanied by to-scale horizontal and vertical (elevation) drawings. The drawings must show the location of the system on the building or the property for a ground-mounted or freestanding system, including property lines.

(1) *Pitched roof - mounted solar energy systems.* For all roof-mounted systems, except those on a flat roof, the elevation must show the highest finished slope of the solar collector and the slope of the finished roof surface on which it is mounted.

(2) *Flat roof - mounted solar energy systems.* For flat roof applications, a drawing shall be submitted showing the distance to the roof edge and any parapets on the building, and shall identify the height of the building on the street frontage side, the shortest distance of the system from the street frontage edge of the building, and the highest finished height of the solar collector above the finished surface of the roof.

(B) *Plan approvals.* Applications that meet the design requirements of this subchapter, and do not require a conditional use permit, shall be granted administrative approval by the zoning official and shall not require Planning Commission review. Plan approval does not indicate compliance with Building Code or Electric Code.

(C) *Compliance with Building Code.* All active solar energy systems require approval of the local building code official pursuant to provisions of the State of Minnesota Building Code, and solar thermal systems shall comply with the HVAC-related requirements of the Energy Code.

(D) *Compliance with State Electric Code.* All photovoltaic systems shall comply with the State of Minnesota Electric Code.

(E) *Compliance with State Plumbing Code.* Solar thermal systems shall comply with applicable Minnesota State Plumbing Code requirements.

(F) *Utility notification.* The owner of a solar energy system that will physically connect to a house or other building's electrical system and/or the electric utility grid must enter into a signed interconnection agreement with the local utility provider prior to the issuance of a building permit.

(G) *Feeder lines.* All power exterior electrical or other service lines must be buried below the surface of the ground.

(H) *Exemptions.* Building-integrated solar energy systems are exempt from the requirements of this section and shall be regulated as any other building element.

(Ord. 156, 2nd Series, passed 8-2-2016)

§ 152.394 SAFETY.

(A) Solar energy systems and equipment shall be permitted only if they are determined by the city not to present any unreasonable safety risks including, but not limited to, the following:

- (1) Weight load;
- (2) Wind resistance; or
- (3) Ingress (entrance) or egress (an exit) in the event of fire or other emergency.

(B) All solar collector installations must be performed by a qualified solar installer.

(C) Solar energy system components shall be certified by Underwriters Laboratories Inc. and the Solar Rating and Certification Corporation. The city reserves the right to deny a building permit for proposed solar energy systems deemed to have inadequate certification.

(D) Prior to operation, electrical connections must be inspected by an appropriate electrical inspection person or agency as determined by the city.

(E) Any connection to the public utility grid must be inspected by the appropriate public utility.

(F) Solar energy systems shall be maintained in good working order.

(G) Rooftop and building-mounted solar collectors shall meet Minnesota's Fire Safety Code and Building Code standards.

(H) If solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the Minnesota State Building Code when in use; and when no longer used, shall be disposed of in accordance with the laws and regulations of city and other applicable laws and regulations.

(Ord. 156, 2nd Series, passed 8-2-2016)

§ 152.395 APPEALS.

(A) If an individual is found to be in violation of the provisions of this subchapter, appeals should be made in accordance with the established procedures of the city code.

(B) If a building permit for a solar energy device is denied because of a conflict with other goals of the city, the applicant may seek relief by appealing to the City Council, which shall regard solar energy as a factor to be considered, weighed and balanced along with other factors.

(Ord. 156, 2nd Series, passed 8-2-2016)

§ 152.396 ABANDONMENT.

If a solar collector ceases to perform its originally-intended function for more than 12 consecutive months, the property owner shall remove the collector, mount and associated equipment by no later than 90 days after the end of the 12-month period.

(Ord. 156, 2nd Series, passed 8-2-2016)

NON-CONFORMING LOTS, STRUCTURES AND USES**§ 152.400 DETERMINATION.**

It shall be deemed non-conforming when, within the districts established by this chapter or amendments that may later be adopted, there exist lots, structures and uses of land which were lawful before this chapter was passed or amended, but which would be prohibited, regulated or restricted under the terms of this chapter or future amendments. This chapter permits these non-conformities to continue until they are removed, but not to encourage their survival. The uses are declared by this chapter to be incompatible with permitted uses in the districts involved. It is further the intent of this chapter that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses not permitted in the district.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.401 NON-CONFORMING LOTS OF RECORD.

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of this chapter; provided that, it fronts on a public right-of-way; and, provided further that, width and area measurements are at least 70% the minimum requirements of this chapter. Newly erected single-family dwellings shall be in line with existing dwellings as to keep the neighborhood uniform. Side yard setback requirements are permitted to have a width of not less than five feet.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.402 NON-CONFORMING USES OF LAND.

Where, at the effective date of adoption or amendment of this chapter, lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended, the use may be continued, so long as it remains otherwise lawful, subject to the following provisions.

(A) No non-conforming use shall be enlarged or extended to occupy a greater area of land than was occupied at the effective date of this chapter.

(B) No non-conforming use shall be moved in whole or part to any other portion of the lot or parcel occupied by the use at the effective date of this chapter.

(C) If any non-conforming use of land ceases for any reason for a period of more than 90 days, any subsequent use of the land shall conform to the regulations specified by this chapter for the district in which the land is located.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.403 NON-CONFORMING STRUCTURES.

Where a lawful structure exists at the effective date of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, elevation or other characteristics; the structure may be continued so long as it remains otherwise lawful, subject to the following provisions.

(A) No structure may be enlarged or altered in a way which interests its non-conformity.

(B) Should the structure be destroyed by any means to an extent of more than 50% of its replacement cost at any time of destruction, it shall not be reconstructed, except in conformity with the provisions of this chapter.

(C) Should the structure be moved for any reason or any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(D) On any structure devoted in whole or in part to any non-conforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on a repair or replacement of non-bearing walls, fixtures, wiring or plumbing, to an extent not exceeding 25% of the current replacement value of the building; provided that, the cubic content of the building, as it existed at the effective date of this chapter, shall not be increased.

(E) Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of the official.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.404 NON-CONFORMING USES OF STRUCTURES AND LAND IN COMBINATION.

If a lawful use of structures or of structures and land in combination (hereinafter, use) exists at the effective date of this chapter that would not be allowed in the district under the terms of this chapter, that use may be continued so long as it remains otherwise lawful, subject to the following provisions.

(A) No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered, except in changing the use of the structure to a use permitted in the district in which it is located.

(B) Any non-conforming use may be extended throughout any parts of a building which were arranged or designed for the use at the time of adoption or amendment of this chapter, but no use shall be extended to occupy any land outside the building.

(C) Any non-conforming use of a structure, or structure and premises, may be changed to another non-conforming use; provided that, the Planning Commission, by making findings in the specific case, shall find that the proposed use is equally or more appropriate to the district than the existing non-conforming use. In permitting the change, the Planning Commission may require appropriate conditions and safeguards in accordance with the provisions of this chapter.

(D) Any non-conforming use, which is replaced by a permitted or conditional use, shall thereafter conform to the regulations for the district in which the structure is located, and the non-conforming use may not thereafter be resumed.

(E) When a non-conforming use is discontinued or abandoned for 90 days, the non-conforming use shall not be resumed unless otherwise approved by the City Council.

(F) Where non-conforming use status applies to a structure and premises in combination, continuing use of the land in a non-conforming manner shall not be permitted if the structure is removed or destroyed.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.405 PHASING-OUT OF QUALIFYING NON-CONFORMING USES.

The following non-conforming uses of buildings, structures or land may continue for a period no longer than one year from the effective date of this chapter, or any amendment hereto which causes the use to be non-conforming:

(A) Any non-conforming use with a building or structure having an assessed valuation of \$2,000 or less on the effective date of this chapter or amendment; and

(B) Any non-conforming use of land where no enclosed building is involved or where the only buildings involved are accessory or incidental to the use or where the use is maintained in connection with a conforming building.

(Ord. 125, 2nd Series, passed 12-15-2003)

FENCING AND SCREENING

§ 152.420 GENERAL.

Fences shall be permitted in all districts subject to the provisions hereinafter provided.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.421 LOCATION.

All fences shall be located entirely upon the private property of the person, firm or corporation constructing or causing the construction of the fence. When owners of adjoining property agree, in writing (this agreement shall be recorded in the office of the County Recorder), then the fence may be erected on the property line of the perspective properties. All fences to be located within a utility easement require a conditional use permit. The Building Official may require the person, firm or corporation to establish the property lines by a survey thereof to be made by any registered land surveyor.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.422 CONSTRUCTION AND MAINTENANCE.

Every fence shall be constructed in a substantial workmanlike manner and of substantial material reasonably suitable for the purpose for which the fence is proposed to be used. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger, or constitute a nuisance, public or private. Any fence which is, or has become dangerous to the public safety, health or welfare, is a public nuisance, and the Building Official is hereby authorized to commence proper proceedings for the abatement thereof.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.423 BARBED WIRE AND ELECTRIC FENCES.

Barbed wire and electric fences shall not be permitted, used or constructed except in industrial districts as hereinafter provided or when related to permitted agricultural use, but in any case not in boundary line fences. A conditional use permit shall be required for the use of barbed wire.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.424 RESIDENTIAL DISTRICT FENCES.

(A) In any residential district, fences for decorative, screening or confinement purposes may be constructed on any lot.

(B) All residential fences shall be placed within the property being fenced and conform to the property.

(1) Fences along side property lines shall not be more than six feet in height.

(2) Fences along any rear property line, which is also the rear property line of an abutting lot, shall not exceed six feet in height.

(3) Fences along a rear property line, which line constitutes the side lot line of an abutting lot, shall not exceed six feet in height.

(4) The screening provisions for residential districts shall supersede, where applicable, the provisions of this section.

(5) All boundary line fences shall be constructed in a manner that at least 25% of the plane between the ground and the top of the fence is open.

(6) All posts or similar supporting instruments used in the construction of fences shall be faced inward toward the property being fenced.

(7) All fences shall not obstruct drainage.

(8) All fences located within a utility easement require a conditional use permit.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.425 BUSINESS AND INDUSTRIAL FENCES.

(A) Business and industrial fences may be erected up to eight feet, fences in excess of eight feet shall require a conditional use permit.

(B) Fences which are primarily erected as a security measure may have arms projecting into the applicant's property on which barbed wire can be fastened, commencing at a point at least seven feet above the ground. A conditional use permit shall be required for the use of barbed wire.

(C) Fences erected within the required front yard shall not be over six feet in height and shall be constructed of material permitting maximum visibility.

(D) The screening provisions for business and industrial districts shall supersede, where applicable, the provisions of this section.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.426 REQUIRED FENCING AND SCREENING.

(A) Where any commercial industrial use or multi-family of four or more units (i.e., structure, parking or storage) abuts property zoned for residential use, that business, industry or multi-family building shall provide screening along the boundary of the residential property. All junk yards and salvage yards shall be hidden from view from any public right-of-way.

(B) All fencing and screening specifically required by this section shall be subject to traffic viability requirements of this section and shall consist of either a fence or a greenbelt planting strip as provided for below.

(1) A greenbelt planting strip shall consist of evergreen trees and/or deciduous trees and plants and shall be of sufficient width and density to provide an effective visual screen. This planting strip shall be designed to provide substantial visual screening, a height of six feet. The planting plan and type of plantings shall require the approval of the Planning Commission.

(2) A required screening fence shall be constructed of masonry, brick, wood or metal. The fences shall provide a solid screening effect six feet in height for multi-family uses and at least six feet in height for business and industrial uses unless otherwise specified. The design and materials used in constructing a required screening fence shall be subject to the approval of the Building Official.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.427 TRAFFIC VISIBILITY.

No fence, wall or hedge shall be erected, placed, planted or allowed to grow in a manner as to materially impede vision between a height of two feet and eight feet where it will interfere with traffic or pedestrian visibility 30 feet from the intersecting curb line from a driveway or alley to a public way. The regulations shall apply unless it can be demonstrated to the Building Official that the structure provides an unobstructed view so as not to create a safety hazard.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.428 SPECIAL PURPOSE FENCES.

Fences for special purposes and fences differing in construction, height or length may be permitted in any district of the city by issuance of a conditional use permit. The applicant must demonstrate the purpose is necessary to protect, buffer or improve the premises for which the fence is intended.

(Ord. 125, 2nd Series, passed 12-15-2003)

SIGNS**§ 152.440 PURPOSE.**

The purpose of this subchapter is to protect, ensure, maintain and regain the natural and scenic beauty and attractiveness of the roadsides throughout the city. By the construction of public roads, the public has created views to which the public retains a right-to-view and it is the intent of these standards to prevent the taking of this right. Signs are recognized as accessory uses and are permitted in all districts subject to the regulations of this chapter.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.441 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADDRESS. A sign communicating street address only, whether written or in numerical form.

ADVERTISING. A billboard, poster panel board, painted bulletin board, or communicative device which is used to advertise products, goods and/or services which are not exclusively related to the premises on which the sign is located.

AREA. The area within the marginal lines created by the sign surface which bears the advertisement or, in the case of messages, figures or symbols attached directly to the part of a building, which is included in the smallest geometric figure which can be made to circumscribe the message, figure or symbol displayed thereon (the entire face of the sign excluding the frame).

AREA IDENTIFICATION. A free-standing sign which identifies the name of a neighborhood, a residential subdivision, a multiple residential complex consisting of three or more structures, a shopping center consisting of five or more separate business concerns, an industrial area, an office complex consisting of three or more structures or any combination of the above, located on contiguous property. The sign shall be limited only to the identification of an area or complex and shall not contain the name of individual owners or tenants nor contain advertising.

BANNERS and PENNANTS. Attention-getting devices which resemble flags and are of a paper, cloth or plastic-like consistency.

BENCH. A sign which is affixed to a bench such as a bus stop.

BILLBOARD. Any advertising sign having an area of more than 200 square feet.

BUSINESS. Any sign which identifies a business or group of businesses, either retail or wholesale, or any sign which identifies a profession or is used in the identification or promotion of any principal commodity or service, including entertainment, offered or sold upon the premises where the sign is located.

CANOPY and MARQUEE. Any message or identification which is affixed to the projection or extension of a building or structure, erected in a manner as to provide a shelter or cover over the approach to any entrance of a store, building or place of assembly.

CONSTRUCTION. A non-illuminated sign announcing the names of architects, engineers, contractors or other individuals or firms involved with the construction, alteration or repair of a building (but not including any advertisement of any product) or announcing the character of the building enterprise, or the purpose for which the building is intended.

FLASHING. An illuminated sign upon which the artificial light is not kept constant in terms of intensity or color at all times when the sign is illuminated.

GOVERNMENTAL. A sign which is erected by a governmental unit for the purpose of identification and directing or guiding traffic.

HOLIDAY. Signs or displays which contain or depict a message pertaining to a national or state holiday, and no other matter.

IDENTIFICATION. Signs in all districts which identify the business or owner, or manager or resident and set forth the address of the premises where the sign is located and which contain no other material.

ILLUMINATED. Any sign which is lighted or an artificial light source either directed upon it or illuminated from an exterior source.

INDIVIDUAL PROPERTY SALE OR RENTAL. Any on-premises sign announcing the name of the owner, manager, realtor or other person directly involved in the sale or rental of the property or announcing the purpose for which it is being offered.

INFORMATIONAL/DIRECTIONAL. Any sign giving information to employees, visitors or delivery vehicles, but containing no advertising. May include name of business, but must predominately represent a directional or informational message.

INSTITUTIONAL. A sign or bulletin board which identifies the name and other characteristics of a public or semi-public institution on the site where the sign is located. Institutions shall include churches, hospitals, nursing homes, schools and other non-profit and charitable organizations.

INTEGRAL. Names of buildings, date of construction, commemorative tablets and the like, which are of a permanent type of construction and which are an integral part of the building or structure.

MOTION. Any sign which revolves, rotates, has any moving parts or gives the illusion of motion.

NAMEPLATE. A sign indicating the name and address of a building or the name of an occupant thereof and the practice of a permitted occupation therein.

MAJOR STREET. Arterial streets.

NON-CONFORMING.

(1) **ILLEGAL.** A sign which was constructed after the passage of this chapter or amendment thereto and does not conform with the regulations of this chapter is unlawful.

(2) **LEGAL.** A sign which lawfully existed at the time of the passage of this chapter or amendment thereto, but which does not conform with the regulations of this chapter, is lawful.

NON-PROFIT ORGANIZATION. A sign identifying a corporation formed under M.S. Ch. 317A, which is formed for a purpose not involving pecuniary gain to its shareholders or members, and where no dividends or other pecuniary remuneration are paid, directly or indirectly, to its shareholders or members, including a community or civic group such as the Lions Club, League of Women Voters and the like.

PARAPET. A sign attached to a low wall, which is located perpendicular to a roof of a building.

POLITICAL CAMPAIGN. Signs or posters announcing the candidate(s) seeking political office.

PORTABLE. A sign so designed to be movable from one location to another and which is not permanently attached to the ground, sales display device or structure.

PROJECTING. A sign, other than a wall sign, which extends perpendicular from the building wall.

PUBLIC. Signs of a non-profit organization, semi-public and/or public non-commercial nature, to include safety signs, danger signs, trespassing signs, directional signs, signs indicating scenic or historical points of interest, memorial plaques and the like, when signs are erected by or on order of a public officer or employee in the performance of official duty and/or upon approval of the Council.

REAL ESTATE. A business sign placed upon a property advertising that particular property for sale, for rent, for lease or sold.

REAL ESTATE DEVELOPMENT. A business sign placed on premises of a subdivision or other real estate development.

SHOPPING CENTER. A sign identifying an integrated grouping of commercial stores, under single ownership or control.

STRUCTURE. The supports, foundations, uprights, bracing and framework for a sign, including the sign area.

TEMPORARY. Any sign which is erected or displayed for a specified period of time. These signs shall be removed within 30 days of placement or installation.

WALL. A sign which is affixed to the exterior wall of a building. A **WALL SIGN** does not project more than 18 inches from the surface to which it is attached, nor extend beyond the top of a parapet wall.

WALL GRAPHICS. A sign which is painted directly on an exterior wall surface.

WALL LETTERS. A sign composed of individual letters which are attached separately on a wall surface.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.442 GENERAL PROVISIONS.

(A) All sign installations require a building permit, except for political signs, temporary signs and real estate signs 16 square feet or less.

(B) No sign shall be allowed that is a hazard to the public health, safety, convenience or welfare or that prevents ingress or egress from any door, window or fire escape; that tends to accumulate debris as a fire hazard; or that is attached to a standpipe or fire escape.

(C) The regulations contained herein do not apply to signs painted, attached by adhesive or otherwise attached directly to or visible through windows and glass portions of doors.

(D) No sign may be erected that, by reason of position, shape, movement, color or any other characteristic, interferes with the proper functioning of a traffic sign or signal or otherwise constitutes a traffic hazard. No signs shall be permitted which would interfere with traffic control.

(E) Private traffic circulation signs and traffic warning signs in alleys, parking lots or in other hazardous situations may be allowed on private property; provided that, the individual signs do not exceed three square feet and are utilized exclusively for the purposes intended.

(F) Signs are prohibited within the public right-of-way of any street or easement.

(G) In any zoning district, animal displays, lights directed skyward, pieces of sculpture, fountains or other displays or features which do not clearly fall within the definition of a sign, but which direct attention to a product, place, activity, institution, organization or business shall be considered a conditional use.

(H) Signs giving off an intermittent or rotating beam or ray of light shall be prohibited.

(I) No sign shall contain any indecent or offensive picture or written matter. The Zoning Officer shall be given the authority to determine offensive nature. The Board of Appeals and Adjustments will decide any appeal.

(J) In all zoning districts, a street address or property number shall be required.

(K) No sign or sign structure shall protrude over public right-of-way, except wall (maximum protrusion 18 inches), canopy and marquee signs. All signs located over public right-of-way or over any public or private access route (sidewalks and the like) shall be located a minimum of ten feet above surface grade.

(Ord. 125, 2nd Series, passed 12-15-2003) Penalty, see § 152.999

§ 152.443 ADVERTISING SIGNS (BILLBOARDS).

Advertising signs (billboards) are permitted only under a conditional use permit.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.444 BUSINESS SIGNS.

(A) In commercial and industrial districts, on-site signs shall be permitted according to the following provisions.

(1) One monument or free-standing sign and two wall-mounted signs identifying the premises shall be allowed. In structures with joint tenancy and individual outside entrances, each tenant can have its own wall sign.

(2) The maximum height of any free-standing sign shall be 25 feet from the ground to the top of the sign. A variance application may be considered for taller signs.

(3) The total area of free-standing signage shall not exceed 100 square feet. Wall signs above individual entrances in structures with joint tenancy shall be a maximum of 32 square feet.

(B) Home occupation signs are permitted in all districts, except the R-1 District. One non-illuminated identification sign, not to exceed two square feet in area for the permitted uses. (Ord. 125, 2nd Series, passed 12-15-2003) Penalty, see § 152.999

§ 152.445 MARQUEE AND FIXED AWNINGS.

(A) Load capacity shall be so designed as to safely sustain a load of at least 40 pounds per superficial foot of its upper surface.

(B) No marquee or fixed awning shall extend nearer than three feet to the curb line.

(C) No marquee or fixed awning shall be, at any point, at a less height than ten feet above the sidewalk.

(D) Construction, anchors, support and materials used shall be approved by the Building Official before a permit is issued.

(Ord. 125, 2nd Series, passed 12-15-2003) Penalty, see § 152.999

§ 152.446 ELECTRIC SIGNS.

(A) No more than one electric sign shall be attached to each face of the building for any one occupant thereof.

(B) No electric sign placed at any angle over public property shall exceed 100 square feet in area. (Ord. 125, 2nd Series, passed 12-15-2003) Penalty, see § 152.999

§ 152.447 ROOF SIGNS.

Roof signs are permitted only by conditional use in all districts. (Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.448 RESIDENTIAL SIGNS.

(A) Residential signs shall not exceed two square feet and bear only the name, address and/or professional activity of the occupants of the premises.

(B) No dimension of a sign may be more than twice the other dimension.
(Ord. 125, 2nd Series, passed 12-15-2003) Penalty, see § 152.999

§ 152.449 ILLUMINATED SIGNS.

Illuminated signs may be permitted, but flashing signs, except ones giving time, date, temperature, weather or similar public service information, shall be prohibited. No electrically illuminated signs shall be permitted in an area of five or more homes in close proximity. Illuminated signs shall be diffused or indirect so as not to direct rays of light into adjacent property or onto any public way.

(Ord. 125, 2nd Series, passed 12-15-2003) Penalty, see § 152.999

§ 152.450 POLITICAL SIGNS.

Political signs are allowed in any district, on private property, with the consent of the owner of the property. Political signs shall not exceed six square feet in size. The signs must be removed within seven days following the date of the election or elections to which they are applied and may be displayed no earlier than two months before the date.

(Ord. 125, 2nd Series, passed 12-15-2003) Penalty, see § 152.999

§ 152.451 CONSTRUCTION SIGNS.

Construction signs shall not exceed 32 square feet in area. The signs shall be removed when the project is complete.

(Ord. 125, 2nd Series, passed 12-15-2003) Penalty, see § 152.999

§ 152.452 REAL ESTATE SIGNS.

(A) Real estate signs for individual lots or structures may be placed in any yard; provided, the signs are not closer than ten feet to any property line and they do not exceed 16 square feet.

(B) Real estate signs may be erected for the purpose of selling or promoting a single-family or multiple-family residential project of ten or more dwelling units; provided:

- (1) The signs shall not exceed 100 square feet in area;

(2) Only one sign shall be erected on each road frontage with a maximum of two signs per project;

(3) The signs shall not be located closer than 100 feet from any neighboring residence; and

(4) Time limits may be imposed for review.

(Ord. 125, 2nd Series, passed 12-15-2003) Penalty, see § 152.999

§ 152.453 MOBILE/TEMPORARY SIGNS.

Mobile signs or other temporary signs on wheels or otherwise capable of being moved from place to place shall conform to the provisions of this chapter just as permanently affixed signs. Mobile/temporary signs shall be removed within 30 days of placement or installation.

(Ord. 125, 2nd Series, passed 12-15-2003) Penalty, see § 152.999

§ 152.454 SIGN MAINTENANCE.

(A) *Painting.* The owner of any sign shall be required to have the sign properly painted at least once every two years, if needed, including all parts and supports of the sign, unless the parts or supports are galvanized or otherwise treated to prevent rust.

(B) *Areas around sign.* The owner or lessee of any sign shall keep the grass, weeds or other growth cut and the area free from refuse between the sign and the street also for a distance of six feet behind and at the end of the sign.

(Ord. 125, 2nd Series, passed 12-15-2003) Penalty, see § 152.999

§ 152.455 NON-CONFORMING SIGNS.

(A) The following are non-conforming signs:

(1) Prohibited signs; and

(2) All other signs not prohibited that do not conform to the provisions of this chapter.

(B) All prohibited signs, except prohibited advertising signs, shall be removed or brought into conformity with this chapter within 30 days after notification in writing.

(C) Except as specifically provided in division (B) above, any non-conforming sign lawfully existing upon the effective date of this chapter may be continued at the size and in the manner existing upon the date.

(D) A non-conforming sign may not be:

- (1) Changed to another non-conforming sign;
- (2) Structurally altered except to bring into compliance with the provisions of this chapter;
- (3) Expanded;
- (4) Reestablished after its removal for 30 days; or

(5) Reestablished after damage of more than 50% of the sign replacement cost, except to bring into compliance.

(Ord. 125, 2nd Series, passed 12-15-2003) Penalty, see § 152.999

§ 152.456 OBSOLETE SIGNS.

Any sign which no longer advertises a bona fide business constructed or a product sold shall be taken down and removed by the owner, agent or person having the beneficial use of the building or land upon which the sign may be found within 30 days after written notice from the Zoning Administrator.

(Ord. 125, 2nd Series, passed 12-15-2003) Penalty, see § 152.999

§ 152.457 UNSAFE OR DANGEROUS SIGNS.

Any sign which becomes structurally unsafe or endangers the safety of a building or premises or endangers the public safety as determined by the Building Official shall be taken down and removed by the owner, agent or person having the beneficial use of the building, structure or land upon which the sign is located within ten days after written notification from the Building Official.

(Ord. 125, 2nd Series, passed 12-15-2003) Penalty, see § 152.999

§ 152.458 OTHER SIGNS.

Any signs not covered by another section of this chapter would require a conditional use permit.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.459 SIGNS PERMITTED IN RESIDENTIAL DISTRICTS.

Subject to the other conditions of this chapter, the following signs shall be permitted in all residential districts.

(A) *Subdivision plat signs.* Temporary signs advertising a new subdivision plat; provided, the signs do not exceed 80 square feet in aggregate surface area, identifying only the plat in which they are located, are non-illuminated, and are erected only at dedicated street entrances to the plat. The signs shall be removed if construction of subdivision improvements is not in progress on the plat within 60 days following the date of sign erection, or as soon as 80% of the lots are developed and sold.

(B) *Residential housing development sign.* One permanent residential housing development identification sign facing each bordering street shall be permitted for each development of 20 or more units. The sign shall not exceed 32 square feet. The signs shall be erected only at a dedicated street entrance, may be indirectly illuminated and shall not exceed a height of eight feet above grade.

(C) *Club, lodge and office signs.* One non-illuminated identification sign not to exceed 12 square feet in area for the following uses: clubs, lodges and professional offices where permitted.

(D) *Civic, religious organizations and other permitted non-residential uses.* One illuminated or non-illuminated sign not to exceed 24 square feet in area. The sign may include the following uses: offices of a civic, religious or charitable organization; offices devoted to business management, professional services, trade associations, labor unions, insurance companies or agencies, banks, financial institutions, real estate offices, funeral homes and the like.

(E) *Public and quasi-public use signs.* One illuminated or non-illuminated identification sign or bulletin board not to exceed a total of 12 square feet in area for the following uses: public schools, parochial schools, colleges, public libraries, museums, social and recreational buildings, parks, playgrounds, hospitals, sanitariums, charitable and religious institutions, churches, cemeteries and government office buildings.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.460 SIGNS PERMITTED IN B-1 DISTRICT.

Subject to other conditions of this chapter, the following signs shall be permitted in the B-1 District:

(A) *General.* Signs as permitted in residential districts (same as § 152.459);

(B) *Business signs.* A maximum of two business signs limited to one facing each bordering street, which shall not exceed in surface area a total of 16 square feet for all signs on each main building or each business in a series of attached businesses such as a shopping center. The signs shall be wall signs or attached to a marquee; and

(C) *Shopping center signs.* For business complexes of four or more separate stores in the B-1 District, one shopping center sign may be erected. The sign shall be limited to a roof or free-standing sign not to exceed 100 square feet in area. The requirements shall be applicable to the aggregate face area of a double-faced sign.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.461 SIGNS PERMITTED IN OTHER NON-RESIDENTIAL DISTRICTS.

The following signs shall be permitted in non-residential districts where the uses are otherwise permitted in the district:

(A) *General*. Signs as permitted in residential districts. Signs as permitted and regulated for the uses in the residential district (same as § 152.459);

(B) *Business signs*. Each main building or business in a series of attached businesses, such as a shopping center, may have three business signs. Two of the business signs shall be limited to ten square feet in area. One business sign may be of any type to a maximum of 100 square feet in area; and

(C) *Shopping center signs*. For business complexes of four or more separate stores, one shopping center sign may be erected. The sign may be of any type to a maximum of 150 square feet in area. (Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.462 SIGNS PERMITTED IN PLANNED DEVELOPMENT.

Signs shall be permitted in planned developments. In no case shall signs in a residential planned development exceed the sign requirements stipulated in § 152.459, nor signs in a business planned unit development exceed the requirements of the B-1 District (§ 152.460). (Ord. 125, 2nd Series, passed 12-15-2003)

AUTOMOTIVE SERVICE STATIONS; CAR WASH REGULATIONS**§ 152.475 AUTOMOTIVE SERVICE STATIONS.**

Motor fuel stations subject to submission of a site plan conforming to the following design standards and a statement agreeing to performance of those standards:

(A) A minimum lot area of 20,600 square feet and a minimum lot width of 150 feet;

(B) The pump islands shall observe the required front yard setback where applicable. Interior curbs shall be constructed within property lines to separate driving and parking surfaces from rights-of-way;

(C) A six-foot decorative fence, or a 15-foot wide planting strip and three-foot decorative fence shall be installed and maintained along the property line where the line abuts a residentially zoned parcel. Should the planting strip and fence combination be selected, the proposed planting plan shall be approved

by the Planning Commission. Should the abutting residential area be zoned R-1 or R-2, a five-foot setback is to be provided between the abutting property line and any principal or accessory structure;

(D) All of the area of the parcel, except that covered by buildings and landscaping, shall be surfaced to control dust and drainage. Drainage and surfacing plan to be approved by the Planning Commission;

(E) A minimum of seven parking spaces shall be provided, none of which are within the service drives for the pumps nor within the required front yard; also, should the motor fuel station be a combined business, the portion of the structure devoted to other business shall be calculated independently for determining parking to be provided. Where trucks are to be accommodated, parking spaces shall be provided at the ratio of four spaces (each having 12 feet by 50 feet minimum dimensions) for each service stall;

(F) All lights shall be so located or shielded that the resulting light pattern does not extend into abutting residential lots or the public right-of-way beyond the intensity of one footcandle;

(G) The sale or rental of trailers, autos, campers, boats or other merchandise requiring outside storage shall be considered a separate business, shall be approved as a separate business and shall not occupy the minimum area required to conduct a motor fuel station;

(H) All merchandise kept on the premises and displayed for sale shall be kept within the building or its immediate environs;

(I) A perspective drawing, including elevations, shall be submitted for approval which indicates an architectural style compatible with adjacent existing or actually proposed developments;

(J) Provisions shall be made for on-lot receptacles for the storage of trash in areas which are screened from the public view;

(K) Where vending machines are proposed as an accessory use, they shall be placed as not to interfere with vehicular and/or pedestrian traffic; and

(L) All fuel storage tanks shall be placed underground and so located that they may be serviced without the tank truck extending beyond the property line.

(Ord. 125, 2nd Series, passed 12-15-2003) Penalty, see § 152.999

§ 152.476 CAR WASH ESTABLISHMENTS.

Car wash (drive-through, mechanical and self-serve) establishments are subject to the submission of a site plan conforming to the following design standards and a statement agreeing to performance of these standards.

(A) The minimum lot width shall be 125 feet of the front yard building setback line.

(B) A side and rear yard setback of five feet shall be maintained between the parking area and any lot line adjacent to B-3, I-1 and I-2 Districts. A side and rear yard setback of 25 feet shall be maintained between any parking area and any lot line adjacent to B-1 and B-2 Districts. A side and rear yard setback of 50 feet shall be maintained between any parking area and any lot line adjacent to R-1, R-2 and R-3 Districts.

(C) All of the area of the parcel, except that covered by buildings and landscaping, shall be surfaced to control dust and drainage. Drainage and surfacing plan to be approved by the Zoning Administrator.

(D) A six-foot decorative fence, or a five-foot wide planting strip and three-foot decorative fence shall be installed and maintained along the property line where the line abuts a residentially Zoned parcel. Should the planting strip and fence combination be selected, the proposed planting plan shall be approved by the Planning Commission. Should the abutting residential area be zoned R-1 or R-2, a 50-foot setback is to be provided between the property line and any principal or accessory structure.

(E) Parking.

(1) *Stacking spaces.* A minimum of three customer automobile stacking spaces shall be provided for each washing lane for automatic car washes.

(2) *Customer service parking.* A minimum of three customer service parking spaces shall be provided for each washing lane for automatic car washes.

(3) *Self-service car washes.* A minimum of two outside customer parking spaces shall be provided for each enclosed self-service washing space. The foregoing required number of parking spaces shall be shown and designated on the site plan. Parking spaces as required by this section shall supersede parking space requirement imposed elsewhere in this chapter.

(F) Interior curbs shall be constructed within the property lines to separate driving and parking surfaces from landscaped areas. Interior curbs required by this section shall be a normal six inches in height.

(G) All lights shall be so located or shielded that the resulting light pattern does not extend into abutting residential lots or the public right-of-way beyond the intensity of one footcandle.

(H) Selling or storage of commodities or services, other than as defined in this section, shall be conducted in conformance with the display and storage requirements of the zoning district in which the car wash is located.

(I) All washing facilities shall be completely within an enclosed building.

(J) A perspective drawing, including elevations, shall be submitted for approval which indicates an architectural style compatible with adjacent existing or proposed developments.

(K) Provisions shall be made for on-lot receptacles for the storage of trash in areas which are screened from the public view.

(L) Where vending machines are proposed as an accessory use, they shall be placed as not to interfere with vehicular and/or pedestrian traffic.

(M) Where gasoline sales are involved, all fuel storage tanks shall be placed underground and so located that they may be serviced without the tank truck extending beyond the property line.

(N) All wash water disposal facilities including sludge, grit removal and disposal equipment shall be subject to the approval of the city and shall conform with all provisions of the city code regarding sewage and health provisions, and shall be designed so as not to affect detrimentally the city sewer system.

(Ord. 125, 2nd Series, passed 12-15-2003) Penalty, see § 152.999

OFF-STREET PARKING AND LOADING REGULATIONS

§ 152.490 PURPOSE.

The purpose of the off-street parking regulations is to alleviate or prevent congestion of the public right-of-way and to promote the safety and general welfare of the public, by establishing minimum requirements for off-street parking of motor vehicles in accordance with the utilization of various parcels of land or structures.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.491 SITE PLAN DRAWING NECESSARY.

All applications for a building or occupancy permit in all zoning districts shall be accompanied by a site plan drawn to scale and dimensioned indicating the location of off-street parking and loading spaces in compliance with the requirements set forth in this chapter, and shall be subject to the approval of the Zoning Administrator. No permit shall be issued for the construction of more than one private garage structure for each detached single-family dwelling, except on the approval of a conditional use permit.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.492 GENERAL PROVISIONS.

(A) *Exception from parking requirements.* All business use located within the Central Business District as defined and designated in the comprehensive plan or zoned B-3, Central Business District, shall be exempt from the off-street parking requirements of this chapter.

(B) *Floor area.* Except as hereinafter may be provided, the term “floor area”, for the purpose of calculating the number of off-street parking spaces required, shall be determined on the basis of the exterior floor area dimensions of the building, structure or use times the number of floors, minus 10%.

(C) *Reduction of existing off-street parking space or lot area.* Off-street parking spaces or area existing upon the effective date of this chapter shall not be reduced in number or size unless the number or size exceeds the requirements set forth herein for a similar new use.

(D) *Non-conforming structures.* Should a non-conforming structure or use be damaged or destroyed by fire, it may be reestablished if elsewhere permitted in these zoning regulations; except that, in doing so, any off-street parking or loading space which existed before shall be retained.

(E) *Change of use or occupancy of land.* No change of use or occupancy of land already dedicated to a parking area, or parking spaces, shall be made, nor shall any sale of land, division or subdivision of land be made which reduces area necessary for parking, parking stalls or parking requirements below the minimum prescribed by this chapter.

(F) *Change in use or occupancy of building.* Any change of use or occupancy of any building or buildings including additions thereto requiring more parking area shall not be permitted until there is furnished additional parking spaces as required by this chapter.

(G) *Accessory.*

(1) Off-street parking facilities accessory to residential uses shall be utilized solely for the parking of licensed and operable passenger automobiles; no more than one truck not to exceed gross capacity of 12,000 pounds; and recreational vehicles and equipment.

(2) Under no circumstances shall required parking facilities accessory to residential structures be used for the storage of commercial vehicles or equipment or for the parking of automobiles belonging to the employees, owners, tenants or customers of business or manufacturing establishments.

(H) *Calculating space.*

(1) When determining the number of off-street parking spaces results in a fraction, each fraction of one-half or more shall constitute another space.

(2) In stadiums, sports arenas, churches and other places of public assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each 22 inches of the seating facilities shall be counted as one seat for the purpose of determining requirements.

(3) Except as hereinafter may be provided, should a structure contain two or more types of use, each use shall be calculated separately for determining the total off-street parking spaces required.

(Ord. 125, 2nd Series, passed 12-15-2003) Penalty, see § 152.999

§ 152.493 SCHEDULE OF OFF-STREET PARKING REQUIREMENTS.

Off-street parking spaces shall be provided for buildings and uses as specified in the following schedule:

<i>Off-Street Parking</i>	
<i>Types of Uses</i>	<i>Requirements</i>
Automobile repair shops	3 spaces for each repair stall, plus 1 for each employee
Banks	1 space per 250 sq. ft. of gross floor area
Bowling alleys	3 spaces for each alley
Churches, auditoriums and other places of assembly	1 space for each 4 seats
Community centers, libraries and museums	1 space per 250 sq. ft. of gross floor area
Drive-in banks	Reserve space equal to 3 times the number of drive-in window units
Dwelling, efficiency	1 space per dwelling unit
Dwelling, multi-family	2 spaces per dwelling unit
Dwelling, single-family	2 spaces per dwelling unit
Dwelling, two-family	2 spaces per dwelling unit
Funeral homes	1 space for each 15 seats with a minimum of 10 spaces
General retail	1 space per 150 sq. ft. of floor area for stores over 2,000 sq. ft. of floor area; 1 space per 300 sq. ft. of floor area for stores under 2,000 sq. ft.
Hospitals, clinics	3 spaces per 300 sq. ft. of floor area
Hotels, motels	1 space per sleeping unit
Industrial and manufacturing	1 space for 2 employees of the largest shift or 2,000 sq. ft. of floor area, whichever is greater
Manufactured home park	2 spaces per lot
Nursing homes, convalescent homes	1 space for each 4 residents or patients, plus 3 spaces for each 2 employees
Office, professional or public buildings	1 space per 200 sq. ft. of gross floor area
Restaurants, night clubs, clubs over 1000 sq. ft.	1 space per 75 sq. ft. of floor area

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.494 MIXED USES.

In cases of mixed uses, the parking spaces required shall be the sum of the requirements for the various individual uses, computed separately.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.495 DESIGN STANDARDS.

(A) All off-street automobile parking facilities shall be designated with appropriate means of vehicular access to a street or alley as well as maneuvering areas. Detailed plans shall be submitted to the proper official for approval for all curb cuts or driveway openings before a permit may be obtained.

(B) Parking areas shall be paved with asphaltic or concrete surfacing, afford adequate drainage, and shall have bumper guards where needed.

(C) Off-street parking areas for one- or two-family uses shall be in the rear, side yards, garage, carport, upon a well-defined driveway or in an area not to exceed 12 feet in width abutting a driveway on one side only in the front yard. The parking area designated in the front yard abutting a driveway shall be surfaced with either concrete, asphalt or in cases of existing gravel driveway, gravel may be used for additional parking.

(D) Off-street parking for multiple-family units of three or more shall park on a designated parking lot. In no case, unless approved by the Building Official in the issuance of a building permit or by the City Council in cases of conditional uses, shall parking be permitted on the front yard.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.496 LOADING REGULATIONS.

(A) All required loading berths shall be off-street and shall be located on the same lot as the building or use to be served. A loading berth shall not be located less than 100 feet from the intersection of two street right-of-way in a district. Loading berths shall not occupy the required front yard space.

(B) The minimum number of loading spaces shall be:

(1) Retail sales and service stores and offices: one loading berth for each 10,000 square feet of floor area;

(2) Manufacturing, fabrication, processing and warehousing: one loading berth for every 5,000 to 20,000 square feet of floor area, plus one loading berth for each additional 10,000 square feet of floor area;

(3) Uses not specifically noted shall be determined by the City Council with a recommendation from the Planning Commission through a conditional use permit; and

(4) If, in the application, a fractional number is obtained, one loading space shall be provided for that fraction.

(Ord. 125, 2nd Series, passed 12-15-2003)

MINING

§ 152.510 GENERAL RESTRICTIONS.

The extraction of sand, gravel or other material from the land in the amount of 400 cubic yards or more and removal thereof from the site without processing shall be defined as mining. In all districts the conduct of mining shall be performed only upon issuance of a conditional use permit. The permit shall include, as a condition thereof, a plan for a finished grade and land reclamation which will not adversely affect the surrounding land or the development of the site on which the mining is being conducted and the route of trucks moving to and from the site.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.511 OPERATIONAL REQUIREMENTS AND REGULATIONS.

(A) Every person to whom a conditional use permit is issued shall comply with the regulations set forth as follows.

(B) No excavation or digging shall be made beyond the limits for which the particular permit is granted and in no case shall any excavation or digging be made within 30 feet of any adjoining road right-of-way or structure as may be in the area without obtaining specific approval by the Council.

(C) Where excavations are made within 30 feet of a public roadway or other right-of-way, the permittee shall erect either suitable guardrail along the right-of-way or roadway or construct a dirt berm not less than 30 inches in height and six feet in width at the base.

(D) All reasonable means shall be employed by applicant to reduce dust, noise and nuisances.

(E) During the entire period of operations, all excavations other than the working site, shall be sloped on all sides at a maximum ratio of one to one, unless a steeper slope shall be approved by the engineer. Where excavations are adjacent to a public roadway or other right-of-way, the excavation shall have a maximum four to one slope. Slopes adjacent to or contiguous to bodies of water shall be sloped at a maximum of six to one.

(F) Appearance and screening:

- (1) Machinery shall be kept in good repair and painted regularly;
- (2) Abandoned machinery and rubbish shall be removed from the site regularly;
- (3) All structures that are not being used shall be removed from the site;
- (4) All equipment and temporary structures shall be removed and dismantled not later than six months after termination of mining operation or expiration of the permit;
- (5) Where practical, stockpiles of overburden and materials shall be used to screen the mining site;
- (6) Where practical, the perimeter of the mining site shall be planted or otherwise screened; and
- (7) Existing tree and ground cover shall be preserved to the extent feasible, maintained and supplemented by selective cutting, transplanting and replanting of trees, shrubs and other ground cover along all setback areas.

(G) Performance standards:

- (1) *Noise*. The maximum noise level at the perimeter of the site shall be within the limits set by the State Pollution Control Agency and the Environmental Protection Agency of the United States.
- (2) *Hours*. All mining operations shall be conducted between 6:30 a.m. and 8:00 p.m. on weekdays only unless otherwise specifically approved by the Council.
- (3) *Explosives*. The use and handling of explosives shall be coordinated with the Police Department. Blasting shall occur only at hours specified by the Police Department and at no other time.
- (4) *Dust*. Operators shall utilize all practical means to reduce the amount of dust caused by the operation. In no case shall the amount of dust or other particulate matter exceed the standards established by the State Pollution Control Agency.
- (5) *Water pollution*. Operators shall comply with all applicable State Pollution Control Agency regulations for the protection of water quality. No waste products or process residue, including untreated wash water, shall be deposited in any lake, stream or natural drainage system; except that, lakes or ponds wholly contained within the extraction site may be so utilized.
- (6) *Top soil preservation*. All top soil shall be retained at the site until complete rehabilitation of the site has taken place according to the rehabilitation plan.

(H) The applicants shall change, alter or modify immediately any excavation or operation therein deemed by the Council to be unsanitary or dangerous or polluted or contrary to the general health and welfare of the community.

(I) All wells greater than six inches in diameter placed in or upon the premises described in the application shall be secured and capped upon abandonment under the specific direction of the Zoning Administrator or his or her designated agent.

(J) Applicants shall dispose of all waste water used on the site in a manner which will not adversely affect adjoining property and shall use stilling ponds or other methods of disposing of the suspended solids in the waste water that is satisfactory to the Council.

(K) Applicants shall provide adequate access roads to and from the site which shall have proper site distances for traffic safety at each point of access.

(L) Applicants shall obey all county and municipal road limits in hauling to and from the site.

(M) In the event operations cease or substantially so, on the site for a period of more than one year, or in the event substantially all gravel and sand deposits thereon have been removed and no further operation shall be conducted thereon, then the Council may terminate the permit to operate the pit and declare the site a restoration area subject to all requirements of the site's restoration plan and bonding requirements.

(N) The applicant shall not permit any other person to operate the pit, other than hauling to or from the pit, without first obtaining the written consent of the Council and an appropriate acknowledgment of others that they will be bound by an agreement in effect and covered by bond.

(O) The Council as a prerequisite for the granting of a conditional use permit or after the permit has been granted, may impose further restrictions and requirements as may be reasonable and necessary under the particular circumstances of each application. The restrictions and requirements may be in contract form with the applicant or any other person interested directly or indirectly in the issuance of a conditional use permit.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.512 REHABILITATION AND RESTORATION STANDARDS.

(A) *General.* Rehabilitation shall be a continuing operation occurring as quickly as possible after the mining operation has moved sufficiently into another part of the extraction site.

(B) *Slopes.*

(1) All banks and slopes shall be left in accordance with the rehabilitation plan submitted with the permit application.

(2) No rehabilitated slopes shall be steeper than four feet horizontal to one foot vertical; except that, steeper slopes may be permitted in accordance with the rehabilitation plan when the slopes are planned for slope related usages, for example, ski and sliding hills.

(C) *Cover and planting.* Slopes, graded and backfilled areas shall be surfaced with at least three inches of topsoil and planted with ground cover sufficient to hold the soil. The ground cover shall be tended as necessary until it is self-sustained.

(D) *Slopes to waterbodies.* No slope descending to a waterbody shall exceed one foot vertical to six feet horizontal; except that, steeper slopes may be permitted in accordance with the rehabilitation plan when human or property safety is not endangered.

(E) *Waterbodies.* All water areas resulting from excavation shall be rehabilitated as follows.

(1) The bottom contour must be gradually sloping from the shoreline to the deepest portion at a maximum slope of six feet horizontal to one foot vertical for at least 30 feet unless fenced pursuant to plans previously approved by the Council.

(2) The water depth in the deepest portions must not be less than five feet measured from the lowest water mark.

(F) *Final elevation.* No part of the rehabilitation area which is planned for utilization for uses other than open space or agriculture shall be at an elevation lower than the minimum required for gravity connection to sewer and storm sewer.

(G) *Field measurements.* To assure the restoration plan approved by the Council is being followed, the Zoning Administrator may make those field measurements deemed necessary by the Council to assure that the approved restoration plan is being followed.

(H) *Regrading and restoration.* Upon ceasing operations or leaving any particular excavation area in an excavation or pit site, applicants shall regrade and restore the area as required in this chapter and in accordance with the approved restoration or rehabilitation plan previously agreed upon by the Council and operator or owner of the pit or to other usable condition which is agreed upon by the permittee and the Council at the time of the required restoration.

(I) *Active gravel pits or active excavation.* Restoration and rehabilitation are not mandatory in an active gravel pit area, but may be concurrent with other operations if possible.

(J) *Restoration area.* Restoration and rehabilitation are mandatory and must take place according to the approved restoration and rehabilitation plan and schedule and each day's violation deemed a separate offence.

(Ord. 125, 2nd Series, passed 12-15-2003)

PUBLIC HEARINGS**§ 152.525 GENERALLY.**

The procedures for holding a public hearing whenever it is required under the provisions of this chapter or other law shall be as follows.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.526 SETTING OF HEARINGS.

For all requests brought before the Zoning Board of Appeals and Adjustments or the Planning Commission for which a public hearing is required by this chapter, or other law, the body in charge of conducting the hearing shall select a reasonable time and place for the public hearing on the request.

M.S. CH. 15, § 15.99

15.99 Time deadline for agency action.

Subd. 1. Definition. For the purposes of this section, "agency" means a department, agency, board, commission, or other group in the executive branch of state government; a statutory or home rule charter city, county, town, or school district; any metropolitan agency or regional entity; and any other political subdivision of the state.

Subd. 2. Deadline for response. Except as otherwise provided in this section and notwithstanding and other law to the contrary, an agency must approve or deny within 60 days a written request relating to zoning, septic systems, or expansion of the metropolitan urban service area for a permit, license, or other governmental approval of an action. Failure of an agency to deny a request within 60 days is approval of the request. If an agency denies the request, it must state in writing the reasons for the denial at the time it denies the request.

Subd. 3. Application; extensions.

a) The time limit in Subdivision 2 begins upon the agency's receipt of a written request containing all information required by law or by a previously adopted rule, ordinance, or policy of the agency. If an agency receives a written request that does not contain all required information, the 60-day limit starts over only if the agency sends notice within ten (10) business days of receipt of the request telling the requester what information is missing.

b) If an action relating to zoning, septic systems, or expansion of the metropolitan urban area requires the approval of more than one (1) state agency in the executive branch, the 60-day period in subdivision 2 begins to run for all executive branch agencies on the day a request containing all required information is received by one (1) state agency. The agency receiving the request must forward copies to other state agencies whose approval is required.

c) An agency response meets the 60-day time limit if the agency can document that the response was sent within 60 days of receipt of the written request.

d) The time limit in subdivision 2 is extended if a state statute, federal law, or court order requires a process to occur before the agency acts on the request, and the time periods prescribed in the state statute, federal law, or court order make impossible to act on the request within 60 days. In cases described in this paragraph, the deadline is extended to 60 days after completion of the last process required in the applicable statute, law, or order. Final approval of an agency receiving a request is not considered a process for purposes of this paragraph. The time limit in subdivision 2 is extended if: 1) a request submitted to a state agency requires prior approval of a federal agency; or 2) an application submitted to a city, county, town, school district, metropolitan or regional entity, or other political subdivision requires prior approval of a state or federal agency. In cases

described in this paragraph, the deadline for agency action is extended to 60 days after the required prior approval is granted.

An agency may extend the time limit in subdivision 2 before the end of the initial 60-day period by providing written notice of the extension to the applicant. The notification must state the reasons for the extension and its anticipated length, which may not exceed 60 days unless approved by the applicant.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.527 NOTICE OF HEARINGS.

(A) Notice of public hearings shall be given not more than 30 days and not less than ten days before the hearing by publication at least once in the official newspaper of the city. The notice shall include the time and place of the hearing, a description of the contents of the request to be heard and its purpose, and the address or location of the property to which the request applies.

(B) In addition to the published notice, a separate notice by mail shall be required for all property owners affected and within a distance of 350 feet from the boundaries of the area, where a request concerning amendment to zoning district boundaries for areas of five acres or less will be the subject of the hearing. The notices shall be sent by the office of the City Administrator and addresses taken from current city records, or those of the County Auditor, shall be deemed sufficient for the notification.

(C) A copy of the list of the owners and addresses to which the notice was sent shall be attested to by the City Administrator, and shall be made a part of the records of the proceedings. The failure to give mailed notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this requirement has been made.

(D) In addition to any other notice provided for herein, when the matter to be heard involves amendment to zoning district boundaries, a sign shall be placed upon the premises proposed to be rezoned for at least the length of time prior to hearing that published notice is given, stating substantially:

THIS PROPERTY PROPOSED TO BE REZONED FROM _____ DISTRICT TO _____
DISTRICT.

_____ Hearing Date

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.528 CONDUCT OF HEARING.

(A) Any person may appear and testify at a public hearing, either in person or by a duly authorized agent or attorney.

(B) Applications for variances or conditional uses and the owner or owners of property in or within 1,000 feet of property under consideration for a rezoning action by amendment to this chapter, shall have the following rights in addition to any others they possess by law:

- (1) The right to have subpoenas issued;
 - (2) The right to cross-examine all adverse witnesses; and
 - (3) The right to present witnesses on their own behalf.
- (Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.529 ADMINISTRATIVE PROCEDURES AND RECORDINGS AT PUBLIC HEARINGS.

The body responsible for the hearing shall designate one from among the membership or ex-officio membership to record all pertinent data and comments at the hearing for later preparation as a written public record. The written record shall be filed with the City Administrator within a reasonable period of time, but in no event, later than 30 days from the date of hearing. The hearing shall be conducted in an orderly manner according to rules of procedure established or accepted by the city. The Chairperson or Acting Chairperson of the responsible body shall conduct the hearing and shall require that all participants furnish name, address and position of interest prior to comment on the subject under consideration during the hearing.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.530 CONTINUANCE; DETERMINATION.

The responsible body may close the hearing or schedule a date, time and place for a continuance of the same, subject to the requirements of the matter under consideration. Following closure, the responsible body shall meet to make the appropriate determination which shall be prepared and filed as a written public record in the office of the City Administrator. In no event shall the determination be made later than ten days from the date of the hearing and the written record of the same filed not later than 30 days from the date of hearing.

M.S. § 462.357, SUBD. 3.

No zoning ordinance or amendments thereto shall be adopted until a public hearing has been held thereon by the planning agency or by the governing body. A notice of the time, place, and purpose of the hearing shall be published in the official newspaper of the municipality at least ten days prior to the day of the hearing. When an amendment involves changes in district boundaries affecting an area of five acres or less, a similar notice shall be mailed at least ten days before the day of hearing to each owner of affected property and property situated wholly or partly within 350 feet of the property to which the amendment relates. For the purpose of giving mailed notice, the person responsible for mailing the notice may use any appropriate records to determine the names and addresses of owners. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the responsible person and shall be made a part of the records of the proceedings. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this subdivision has been made.

(Ord. 125, 2nd Series, passed 12-15-2003)

CONDITIONAL USE PERMITS**§ 152.545 AUTHORITY.**

The Council may, after review and recommendation by the Planning Commission, grant a conditional use permit authorizing the development of uses listed as conditional uses in each of the zoning districts in this chapter or as otherwise enumerated in this section.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.546 FINDINGS.

(A) No conditional use permit shall be granted unless the Planning Commission finds the following criteria have been met by a development proposal.

(B) The Planning Commission may attach other conditions to the permit as it may deem necessary:

(1) The proposed use is not in conflict with the comprehensive plan;

(2) The proposed use is not in conflict with the stated intent of the zoning district in which it is to be located;

(3) The proposed use will not unreasonably harm the public health, safety and welfare, create a nuisance, or create unreasonable congestion injurious to nearby properties;

(4) The proposed use does not interfere with the creation of a beneficial environment within its own property boundaries and on adjoining properties;

(5) The proposed use will not interfere with the provision of a reasonable economic benefit to the community; and

(6) The provisions for interrelationship between the proposed development and contiguous and non-contiguous adjacent properties will not adversely affect pedestrian and vehicular movement and will not adversely affect the buffering of the service facilities and parking areas.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.547 COMPLIANCE.

Any use permitted under the terms of any conditional use permit shall be established and conducted in conformity to the terms of each permit.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.548 REVIEW.

A periodic review of the permit and its conditions shall be maintained. The permit shall be issued for a particular use on a specific parcel and not for a particular person or firm.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.549 REVOCATION.

A violation of any condition set forth in a conditional use permit shall be a violation of this chapter and may be terminated after an appropriate revocation hearing is held.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.550 DISCONTINUANCE.

A conditional use permit shall become void one year after being granted by the City Council unless used.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.551 PROCEDURE.

(A) (1) An application for a conditional use permit shall be submitted to the Zoning Administrator. A non-refundable application fee, as established from time to time by the Council to cover administrative costs and costs of the hearing, shall accompany each application.

(2) The Planning Commission or the Council may require any reasonable information they deem necessary.

(B) Upon receipt in proper form of the application and other required material, a public hearing shall be held.

(1) A notice of the time, place and purpose of the hearing shall be published in the official newspaper of the city at least ten days prior to the day of the hearing.

(2) A similar notice shall be mailed at least ten days before the day of the hearing to each owner of affected property and property situated wholly or partly within 350 feet of the property to which the conditional use permit relates.

(3) A copy of the notice and a list of the owners and addresses to which the notice was sent shall be made a part of the records of the proceedings.

(4) The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings; provided, a bona fide attempt to comply with this section has been made.

(C) Within 30 days after the conclusion of the public hearing, the Planning Commission shall transmit to the Council a written report containing its recommendations concerning the proposed conditional use. The report shall be accompanied by findings of fact specifying the reasons for the recommendation. In any case when a conditional use permit is sought for the purpose of establishing a planned unit development, the report of the Planning Commission shall contain specific findings as:

(1) To the degree of compliance of the proposed development with the standards applicable to planned developments; and

(2) To the degree to which the proposed development advances the purposes for which planned developments may be approved.

(D) (1) Except in the case of an application for a conditional use permit to establish a planned unit development district, the Council shall, within 30 days of the receipt of the report of the Planning Commission, grant or deny the conditional use or refer the matter back to the Planning Commission for further consideration.

(2) The Council shall not grant a conditional use unless it finds the standards of this section have been satisfied. Any proposed conditional use (including application for a planned unit development district) which fails to receive the approval of the majority of the members of the Planning Commission voting upon it shall not be passed except by a favorable vote of two-thirds of all of the elected members of the Council.

(E) The following is taken from M.S. § 462.3595.

STATE STATUTE NUMBER 462.3595.

Subd. 1. Authority. The governing body may by ordinance designate certain types of developments, including planned unit developments, and certain land development activities as conditional uses under zoning regulations. Conditional uses may be approved by the governing body or other designated authority by a showing by the applicant that the standards and criteria stated in the ordinance will be satisfied. The standards and criteria shall include both general requirements for all conditional uses, and insofar as practicable, requirements specific to each designated conditional use.

Subd. 2. Public Hearings. Public hearings on the granting of conditional use permits shall be held in the manner provided in section 462.357, subdivision 3.

Subd. 3. Duration. A conditional use permit shall remain in effect as long as the conditions agreed upon are observed, but nothing in this section shall prevent the municipality from enacting or amending official controls to change the status of conditional uses.

Subd. 4. Filing of Permit. A certified copy of any conditional use permit shall be filed with the county recorder or registrar of titles of the county or counties in which the municipality is located for record. The conditional use permit shall include the legal description of the property included.

(Ord. 125, 2nd Series, passed 12-15-2003)

VARIANCES AND APPEALS**§ 152.565 VARIANCES.**

(A) The City Council serving as the Board of Adjustments and Appeals shall, after receiving the written reports and recommendations of the Planning Commission and the city staff, make a finding of fact and decide upon requests for a variance by approving or denying the same, in part or in whole, where it is alleged by the applicant that practical difficulties exist in the reasonable use of a specific parcel of property. Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the terms of the variance are consistent with the comprehensive plan. The Planning Commission shall hold a public hearing and, based upon a report and recommendation by the city staff, shall have the power to advise and recommend conditions related to the variance regarding the location, character and other features of the proposed building, structure or use as it may deem advisable in the interest of the intent and purpose of this chapter.

(B) A variance may be permitted if all of the following requirements are met:

- (1) The landowner (applicant) proposes to use the property in a reasonable manner;
- (2) The applicant has established that there are practical difficulties, as defined by state statute, in complying with the ordinance;
- (3) The unique circumstances of the property were not created by the landowner;
- (4) The variance is in harmony with the general purposes and intent of this subchapter;
- (5) The variance is consistent with the comprehensive plan; and
- (6) The variance will not alter the essential character of the locality.

(C) The Board of Adjustments may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance. (Ord. 135, 2nd Series, passed 7-5-2011)

§ 152.566 VARIANCES; PRACTICAL DIFFICULTIES.

The City Council serving as the Board of Adjustment shall have the exclusive power to order the issuance of variances from the requirements of any official control including restrictions placed on non-conformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official control and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical

difficulties in complying with the official control. **PRACTICAL DIFFICULTIES**, as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in M.S. § 216C.06, Subd. 14, when in harmony with the official controls. No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located. The Board of Adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance. (Ord. 135, 2nd Series, passed 7-5-2011)

§ 152.567 APPEALS.

The City Council serving as the Board of Adjustments and Appeals shall have the authority to hear and decide appeals from any order, requirement, decision, grant or refusal made by the Zoning Administrator in the administration of this subchapter. However, the appeal shall be filed not later than 90 days after the applicant has received a written notice from the Zoning Administrator or the appeal shall be considered void.

(Ord. 135, 2nd Series, passed 7-5-2011)

§ 152.568 APPEALS AND ADJUSTMENTS.

(A) Appeals to the Board of Appeals and Adjustments may be taken by any affected person upon compliance with any reasonable conditions imposed by this chapter.

(B) The Board of Appeals and Adjustments has the following powers with respect to this chapter:

(1) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by an administrative officer in the enforcement of the zoning ordinance; and

(2) To hear requests for variances from the requirements of the zoning ordinance including restrictions placed on non-conformities.

(C) (1) Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with this chapter.

(2) **PRACTICAL DIFFICULTIES**, as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by this chapter; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

(3) Variances shall be granted for earth sheltered construction as defined in M.S. § 216C.06, Subd. 14, when in harmony with this chapter. The Board of Appeals and Adjustments or the governing body as the case may be, may not permit as a variance any use that is not allowed under the zoning ordinance for property in the zone where the affected person's land is located. The Board or governing body as the case may be, may permit as a variance the temporary use of a one-family dwelling as a two-family dwelling. The Board or governing body as the case may be may impose conditions in the granting of variances.

(4) A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

(Ord. 135, 2nd Series, passed 7-5-2011)

AMENDMENTS

§ 152.580 GENERALLY.

Any action to amend the provisions of this chapter shall be governed by the following.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.581 AUTHORITY.

This chapter and the zoning district map may be amended from time to time by ordinance duly enacted by the Council; provided, however, that, no amendment shall be enacted, except in accordance with the procedures of this subchapter.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.582 INITIATION.

Proposed changes or amendments may be initiated by the Council, by the Planning Commission or by any one or more owners of real estate within the city limits.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.583 PROCEDURE.

(A) When any proposed change or amendment is initiated by the Council, it shall transmit its proposal to the Planning Commission for a study and report thereon.

(B) When any proposed change or amendment is initiated by affected property owners, an application for the amendment, addressed to the Council, shall be filed in triplicate with the Zoning Administrator. No fee shall be charged unless the application relates to a zoning district amendment, which fee shall cover administrative costs and accompany the application. The application shall be filed at least three weeks prior to the requested date of the public hearing on the proposed amendment. The application shall be in a form and contain information as shall be prescribed from time to time by the Planning Commission, but shall, in all instances, contain the following information:

- (1) The applicant's name and address;
- (2) The precise wording of any proposed amendment to the text of this chapter; and
- (3) In the event that the proposed amendment would change the zoning district of any property:
 - (a) A legal description and street address of the property proposed to be reclassified;
 - (b) The name and address of the owners of the property;
 - (c) The present zoning district and existing uses of the property proposed to be reclassified;
 - (d) The area of the property proposed to be reclassified, stated in square feet or acres, or fraction thereof; and
 - (e) A map, drawn to scale, clearly showing the property proposed to be reclassified and its present zoning classification and existing uses.

(C) A public hearing shall be set, advertised and conducted by the Planning Commission in accordance with this chapter.

(D) Within 30 days following the conclusion of the public hearing, the Planning Commission shall transmit to the Council its recommendation in the form of a written report.

(E) Within 30 days of the receipt of the report of the Planning Commission, the Council shall refuse, or, by ordinance duly enacted, adopt the proposed amendment.

(F) In any case where a written protest against the proposed amendment signed by the owners of 20% of the frontage proposed to be altered, or by the owners of 20% of the frontage directly opposite

the frontage proposed to be altered, is filed with the City Administrator before the adoption of any amendment, the proposed amendment shall not be passed, except by a favorable vote of two-thirds of the Council.

(G) In any situation where a written report specifying a recommendation regarding the proposed amendment has not been transmitted to the Council within 30 days from the date of the public hearing, the Council may act on the proposal without a report from the Planning Commission.

(H) M.S. § 462.36, as amended from time to time, requires that all ordinances, resolutions, maps, variances and regulations under certain statutory provisions be filed with the County Recorder or registrar of Titles.

STATE STATUTE 462.357, SUBD. 5.

Amendments; certain cities of the first class. The provisions of this subdivision apply to the adoption or amendment of any portion of a zoning ordinance which changes all or part of the existing classification of a zoning district from residential to either commercial or industrial of a property located in a city of the first class, except a city of the first class in which a different process is provided through the operation of the city's home rule charter. In a city to which this subdivision applies, amendments to a zoning ordinance shall be made in conformance with this section but only after there shall have been filed in the office of the city clerk a written consent of the owners of two-thirds of the several descriptions of real estate situated within 100 feet of the total contiguous descriptions of real estate held by the same owner or any party purchasing any such contiguous property within one year preceding the request, and after the affirmative vote in favor thereof by a majority of the members of the governing body of any such city. The governing body of such city may, by a two-thirds vote of its members, after hearing, adopt a new zoning ordinance without such written consent whenever the Planning Commission or planning board of such city shall have made a survey of the whole area of the city or of an area of not less than 40 acres, within which the new ordinance or the amendments or alterations of the existing ordinance would take effect when adopted, and shall have considered whether the number of descriptions of real estate affected by such changes and alterations renders the obtaining of such written consent impractical, and such Planning Commission or planning board shall report in writing as to whether in its opinion the proposals of the governing body in any case are reasonably related to the overall needs of the community, to existing land use, or to a plan for future land use, and shall have conducted a public hearing on such proposed ordinance, changes or alterations, of which hearing published notice shall have been given in a daily newspaper of general circulation at least once each week for three successive weeks prior to such hearing, which notice shall state the time, place and purpose of such hearing, and shall have reported to the governing body of the city its findings and recommendations in writing.

(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.999 PENALTY.

Every person who violates a section, division, paragraph or provision of this chapter when he or she performs an act thereby prohibited or declared unlawful, or fails to act when the failure is thereby prohibited or declared unlawful and, upon conviction thereof, shall be punished as for a misdemeanor, except as otherwise stated in specific provisions hereof and shall be fined as required by law and additional costs levied for the cost of prosecution.

(Ord. 125, 2nd Series, passed 12-15-2003)

CHAPTER 153: FLOODPLAIN MANAGEMENT

Section

Statutory Authorization, Findings of Fact and Purpose

- 153.001 Statutory authorization
- 153.002 Purpose

General Provisions

- 153.003 How to use this chapter
- 153.004 Lands to which chapter applies
- 153.005 Incorporation of maps by reference
- 153.006 Regulatory flood protection elevation
- 153.007 Interpretation
- 153.008 Abrogation and greater restrictions
- 153.009 Warning and disclaimer of liability
- 153.010 Severability
- 153.011 Definitions
- 153.012 Annexations
- 153.013 Detachments

Establishment of Zoning Districts

- 153.014 Establishment of zoning districts

Floodway District (FW)

- 153.020 Permitted uses
- 153.021 Standards for floodway permitted uses
- 153.022 Conditional uses
- 153.023 Standards for floodway conditional uses

Flood Fringe District (FF)

- 153.025 Permitted uses
- 153.026 Standards for flood fringe permitted uses
- 153.027 Conditional uses
- 153.028 Standards for flood fringe conditional uses

Windom - Land Usage***General Floodplain District (GF)***

- 153.030 Permitted uses
- 153.031 Procedures for floodway and flood fringe determinations

Land Development Standards

- 153.035 Land development standards

Public Utilities, Railroads, Roads, and Bridges

- 153.040 Public utilities, railroads, roads, and bridges

Manufactured Homes and Manufactured Home Parks

- 153.045 Manufactured homes and manufactured home parks

Recreational Vehicles

- 153.046 Recreational vehicles

Administration

- 153.050 Administration
- 153.060 Variances
- 153.065 Conditional uses

Nonconformities

- 153.070 Nonconformities

Amendments

- 153.075 Amendments

Penalties and Enforcement

- 153.999 Penalties and enforcement

STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE**§ 153.001 STATUTORY AUTHORIZATION.**

The legislature of the State of Minnesota has, in M.S. Chs. 103F and 462, as amended from time to time, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses.

(Ord. 157, 2nd Series, passed 10-4-2016)

§ 153.002 PURPOSE.

(A) This chapter regulates development in the flood hazard areas of the city. These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this chapter to promote the public health, safety, and general welfare by minimizing these losses and disruptions.

(B) *National Flood Insurance Program compliance.* This chapter is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 C.F.R. Parts 59 -78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

(C) This chapter is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

(Ord. 157, 2nd Series, passed 10-4-2016)

GENERAL PROVISIONS**§ 153.003 HOW TO USE THIS CHAPTER.**

This chapter adopts the floodplain maps applicable to the city and includes three floodplain districts: Floodway, Flood Fringe, and General Floodplain.

(A) Where Floodway and Flood Fringe Districts are delineated on the floodplain maps, the standards in §§ 153.020 through 153.028 will apply, depending on the location of a property.

(B) Locations where Floodway and Flood Fringe Districts are not delineated on the floodplain maps are considered to fall within the General Floodplain District. Within the General Floodplain District, the Floodway District standards in §§ 153.020 through 153.023 apply unless the floodway boundary is determined, according to the process outlined in § 153.031. Once the floodway boundary is determined, the Flood Fringe District standards in §§ 153.025 through 153.028 may apply outside the floodway. (Ord. 157, 2nd Series, passed 10-4-2016)

§ 153.004 LANDS TO WHICH CHAPTER APPLIES.

(A) This chapter applies to all lands within the jurisdiction of the city shown on the official zoning map and/or the attachments to the map as being located within the boundaries of the Floodway, Flood Fringe, or General Floodplain Districts.

(B) The Floodway, Flood Fringe and General Floodplain Districts are overlay districts that are superimposed on all existing zoning districts. The standards imposed in the overlay districts are in addition to any other requirements in this chapter. In case of a conflict, the more restrictive standards will apply. (Ord. 157, 2nd Series, passed 10-4-2016)

§ 153.005 INCORPORATION OF MAPS BY REFERENCE.

(A) The following maps, together with all attached materials, are hereby adopted by reference and declared to be a part of the official zoning map and this chapter. The attached material includes:

- (1) The Flood Insurance Study for the city dated June 5, 1989;
- (2) The Flood Insurance Rate Map for the city, panels 2700900001C dated June 5, 1989;
- (3) Therein, the Flood Insurance Study for County of Cottonwood, Minnesota Unincorporated Areas dated July 1980;
- (4) The Cottonwood County Unincorporated Areas Flood Insurance Rate Map panels 2706220180, 2706220180B, 2706220185B, 2706220190, 2706220190B, and 2706220195B dated January 2, 1981; and
- (5) The Letter of Map Revision, Case No. 15-05-5228P, with an effective date of March 17, 2016, including all attached maps, tables, and flood profiles; all prepared by the Federal Emergency Management Agency.

(B) These materials are on file in the Building and Zoning Office. (Ord. 157, 2nd Series, passed 10-4-2016)

§ 153.006 REGULATORY FLOOD PROTECTION ELEVATION.

The regulatory flood protection elevation (RFPE) is an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

(Ord. 157, 2nd Series, passed 10-4-2016)

§ 153.007 INTERPRETATION.

The boundaries of the zoning districts are determined by scaling distances on the Flood Insurance Rate Map.

(A) Where a conflict exists between the floodplain limits illustrated on the official zoning map and actual field conditions, the flood elevations shall be the governing factor. The Zoning Administrator must interpret the boundary location based on the ground elevations that existed on the site on the date of the first National Flood Insurance Program Map showing the area within the regulatory floodplain, and other available technical data.

(B) Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the City Council, acting as the Board of Adjustment, and to submit technical evidence.

(Ord. 157, 2nd Series, passed 10-4-2016)

§ 153.008 ABROGATION AND GREATER RESTRICTIONS.

It is not intended by this chapter to repeal, abrogate, or impair any existing easements, covenants, deed restrictions, or other private agreements. However, where this chapter imposes greater restrictions, the provisions of this chapter prevail. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

(Ord. 157, 2nd Series, passed 10-4-2016)

§ 153.009 WARNING AND DISCLAIMER OF LIABILITY.

This chapter does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This chapter does not create liability on the part of the city or its officers or employees for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(Ord. 157, 2nd Series, passed 10-4-2016)

§ 153.010 SEVERABILITY.

If any section, clause, provision, or portion of this chapter is adjudged unconstitutional or invalid by a court of law, the remainder of this chapter shall not be affected and shall remain in full force. (Ord. 157, 2nd Series, passed 10-4-2016)

§ 153.011 DEFINITIONS.

Unless specifically defined below, words or phrases used in this chapter must be interpreted according to common usage so as to give this chapter its most reasonable application.

ACCESSORY USE OR STRUCTURE. A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION. The elevation of the **REGIONAL FLOOD**. The term **BASE FLOOD ELEVATION** is used in the flood insurance survey.

BASEMENT. Any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

CONDITIONAL USE. A specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that:

- (1) Certain conditions as detailed in the zoning ordinance exist; and
- (2) The structure and/or land use conforms to the comprehensive land use plan if one exists and is compatible with the existing neighborhood.

CRITICAL FACILITIES. Facilities necessary to a community's public health and safety, those that store or produce highly volatile, toxic or water-reactive materials, and those that house occupants that may be insufficiently mobile to avoid loss of life or injury. Examples of critical facilities include hospitals, correctional facilities, schools, daycare facilities, nursing homes, fire and police stations, wastewater treatment facilities, public electric utilities, water plants, fuel storage facilities, and waste handling and storage facilities.

DEVELOPMENT. Any manmade change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

EQUAL DEGREE OF ENCROACHMENT. A method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

FARM FENCE. A fence as defined by M.S. § 344.02, Subd. 1(a)-(d). An open type fence of posts and wire is not considered to be a structure under this chapter. Fences that have the potential to obstruct flood flows, such as chain link fences and rigid walls, are regulated as structures under this chapter.

FLOOD. A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

FLOOD FREQUENCY. The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

FLOOD FRINGE. The portion of the Special Flood Hazard Area (1% annual chance flood) located outside of the floodway. **FLOOD FRINGE** is synonymous with the term **FLOODWAY FRINGE** used in the Flood Insurance Studies referenced in § 153.005.

FLOOD PRONE AREA. Any land susceptible to being inundated by water from any source (see **FLOOD**).

FLOODPLAIN. The beds proper and the areas adjoining a wetland, lake or watercourse which have been, or hereafter may be, covered by the regional flood.

FLOODPROOFING. A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

FLOODWAY. The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 C.F.R., Part 60.3.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term **MANUFACTURED HOME** does not include the term **RECREATIONAL VEHICLE**.

NEW CONSTRUCTION. Structures, including additions and improvements, and placement of manufactured homes, for which the start of construction commenced on or after the effective date of this chapter.

OBSTRUCTION. Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

ONE HUNDRED YEAR FLOODPLAIN. Lands inundated by the **REGIONAL FLOOD** (see definition).

PRINCIPAL USE OR STRUCTURE. All uses or structures that are not accessory uses or structures.

REACH. A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

RECREATIONAL VEHICLE. A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this chapter, the term **RECREATIONAL VEHICLE** is synonymous with the term **TRAVEL TRAILER/TRAVEL VEHICLE**.

REGIONAL FLOOD. A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 1% chance or 100-year recurrence interval. **REGIONAL FLOOD** is synonymous with the term **BASE FLOOD** used in a flood insurance study.

REGULATORY FLOOD PROTECTION ELEVATION (RFPE). An elevation not less than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

REPETITIVE LOSS. Flood-related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds 25% of the market value of the structure before the damage occurred.

SPECIAL FLOOD HAZARD AREA. A term used for flood insurance purposes synonymous with **ONE HUNDRED YEAR FLOODPLAIN**.

START OF CONSTRUCTION. Includes substantial improvement, and means the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement that occurred before the permit's expiration date. The actual start is either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as

clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE. Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria specified in § 153.046(B) of this chapter and other similar items.

SUBSTANTIAL DAMAGE. Means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the **START OF CONSTRUCTION** of the improvement. This term includes structures that have incurred **SUBSTANTIAL DAMAGE**, regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

(2) Any alteration of a **HISTORIC STRUCTURE** provided that the alteration will not preclude the structure's continued designation as a **HISTORIC STRUCTURE**. For the purpose of this chapter, **HISTORIC STRUCTURE** is as defined in 44 C.F.R., Part 59.1.
(Ord. 157, 2nd Series, passed 10-4-2016)

§ 153.012 ANNEXATIONS.

The Flood Insurance Rate Map panels, adopted by reference into § 153.005 above, may include floodplain areas that lie outside of the corporate boundaries of the city at the time of adoption of this chapter. If any of these floodplain land areas are annexed into the city after the date of adoption of this chapter, the newly-annexed floodplain lands will be subject to the provisions of this chapter immediately upon the date of annexation.

(Ord. 157, 2nd Series, passed 10-4-2016)

§ 153.013 DETACHMENTS.

The Flood Insurance Rate Map panels, adopted by reference into § 153.005 above, will include floodplain areas that lie inside the corporate boundaries of municipalities at the time of adoption of this chapter. If any of these floodplain land areas are detached from a municipality and come under the jurisdiction of the city after the date of adoption of this chapter, the newly-detached floodplain lands will be subject to the provisions of this chapter immediately upon the date of detachment.

(Ord. 157, 2nd Series, passed 10-4-2016)

ESTABLISHMENT OF ZONING DISTRICTS**§ 153.014 ESTABLISHMENT OF ZONING DISTRICTS.**

(A) *Floodway district.* The Floodway District includes those areas within Zones AE, A9, A10 (that have a floodway delineated) as shown on the Flood Insurance Rate Map adopted in § 153.005.

(B) *Flood fringe district.* The Flood Fringe District includes areas within Zones AE, A9, A10 on the Flood Insurance Rate Map adopted in § 153.005, but located outside of the floodway.

(C) *General floodplain district.* The General Floodplain District includes those areas within Zone A as shown on the Flood Insurance Rate Map adopted in § 153.005.

(D) *Applicability.* Within the floodplain districts established in this chapter, the use, size, type and location of development must comply with the terms of this chapter and other applicable regulations. In no cases shall floodplain development adversely affect the efficiency or unduly restrict the capacity of the channels or floodways of any tributaries to the main stream, drainage ditches, or any other drainage facilities or systems. All uses not listed as permitted uses or conditional uses in §§ 153.020 through 153.031 are prohibited. In addition, critical facilities, as defined in § 153.011, are prohibited in all floodplain districts.

(Ord. 157, 2nd Series, passed 10-4-2016)

FLOODWAY DISTRICT (FW)**§ 153.020 PERMITTED USES.**

The following uses, subject to the standards set forth in § 153.021, are permitted uses if otherwise allowed in the underlying zoning district or any applicable overlay district:

(A) General farming, pasture, grazing, outdoor plant nurseries, horticulture, forestry, sod farming, and wild crop harvesting.

(B) Industrial-commercial loading areas, parking areas, and airport landing strips.

(C) Open space uses, including but not limited to private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, hunting and fishing areas, and single or multiple purpose recreational trails.

(D) Residential yards, lawns, gardens, parking areas, and play areas.

(E) Railroads, streets, bridges, utility transmission lines and pipelines, provided that the Department of Natural Resources' Area Hydrologist is notified at least ten days prior to issuance of any permit. (Ord. 157, 2nd Series, passed 10-4-2016)

§ 153.021 STANDARDS FOR FLOODWAY PERMITTED USES.

(A) The use must have a low flood damage potential.

(B) The use must not obstruct flood flows or cause any increase in flood elevations and must not involve structures, obstructions, or storage of materials or equipment.

(C) Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood. (Ord. 157, 2nd Series, passed 10-4-2016)

§ 153.022 CONDITIONAL USES.

The following uses may be allowed as conditional uses following the standards and procedures set forth in § 153.065 of this chapter and further subject to the standards set forth in § 153.023, if otherwise allowed in the underlying zoning district or any applicable overlay district.

(A) Structures accessory to the uses listed in §§ 153.020(A), (B), and (C) above and the uses listed in §§ 153.022(B) and (C) below.

(B) Extraction and storage of sand, gravel, and other materials.

(C) Marinas, boat rentals, permanent docks, piers, wharves, and water control structures.

(D) Storage yards for equipment, machinery, or materials.

(E) Placement of fill or construction of fences that obstruct flood flows. Farm fences, as defined in § 153.011, are permitted uses.

(F) Travel-ready recreational vehicles meeting the exception standards in § 153.046(B).

(G) Levees or dikes intended to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

(Ord. 157, 2nd Series, passed 10-4-2016)

§ 153.023 STANDARDS FOR FLOODWAY CONDITIONAL USES.

(A) *All uses.* A conditional use must not cause any increase in the stage of the 1% chance or regional flood or cause an increase in flood damages in the reach or reaches affected.

(B) Fill; storage of materials and equipment:

(1) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

(2) Fill, dredge spoil, and other similar materials deposited or stored in the floodplain must be protected from erosion by vegetative cover, mulching, riprap or other acceptable method. Permanent sand and gravel operations and similar uses must be covered by a long-term site development plan.

(3) Temporary placement of fill, other materials, or equipment which would cause an increase to the stage of the 1% chance or regional flood may only be allowed if the Building and Zoning Office has approved a plan that assures removal of the materials from the floodway based upon the flood warning time available.

(C) *Accessory structures.* Accessory structures, as identified in § 153.022(A), may be permitted, provided that:

(1) Structures are not intended for human habitation;

(2) Structures will have a low flood damage potential;

(3) Structures will be constructed and placed so as to offer a minimal obstruction to the flow of flood waters;

(4) Service utilities, such as electrical and heating equipment, within these structures must be elevated to or above the regulatory flood protection elevation or properly floodproofed;

(5) Structures must be elevated on fill or structurally dry floodproofed in accordance with the FP1 or FP2 floodproofing classifications in the State Building Code. All floodproofed structures must be adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls.

(6) As an alternative, an accessory structure may be internally/wet floodproofed to the FP3 or FP4 floodproofing classifications in the State Building Code, provided the accessory structure constitutes a minimal investment and does not exceed 576 square feet in size. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following criteria:

(a) To allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and

(b) There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

(D) Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters are subject to the provisions of M.S. § 103G.245.

(E) A levee, dike or floodwall constructed in the floodway must not cause an increase to the 1% chance or regional flood. The technical analysis must assume equal conveyance or storage loss on both sides of a stream.

(F) Floodway developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.
(Ord. 157, 2nd Series, passed 10-4-2016)

FLOOD FRINGE DISTRICT (FF)

§ 153.025 PERMITTED USES.

Permitted uses are those uses of land or structures allowed in the underlying zoning district(s) that comply with the standards in § 153.026. If no pre-existing, underlying zoning districts exist, then any residential or nonresidential structure or use of a structure or land is a permitted use provided it does not constitute a public nuisance.

(Ord. 157, 2nd Series, passed 10-4-2016)

§ 153.026 STANDARDS FOR FLOOD FRINGE PERMITTED USES.

(A) All structures, including accessory structures, must be elevated on fill so that the lowest floor, as defined, is at or above the regulatory flood protection elevation. The finished fill elevation for structures must be no lower than one foot below the regulatory flood protection elevation and the fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure.

(B) *Accessory structures.* As an alternative to the fill requirements of § 153.026(A), structures accessory to the uses identified in § 153.025 may be permitted to be internally/wet floodproofed to the FP3 or FP4 floodproofing classifications in the State Building Code, provided that:

(1) The accessory structure constitutes a minimal investment, does not exceed 576 square feet in size, and is only used for parking and storage.

(2) All portions of floodproofed accessory structures below the Regulatory Flood Protection Elevation must be:

(a) Adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls;

(b) Be constructed with materials resistant to flood damage; and

(c) Must have all service utilities be water-tight or elevated to above the regulatory flood protection elevation.

(3) Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following criteria:

(a) To allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and

(b) There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

(C) The cumulative placement of fill or similar material on a parcel must not exceed 1,000 cubic yards, unless the fill is specifically intended to elevate a structure in accordance with § 153.026(A) of this chapter, or if allowed as a conditional use under § 153.027(C) below.

(D) The storage of any materials or equipment must be elevated on fill to the regulatory flood protection elevation.

(E) All service utilities, including ductwork, must be elevated or water-tight to prevent infiltration of floodwaters.

(F) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

(G) All fill must be properly compacted and the slopes must be properly protected by the use of riprap, vegetative cover or other acceptable method.

(H) All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation, or must have a flood warning/emergency evacuation plan acceptable to the Building and Zoning Office.

(I) Accessory uses such as yards, railroad tracks, and parking lots may be at an elevation lower than the regulatory flood protection elevation. However, any facilities used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.

(J) Interference with normal manufacturing/industrial plant operations must be minimized, especially along streams having protracted flood durations. In considering permit applications, due consideration must be given to the needs of industries with operations that require a floodplain location.

(K) Manufactured homes and recreational vehicles must meet the standards of §§ 153.045 and 153.046 of this chapter.
(Ord. 157, 2nd Series, passed 10-4-2016)

§ 153.027 CONDITIONAL USES.

The following uses and activities may be allowed as conditional uses, if allowed in the underlying zoning district(s) or any applicable overlay district, following the procedures in § 153.065 of this chapter.

(A) Any structure that is not elevated on fill or floodproofed in accordance with § 153.026(A) and (B) of this chapter.

(B) Storage of any material or equipment below the regulatory flood protection elevation.

(C) The cumulative placement of more than 1,000 cubic yards of fill when the fill is not being used to elevate a structure in accordance with § 153.026(A) of this chapter.

(D) The use of methods to elevate structures above the regulatory flood protection elevation, including stilts, pilings, parallel walls, or above-grade, enclosed areas such as crawl spaces or tuck under garages, shall meet the standards in § 153.028(F).
(Ord. 157, 2nd Series, passed 10-4-2016)

§ 153.028 STANDARDS FOR FLOOD FRINGE CONDITIONAL USES.

(A) The standards listed in § 153.026(D) through (J) apply to all conditional uses.

(B) Basements, as defined by § 153.011 of this chapter, are subject to the following:

(1) Residential basement construction is not allowed below the regulatory flood protection elevation, except as authorized in § 153.028(G).

(2) Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry floodproofed in accordance with § 153.028(C) of this chapter, or meets the "Reasonably Safe From Flooding" standards in § 153.028(G).

(C) All areas of nonresidential structures, including basements, to be placed below the regulatory flood protection elevation must be floodproofed in accordance with the structurally dry floodproofing classifications in the State Building Code. Structurally dry floodproofing must meet the FP1 or FP2 floodproofing classification in the State Building Code, which requires making the structure watertight with the walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

(D) The placement of more than 1,000 cubic yards of fill or other similar material on a parcel (other than for the purpose of elevating a structure to the regulatory flood protection elevation) must comply with an approved erosion/sedimentation control plan.

(1) The plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the regional (1% chance) flood event.

(2) The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the Building and Zoning Office.

(3) The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.

(E) Storage of materials and equipment below the regulatory flood protection elevation must comply with an approved emergency plan providing for removal of such materials within the time available after a flood warning.

(F) Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if:

- (1) The enclosed area is above-grade on at least one side of the structure;
- (2) It is designed to internally flood and is constructed with flood resistant materials; and
- (3) It is used solely for parking of vehicles, building access or storage.

(4) The above-noted alternative elevation methods are subject to the following additional standards:

(a) *Design and certification.* The structure's design and as-built condition must be certified by a registered professional engineer as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.

(b) *Specific standards for above-grade, enclosed areas.* Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:

1. The minimum area of openings in the walls where internal flooding is to be used as a floodproofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one foot above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention; and

2. That the enclosed area will be designed of flood resistant materials in accordance with the FP3 or FP4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

(G) When the Federal Emergency Management Agency has issued a Letter of Map Revision based on Fill (LOMR-F) for vacant parcels of land elevated by fill to the 100-year flood elevation, the area elevated by fill remains subject to the provisions of this chapter. A structure may be placed on the elevated area specified in the LOMR-F with the lowest floor below the Regulatory Flood Protection Elevation provided the structure meets provisions of (a) and (b) below:

(1) No floor level or portion of a structure that is below the Regulatory Flood Protection Elevation shall be used as habitable space or for storage of any property, materials, or equipment that might constitute a safety hazard when contacted by flood waters.

(2) For residential and non-residential structures, the basement floor may be placed below the Regulatory Flood Protection Elevation, provided:

(a) The top of the immediate floor above any basement area shall be placed at or above the Regulatory Flood Protection Elevation, and

(b) Any area of the structure placed below the Regulatory Flood Protection Elevation shall meet the "Reasonably Safe From Flooding" standards in the Federal Emergency Management Agency's publication entitled "Ensuring that Structures Built on Fill In or Near Special Flood Hazard Areas are Reasonably Safe From Flooding," Technical Bulletin 10-01, which is hereby adopted by reference and made a part of this chapter. In accordance with the provisions of this chapter, and specifically § 153.028(G) of this chapter, the applicant shall submit documentation that the structure is designed and built in accordance with either the "Simplified Approach" or "Engineered Basement Option" found in the above-cited FEMA publication.

(Ord. 157, 2nd Series, passed 10-4-2016)

GENERAL FLOODPLAIN DISTRICT (GF)

§ 153.030 PERMITTED USES.

(A) The uses listed in § 153.020 of this chapter, Floodway District Permitted Uses, are permitted uses.

(B) All other uses are subject to the floodway/flood fringe evaluation criteria specified in § 153.031 below. Sections 153.020 through 153.023 apply if the proposed use is determined to be in the Floodway District. Sections 153.025 through 153.028 apply if the proposed use is determined to be in the Flood Fringe District.

(Ord. 157, 2nd Series, passed 10-4-2016)

§ 153.031 PROCEDURES FOR FLOODWAY AND FLOOD FRINGE DETERMINATIONS.

(A) Upon receipt of an application for a permit or other approval within the General Floodplain District, the Zoning Administrator must obtain, review and reasonably utilize any regional flood elevation and floodway data available from a federal, state, or other source.

(B) If regional flood elevation and floodway data are not readily available, the applicant must furnish additional information, as needed, to determine the regulatory flood protection elevation and

whether the proposed use would fall within the Floodway or Flood Fringe District. Information must be consistent with accepted hydrological and hydraulic engineering standards and the standards in § 153.031(C) below.

(C) The determination of floodway and flood fringe must include the following components, as applicable:

(1) Estimate the peak discharge of the regional (1% chance) flood.

(2) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.

(3) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than one-half foot. A lesser stage increase than one-half foot is required if, as a result of the stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries.

(D) The Zoning Administrator will review the submitted information and assess the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary. The assessment must include the cumulative effects of previous floodway encroachments. The Zoning Administrator may seek technical assistance from a designated engineer or other expert person or agency, including the Department of Natural Resources. Based on this assessment, the Zoning Administrator may approve or deny the application.

(E) Once the Floodway and Flood Fringe District boundaries have been determined, the Zoning Administrator must process the permit application consistent with the applicable provisions of §§ 153.020 through 153.023 and §§ 153.025 through 153.028 of this chapter. (Ord. 157, 2nd Series, passed 10-4-2016)

LAND DEVELOPMENT STANDARDS

§ 153.035 LAND DEVELOPMENT STANDARDS.

(A) *In general.* Recognizing that flood prone areas may exist outside of the designated floodplain districts, the requirements of this section apply to all land within the city.

(B) *Subdivisions.* No land may be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply or sewage treatment facilities. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this chapter.

(1) All lots within the floodplain districts must be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation.

(2) All subdivisions must have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation, unless a flood warning emergency plan for the safe evacuation of all vehicles and people during the regional (1% chance) flood has been approved by the Building and Zoning Office. The plan must be prepared by a registered engineer or other qualified individual, and must demonstrate that adequate time and personnel exist to carry out the evacuation.

(3) For all subdivisions in the floodplain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads must be clearly labeled on all required subdivision drawings and platting documents.

(4) In the General Floodplain District, applicants must provide the information required in § 153.031 of this chapter to determine the regional flood elevation, the Floodway and Flood Fringe District boundaries and the regulatory flood protection elevation for the subdivision site.

(5) If a subdivision proposal or other proposed new development is in a flood prone area, any such proposal must be reviewed to assure that:

(a) All such proposals are consistent with the need to minimize flood damage within the flood prone area;

(b) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and

(c) Adequate drainage is provided to reduce exposure of flood hazard.

(C) *Building sites.* If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of manufactured homes) must be:

(1) Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(2) Constructed with materials and utility equipment resistant to flood damage;

(3) Constructed by methods and practices that minimize flood damage; and

(4) Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(Ord. 157, 2nd Series, passed 10-4-2016)

PUBLIC UTILITIES, RAILROADS, ROADS, AND BRIDGES**§ 153.040 PUBLIC UTILITIES, RAILROADS, ROADS, AND BRIDGES.**

(A) *Public utilities.* All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be floodproofed in accordance with the State Building Code or elevated to the regulatory flood protection elevation.

(B) *Public transportation facilities.* Railroad tracks, roads, and bridges to be located within the floodplain must comply with §§ 153.020 through 153.023 and §§ 153.025 through 153.028 of this chapter. These transportation facilities must be elevated to the regulatory flood protection elevation where failure or interruption of these facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

(C) *On-site water supply and sewage treatment systems.* Where public utilities are not provided:

(1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems and are subject to the provisions in Minn. Rules Ch. 4725.4350, as amended; and

(2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, they must not be subject to impairment or contamination during times of flooding, and are subject to the provisions in Minn. Rules Ch. 7080.2270, as amended.

(Ord. 157, 2nd Series, passed 10-4-2016)

MANUFACTURED HOMES AND MANUFACTURED HOME PARKS**§ 153.045 MANUFACTURED HOMES AND MANUFACTURED HOME PARKS.**

New manufactured home parks and expansions to existing manufactured home parks are prohibited in any floodplain district. For existing manufactured home parks or lots of record, the following requirements apply:

(A) Placement or replacement of manufactured home units is prohibited in the Floodway District.

(B) If allowed in the Flood Fringe District, placement or replacement of manufactured home units is subject to the requirements of §§ 153.025 through 153.028 of this chapter and the following standards.

(1) New and replacement manufactured homes must be elevated in compliance with §§ 153.025 through 153.028 of this chapter and must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

(2) New or replacement manufactured homes in existing manufactured home parks must meet the vehicular access requirements for subdivisions in § 153.035(B)(2). (Ord. 157, 2nd Series, passed 10-4-2016)

RECREATIONAL VEHICLES

§ 153.046 RECREATIONAL VEHICLES.

New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any floodplain district. Placement of recreational vehicles in existing recreational vehicle parks or campgrounds in the floodplain must meet the exemption criteria below or be treated as new structures meeting the requirements of this chapter.

(A) Recreational vehicles are exempt from the provisions of this chapter if they are placed in any of the following areas and meet the criteria listed in § 153.046(B):

- (1) Individual lots or parcels of record.
- (2) Existing commercial recreational vehicle parks or campgrounds.
- (3) Existing condominium-type associations.

(B) *Criteria for exempt recreational vehicles.*

- (1) The vehicle must have a current license required for highway use.
- (2) The vehicle must be highway ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks.
- (3) No permanent structural type additions may be attached to the vehicle.
- (4) The vehicle and associated use must be permissible in any pre-existing, underlying zoning district.

(5) Accessory structures are not permitted within the Floodway District. Any accessory structure in the Flood Fringe District must be constructed of flood-resistant materials and be securely anchored, meeting the requirements applicable to manufactured homes in § 153.045(A)(2).

(6) An accessory structure must constitute a minimal investment.

(C) Recreational vehicles that are exempt in § 153.046(B) lose this exemption when development occurs on the site that exceeds a minimal investment for an accessory structure such as a garage or storage building. The recreational vehicle and all accessory structures will then be treated as new structures subject to the elevation and floodproofing requirements of §§ 153.025 through 153.028 of this chapter. No development or improvement on the parcel or attachment to the recreational vehicle is allowed that would hinder the removal of the vehicle should flooding occur.

(Ord. 157, 2nd Series, passed 10-4-2016)

ADMINISTRATION

§ 153.050 ADMINISTRATION.

(A) *Zoning Administrator.* A Zoning Administrator or other official designated by the city must administer and enforce this chapter.

(B) *Permit requirements.*

(1) *Permit required.* A permit must be obtained from the Zoning Administrator prior to conducting the following activities:

(a) The erection, addition, modification, rehabilitation, or alteration of any building, structure, or portion thereof. Normal maintenance and repair also requires a permit if such work, separately or in conjunction with other planned work, constitutes a substantial improvement as defined in this chapter.

(b) The use or change of use of a building, structure, or land.

(c) The construction of a dam, fence, or on-site septic system, although a permit is not required for a farm fence as defined in this chapter.

(d) The change or extension of a nonconforming use.

(e) The repair of a structure that has been damaged by flood, fire, tornado, or any other source.

(f) The placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.

(g) Relocation or alteration of a watercourse (including new or replacement culverts and bridges), unless a public waters work permit has been applied for.

(h) Any other type of *DEVELOPMENT* as defined in this chapter.

(C) *Application for permit.* Permit applications must be submitted to the Zoning Administrator on forms provided by the Zoning Administrator. The permit application must include the following as applicable:

(1) A site plan drawn to scale showing the location, all pertinent dimensions, and elevations of the lot and existing or proposed buildings, structures, and significant natural features having an influence on the permit.

(2) Location of the foregoing and fill or storage of materials in relation to the stream channel.

(3) Copies of any required municipal, county, state or federal permits or approvals.

(4) Other relevant information requested by the Zoning Administrator as necessary to properly evaluate the permit application.

(D) *Certificate of zoning compliance for a new, altered, or nonconforming use.* No building, land or structure may be occupied or used in any manner until a certificate of zoning compliance has been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this chapter.

(E) *Certification.* The applicant is required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this chapter. Floodproofing measures must be certified by a registered professional engineer or registered architect.

(F) *Record of first floor elevation.* The Zoning Administrator must maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The Zoning Administrator must also maintain a record of the elevation to which structures and alterations or additions to structures are floodproofed.

(G) *Notifications for watercourse alterations.* Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator must notify adjacent communities. If the applicant has applied for a permit to work in public waters pursuant to M.S. § 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

(H) *Notification to FEMA when physical changes increase or decrease base flood elevations.* As soon as is practicable, but not later than six months after the date such supporting information becomes available, the Zoning Administrator must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.
(Ord. 157, 2nd Series, passed 10-4-2016)

§ 153.060 VARIANCES.

(A) *Variance applications.* An application for a variance to the provisions of this chapter will be processed and reviewed in accordance with applicable state statutes and the following provisions. Upon filing with the City Administrator of an appeal from a decision of the Zoning Administrator, or an application for a variance, the City Council shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law.

(B) *Submittal of hearing notices to the Department of Natural Resources (DNR).* The City Administrator shall submit by mail to the DNR a copy of the application and hearing notice for proposed variance sufficiently in advance to provide at least ten days' notice of the hearing. The application and notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

(C) The City Council shall arrive at a decision on the appeal or variance within 60 days. In passing upon an appeal, the City Council may, so long as the action is in conformity with the provision of this chapter, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Zoning Administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reason for its decision. In granting a variance, the City Council may prescribe appropriate conditions and safeguards such as those specified in this chapter which are in conformity with the purpose of this chapter.

(D) *Adherence to state floodplain management standards.* A variance must not allow a use that is not allowed in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.

(E) *General considerations.* The City Council may consider the following factors in granting variances and imposing conditions on variances and conditional uses in floodplains:

- (1) The potential danger to life and property due to increased flood heights or velocities caused by encroachments;
- (2) The danger that materials may be swept onto other lands or downstream to the injury of others;
- (3) The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions;

Windom - Land Usage

- (4) The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;
- (5) The importance of the services to be provided by the proposed use to the community;
- (6) The requirements of the facility for a waterfront location;
- (7) The availability of viable alternative locations for the proposed use that are not subject to flooding;
- (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
- (9) The relationship of the proposed use to the Comprehensive Land Use Plan and flood plain management program for the area;
- (10) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (11) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.

(F) *Additional variance criteria.* The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

- (1) Variances must not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- (2) Variances may only be issued by a community upon:
 - (a) A showing of good and sufficient cause;
 - (b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (3) Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(G) *Submittal of final decisions to the DNR.* A copy of all decisions granting variances must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

(H) *Flood insurance notice.* The Zoning Administrator must notify the applicant for a variance that:

(1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and

(2) Such construction below the base or regional flood level increases risks to life and property. Such notification must be maintained with a record of all variance actions.

(I) *Record-keeping.* The Zoning Administrator must maintain a record of all variance actions, including justification for their issuance, and must report such variances in an annual or biennial report to the Administrator of the National Flood Insurance Program, when requested by the Federal Emergency Management Agency.

(Ord. 157, 2nd Series, passed 10-4-2016)

§ 153.065 CONDITIONAL USES.

(A) *Administrative review.* An application for a conditional use permit under the provisions of this chapter will be processed and reviewed in accordance with applicable state statutes and the following provisions. The Planning Commission shall hear and make recommendations on applications for conditional uses permissible under this chapter. Applications shall be submitted to the Zoning Administrator who shall forward the application to the Planning Commission for consideration.

(B) *Submittal of hearing notices to the Department of Natural Resources (DNR).* The Zoning Administrator shall submit a copy of the conditional use application and hearing notice for proposed conditional use to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The application and notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

(C) Following the Planning Commission's recommendations, the City Council shall arrive at a decision on a conditional use within 60 days. In granting a conditional use permit, the City Council may prescribe appropriate conditions and safeguards which are in conformity with the purposes of this chapter.

(D) *Factors used in decision-making.* In passing upon conditional use applications, the Planning Commission and City Council must consider all relevant factors specified in other sections of this chapter, and those factors identified in § 153.060(E) of this chapter.

(E) *Conditions attached to conditional use permits.* The Planning Commission and City Council may attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this chapter. Such conditions may include, but are not limited to, the following:

(1) Modification of waste treatment and water supply facilities.

- (2) Limitations on period of use, occupancy, and operation.
- (3) Imposition of operational controls, sureties, and deed restrictions.
- (4) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
- (5) Floodproofing measures in accordance with the State Building Code and this chapter. The applicant must submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

(F) *Submittal of final decisions to the DNR.* A copy of all decisions granting conditional uses must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
(Ord. 157, 2nd Series, passed 10-4-2016)

NONCONFORMITIES

§ 153.070 NONCONFORMITIES.

(A) *Continuance of nonconformities.* A use, structure, or occupancy of land which was lawful before the passage or amendment of this chapter but which is not in conformity with the provisions of this chapter may be continued subject to the following conditions. Historic structures, as defined in § 153.011 of this chapter, are subject to the provisions of § 153.070(B) through (G) of this chapter.

(B) A nonconforming use, structure, or occupancy must not be expanded, changed, enlarged, or altered in a way that increases its flood damage potential or degree of obstruction to flood flows except as provided in § 153.070(C) below. Expansion or enlargement of uses, structures or occupancies within the Floodway District is prohibited.

(C) Any addition or structural alteration to a nonconforming structure or nonconforming use that would result in increasing its flood damage potential must be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP1 thru FP4 floodproofing classifications) allowable in the State Building Code, except as further restricted in § 153.070(D) and (H) below.

(D) If the cost of all previous and proposed alterations and additions exceeds 50% of the market value of any nonconforming structure, that shall be considered substantial improvement, and the entire structure must meet the standards of §§ 153.020 through 153.023 and §§ 153.025 through 153.028 of

this chapter for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor.

(E) If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this chapter. The Assessor must notify the Zoning Administrator in writing of instances of nonconformities that have been discontinued for a period of more than one year.

(F) If any nonconformity is substantially damaged, as defined in § 153.011 of this chapter, it may not be reconstructed except in conformity with the provisions of this chapter. The applicable provisions for establishing new uses or new structures in §§ 153.020 through 153.023 or §§ 153.025 through 153.028 will apply depending upon whether the use or structure is in the Floodway or Flood Fringe, respectively.

(G) If any nonconforming use or structure experiences a repetitive loss, as defined in § 153.011 of this chapter, it must not be reconstructed except in conformity with the provisions of this chapter.

(H) Any substantial improvement, as defined in § 153.011 of this chapter, to a nonconforming structure requires that the existing structure and any additions must meet the requirements of §§ 153.020 through 153.023 or §§ 153.025 through 153.028 of this chapter for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District.

(Ord. 157, 2nd Series, passed 10-4-2016)

AMENDMENTS

§ 153.075 AMENDMENTS.

(A) *Floodplain designation - restrictions on removal.* The floodplain designation on the official zoning map must not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of the Department of Natural Resources (DNR) if the Commissioner determines that, through other measures, lands are adequately protected for the intended use.

(B) *Amendments require DNR approval.* All amendments to this chapter must be submitted to and approved by the Commissioner of the Department of Natural Resources (DNR) prior to adoption. The Commissioner must approve the amendment prior to community approval.

(C) *Map revisions require ordinance amendments.* The floodplain district regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in § 153.005 of this chapter.

(Ord. 157, 2nd Series, passed 10-4-2016)

PENALTIES AND ENFORCEMENT**§ 153.999 PENALTIES AND ENFORCEMENT.**

(A) *Violation constitutes a misdemeanor.* Violation of the provisions of this chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) constitute a misdemeanor and will be punishable as defined by law.

(B) *Other lawful action.* Nothing in this chapter restricts the city from taking such other lawful action as is necessary to prevent or remedy any violation. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses will constitute an additional violation of this chapter and will be prosecuted accordingly.

(C) *Enforcement.* Violations of the provisions of this chapter will be investigated and resolved in accordance with the following provisions. When a violation of this chapter is either discovered by, or brought to the attention of, the Zoning Administrator, he/she shall immediately investigate the situation and document the nature and extent of the violation. As soon as it is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources Office along with the city's plan of action to correct the violation to the degree possible. The Zoning Administrator shall notify the suspected party of the requirements of this chapter and the nature and extent of the suspected violation. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit of approval is granted by the city. If the construction or development is already completed, then the Zoning Administrator may either:

(1) Issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance; or

(2) Notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30 days.

(3) The Zoning Administrator shall also, upon the lapse of the specified response period, notify the landowner to restore the land to the condition which existed prior to the violation of this chapter.

(4) In responding to a suspected ordinance violation, the Zoning Administrator and the City Council may utilize the full array of enforcement actions available to it including, but not limited to, prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The city must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

(Ord. 157, 2nd Series, passed 10-4-2016)