

ATTACHMENT TO ORDINANCE NO. 196, 2ND SERIES
AMENDMENTS TO WINDOM CITY CODE CHAPTERS 150, 151, AND 152

TITLE XV: LAND USAGE

Chapter

- 150. BUILDING REGULATIONS; CONSTRUCTION**
- 151. SUBDIVISIONS**
- 152. ZONING**
- 153. FLOODPLAIN MANAGEMENT**

CHAPTER 150: BUILDING REGULATIONS; CONSTRUCTION

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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. 326B 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. Zoning permits shall also be required for front-yard, rear-yard and side-yard parking areas.

(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)

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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 from the city.

(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) 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.

(Prior Code, § 4.05) 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)

Building Regulations; Construction

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§ 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)

Windom - Land Usage

§ 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

CHAPTER 151: SUBDIVISIONS

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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) 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; or

(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 or his or her representative. Consent shall be required from the legal owner(s) of the property.

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 and identify existing additions and subdivisions and include the lot and block identifications and dimensions 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.

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 is not limited to, walkways or trails, recreation areas, playgrounds, fountains, wooded areas and watercourses. **OPEN SPACE** shall not be deemed to include wetlands, detention or retention ponds, or surfaces designed or intended for vehicular travel.

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 (structure) setback distance as measured as a line from the nearest street, road, water shoreline or property boundary line to the most outwardly extended portion of the structure to that adjacent 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 pedestrians or vehicles or both, to abutting properties, whether designated as a street, highway, thoroughfare, parkway, road, or avenue.

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 platted or unplatted property for the purpose of creating more than three new lots and which proposed subdivision does not comply with the requirements set forth in code for a minor subdivision.

SUBDIVISION - MINOR. A subdivision of a lot which is a recorded lot or a lot in a recorded plat for the purpose of adding a parcel of land to an abutting lot or to create not more than three new lots shall be classified as a minor subdivision.

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 an 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;

(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) A proposed subdivision of a lot which is a recorded lot or a lot in a recorded plat for the purpose of adding a parcel of land to an abutting lot or to create not more than three new lots shall be classified as a minor subdivision.

(2) If the lot proposed for a minor subdivision: a) is situated in a locality where conditions are well defined; b) is currently served by City utility and street infrastructure; c) will not require the City to upgrade or increase the capacity of existing utility or street infrastructure to accommodate the minor subdivision; d) if the newly created property lines will not cause the remaining portion of the lot or any resulting lot to be in violation of this Subdivision Chapter or the Zoning Chapter, the minor subdivision may be approved by City Staff.

(3) The applicant requesting the minor subdivision shall submit an application and a survey prepared by a registered land surveyor showing the original lot and the proposed subdivision to the Building & Zoning Office. The proposed minor subdivision shall be reviewed by City Department Heads (including the Building & Zoning Official, Electric Superintendent, Water/Wastewater Superintendent, Telecom Manager, and Street Superintendent). If proposed minor subdivision and submittal are approved by the City Department Heads, the minor subdivision may be approved by the Building & Zoning Official without further action by the Planning Commission or City Council. However, if deemed necessary, nothing shall prevent the Building & Zoning Official from referring the minor subdivision application to the Planning Commission for review and then to the City Council for final approval. After approval, the survey and other appropriate documentation confirming the Minor Subdivision shall be filed with the County Recorder.
(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. Two paper copies and one electronic copy 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. All submittals shall be the size and format required by the City. 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 for their 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, a public hearing shall be scheduled for the next regular meeting of the Planning Commission.

(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.

(N) Location of railroads, streams, natural and proposed drainage courses, existing 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 two paper copies and one electronic copy of the final plat upon his, her or their request for final approval of the plat. All submittals shall be the size and format required by the City.

(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 Mayor and 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 and 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 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;

(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 the proposed subdivision 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.

(2) In addition, a portion of any proposed subdivision shall be dedicated to the public or preserved for conservation purposes or for public use as parks, recreational facilities, playgrounds, trails, or open spaces. Areas so dedicated or reserved shall conform as nearly as possible to the City's comprehensive plan. All areas so dedicated or reserved 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 pursuant to (2)(a) and (b) herein.

(a) Subdivisions of up to 50 acres: 5 percent of the platted area; and

(b) Additional acreage over 50 acres: 2 percent of the platted area.

(B) *Cash in lieu of land.* If, in the judgment of the City Council, the area proposed to be dedicated, pursuant to Subsection (A)(2), 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 said 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 value 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 or subdivision 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) 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.

(I) 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.

(J) 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.

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

(L) 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.

(M) 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 be less than 350 feet in length measured along the greatest dimension of the block.

(N) (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.

(O) 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.

(P) 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 widths included in any subdivision shall not be less than the minimum dimensions for each classification as follows:

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

<i>Classification</i>	<i>Right-of-Way</i>	<i>Roadway</i>	<i>Sidewalk, if required</i>
Alley	20 feet	12 feet	N/A
Collector streets	70 feet	36 feet	5 feet
Minor arterial highway (local thoroughfare)	80 feet	44 feet	5 feet
Minor Street	60 feet	28 feet	5 feet
Cul-de-sacs	59-foot radius	43-foot radius	5 feet
Trail	12 feet	8 feet	N/A
Principal arterial highway (major thoroughfare)	As determined by state and county		5 feet
Service drives (marginal access)	50 feet	28 feet	N/A

§ 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 or 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. No private disposal system shall be interconnected or run to a common private or public drain or sewer. 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) When Section 151.61 (E) requires the street to be extended, all water, sanitary sewer and storm water utilities shall be extended to the end of the new street.

(E) 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.

(F) 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.

(G) All utility lines for telephone and electrical service shall be placed in 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.

(H) 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.

(I) All drainage and utility installations which traverse privately-owned property shall be protected by easements.

(J) 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 that prescribed in 151.62 of this Code 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) If a subdivision is traversed by a watercourse, drainage way, channel or stream, then 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 types 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, flood-prone 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

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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.

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.

ADDRESS SIGN. A sign communicating street address only whether written or in numerical form.

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.

AREA - SIGN. 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 SIGN. 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.

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

BANNERS and **PENNANTS.** Attention-getting devices which resemble flags and are of a paper, cloth or plastic-like consistency.

BASEMENT. A story or occupiable portion of a building located partially underground.

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.

BENCH SIGN. A sign which is affixed to a bench such as a bus stop.

BILLBOARD. Any sign, poster panel board, painted bulletin board, or communicative device

having an area of more than 200 square feet which is used for promotional information or to advertise products, goods and/or services which are not exclusively related to the premises on which the sign is located.

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 or railroad right of way.

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, lodging and/or 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.

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.

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

BUSINESS SIGN. 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 OR MARQUEE SIGN. 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.

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

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 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 through 515.29, 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.1-101 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 including day care for vulnerable adults as defined by the Minnesota Department of Human Services.

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.

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/DRIVE-THRU ESTABLISHMENT. An establishment that accommodates the patron's vehicle 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 - MULTI-FAMILY. A building designed for or occupied by more than two 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.

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

ESSENTIAL SERVICES. The erection, construction or maintenance by public utilities or municipal or other governmental agencies of underground, aboveground, or overhead communications, gas, electrical, steam or water transmission or distribution systems, water storage facilities, and sewage collection facilities, including, but not limited to, poles, wires, mains, water towers, holding tanks, drains, sewers, lift stations, 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.

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.

FLASHING SIGN. 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. Also includes signs that give the illusion of motion.

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.

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

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.

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.

GOVERNMENTAL BUILDING. Any building owned or leased by the City of Windom, Cottonwood County, the State of Minnesota, or the United States Government, or agencies thereof, for the purpose of providing services offered by any of said governmental entities which are in addition to those services facilitated by a public utility building.

GOVERNMENTAL SIGN. A sign which is erected by a governmental unit for the purpose of identification and directing or guiding traffic.

GROUP CARE FACILITY. A facility which provides resident services to seven or more individuals of whom one or more are unrelated. Category includes uses such as homes for individuals

with a disability, chemical dependency, undergoing rehabilitation, foster care, maternity shelters, half-way houses, and day care facilities serving more than 12 persons, residential care facilities serving more than 6 persons, and group family day care facilities licensed under Minn. Rules Parts 9502.0315 to 9502.0445 serving more than 14 persons.

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.

IDENTIFICATION SIGN. 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 SIGN. Any sign which is internally or externally lit by an artificial light source.

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

IMPOUND LOT. A place where inoperable vehicles are stored temporarily pending their disposition. (See § 152.477)

INFORMATIONAL/DIRECTIONAL SIGN. 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 SIGN. 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 SIGN. 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.

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/SALVAGE YARD. Land or buildings where waste, discarded or salvaged materials (including vehicles) are bought, sold, exchanged, stored, salvaged, scavenged, scrapped, disassembled, cleaned, packed, or handled. Products include, but are not limited to, scrap metal, rags, paper, hides, rubber products, glass products, lumber products and/or products resulting from the salvaging or scrapping of vehicles. (See also Chapter 113.)

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 into/from all types of vehicles.

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

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 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 OF RECORD. Any lot which, individually or as a part of a subdivision, has been recorded in the Office of the County Recorder (recorder of the deeds) of the county.

MAJOR STREET. Arterial streets.

MANUFACTURED HOUSING. (See also **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 vehicle.

MOTION SIGN. 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.

NEIGHBORHOOD COMMERCIAL. A small business that offers convenience services or retail goods to adjacent residential neighborhoods. The business would generate a limited amount of additional traffic, be primarily pedestrian-oriented, provide drive-through options, and provide off-street parking spaces sufficient for its business to eliminate the necessity for on-street parking. Examples include, but are not limited to, corner grocery stores, coffee shops, dry cleaners, beauty shops or barbershops.

NON-CONFORMING SIGNS.

(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-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.

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.

NURSERY SCHOOL. A school that provides early education to children typically between 3 and 5 years of age including preschools and Montessori schools.

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 is not limited to, lawns, decorative plantings, 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.

PARAPET SIGN. A sign attached to a low wall which is located perpendicular to a roof of a building.

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.

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.

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.

PORTABLE/MOBILE SIGN. 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.

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 SIGN. 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.

PUBLIC UTILITY BUILDING. Any building owned or leased by a municipal, county, state or federal government agency for the purposes of office space, housing of equipment, and/or storage and maintenance facilities for equipment used in the provision and/or maintenance of utility services for the general public including, but not limited to, electrical, telecommunications, natural or manufactured gas, water, and sewer, and including buildings for governmental agencies providing street/highway and/or storm sewer/drainage maintenance services.

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.

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.

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**.

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)

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

STRUCTURE - SIGN. The supports, foundations, uprights, bracing and framework for a sign including the sign area.

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 conduct of business. Marinas, resorts and restaurants with transient docking facilities are examples of the use.

TEMPORARY SIGN. Any sign which is erected or displayed for a specified period of time. These signs shall be removed within 60 days of placement or installation.

TOE 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%.

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 below. 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%.

TOWNHOUSES. Structures housing two 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 shall 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 deviation from specific terms of the zoning ordinance when the variance will not be contrary to the public interest and when, owing to conditions unique to the property and not the result of the action of the applicant, a literal enforcement of the chapter would result in practical difficulties as defined by state statutes. As used in this chapter, a **VARIANCE** is authorized only for area, size or height 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.

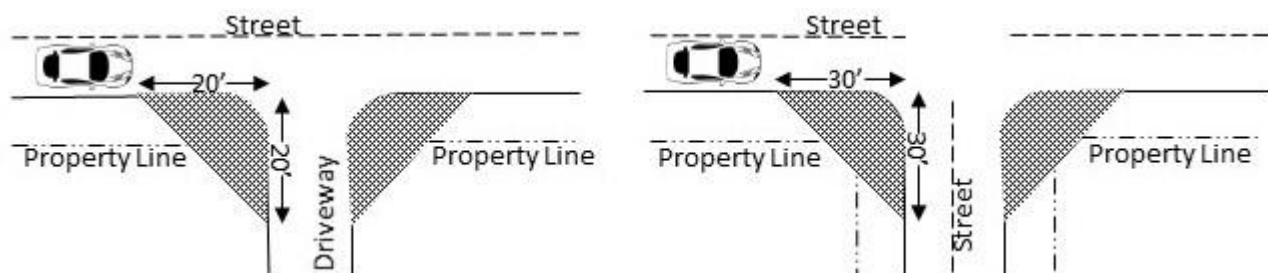
VEHICLE REPAIR - MAJOR. General repair, rebuilding or reconditioning engines, motor vehicles or trailers; collision service, including body, frame or fender straightening or repair, overall painting or paint job; vehicle steam cleaning.

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

VEHICLE SERVICE STATION. A place where gasoline/diesel fuel are stored only in underground tanks; gasoline, diesel fuel, kerosene and/or motor oil and lubricants or grease, for operation of vehicles, are retailed directly to the public on the premises, and including the sale/provision of minor accessories and services for vehicles, but not including major repairs and rebuilding.

VEHICLE WRECKING. Any place where two or more vehicles not in running condition and/or not licensed are stored in the open and are not being restored to operation or any land, building or structure used for wrecking/towing or storing of the motor vehicles.

VISION CLEARANCE TRIANGLE. A triangular area adjacent to both sides of a driveway, alley, roadway, or public street that intersects with any other driveway, alley, roadway or public street. The triangle starts at the point of intersection and extends 20 feet along the edge of the driveway, alley, roadway, or public street and 20 feet along the edge of the intersecting driveway, alley, roadway, or public street. The ends of the two lines are connected to form the triangle. A similar triangle shall be created for a corner lot where two roadways or public streets intersect, except that the distance shall be 30 feet extended along the edges of the streets adjacent to the lot.



WALL GRAPHICS SIGN. 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.

WALL SIGN. 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.

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.

WATER RECREATION. Water recreation includes municipally-owned swimming pools, water parks, splash pads, and water features.

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 unoccupied 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.

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 administer the zoning code, review zoning applications, grant zoning certificates and zoning permits and, following Council approval, grant conditional uses and 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, places of assembly and parks. However, under the provisions of PUD (planned unit development), planned residential projects are permitted, 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 overlay 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

§ 152.010 SITE PLAN REQUIREMENTS

(A) Required information

- 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 site plan being submitted, including attorney, land planner, engineer and surveyor; and
- 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 land 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) 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) The location, size and arrangement including height in stories and feet and total square feet of ground area coverage and floor area of proposed buildings;
 - b) Total amount of impermeable surface area;
 - c) 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 elements;
 - d) Labeled
 - e) Compass rose directing North;
 - f) Contours: minimum two-foot intervals;
 - g) Location, type and extent of tree cover;
 - h) Slope analysis;
 - i) Location and extent of waterbodies, wetlands and stream and floodplains within 300 feet of the subject property;
 - j) Significant rock outcroppings;
 - k) Existing drainage patterns;
 - l) Vistas and views; and
 - m) Soil conditions as they affect development.

§ 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 dwelling;

(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) Home occupations per §§ 152.350 through 152.352;

(F) Essential services;

(G) 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;

(H) Storage and farm buildings; and

(I) Accessory structures per §§ 152.325 through 152.330.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.037 CONDITIONAL USES.

(A) Governmental buildings;

(B) Commercial outdoor recreational areas;

(C) Commercial riding stables;

(D) Animal clinics;

(E) Kennels;

(F) Camping facilities;

(G) Home occupations per § 152.353;

(H) Cemeteries;

(I) Wind Energy Conversion System per § 152.385;

(J) 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

(K) Manufactured home parks per §§ 152.365 through 152.370;

(L) **Bed and breakfast facilities per § 152.354;**

(M) **Public utility buildings.**

(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.)	12,000	12,000	-
Minimum lot width at setback line (ft.)	100	100	-
Minimum lot depth (ft.)	120	120	-
Minimum rear yard setback (ft.)	25	25	**
Minimum front yard setback (ft.)	25	25	25
Minimum side yard setback (ft.)	*	*	5
Maximum lot coverage	35%	35%	-
Maximum height (ft.)	35	35	15
Minimum building width (ft.)	22	-	-
Minimum off-street parking spaces (See §152.495 (B))	2	-	-
NOTES TO TABLE: * A total of 20% of lot width at front yard setback divided evenly on each side of the structure. ** 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)

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;
- (B) ~~Manufactured housing per § 152.365;~~
- (C) Public parks and playgrounds;
- (D) Essential services;
- (E) Accessory Structures per §§ 152.325 through 152.330;
- (F) Home occupations per §§ 152.350 through 152.352;

(G) 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) Governmental buildings and libraries;
- (I) Two-family dwellings;
- (J) Greenhouses;
- (K) Nursing homes;

(L) Places of assembly; and

(M) Private, public and parochial schools;

(N) **Bed and breakfast facilities per § 152.354.**

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

§ 152.053 YARD AND LOT REQUIREMENTS.

		<i>All Uses</i>	<i>Accessory Structures</i>
Minimum lot area (sq. ft.)		12,000	-
Minimum lot width at setback: line (ft.)		100	-
Minimum lot depth (ft.)		120	-
Minimum rear yard setback (ft.) building line to lot line		25	**
Minimum front yard setback (ft.) building line to lot line		25	25
Minimum side yard setback (ft.)		*	5
Maximum lot coverage		35%	-
Maximum building height (ft.)		35	15
Minimum building width (ft.)		22	-
Minimum off-street parking spaces (See §152.495 (B))		2	-
<u>NOTES TO TABLE:</u> * 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)

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;
- (B) Two-family dwellings;
- (C) Manufactured housing per § 152.365;
- (D) Essential services;
- (E) Accessory Structures per §§ 152.325 through 152.330;
- (F) Public parks and playgrounds;
- (G) Home occupations per §§ 152.350 through 152.352; 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 per § 152.353;
- (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) Governmental buildings, libraries, museums and art exhibition centers;

(O) Multiple-family dwellings – **See also §152.267;**

(P) Group Care Facilities;

(Q) Neighborhood commercial;

(R) Places of assembly;

(S) Manufactured home parks (per §§ 152.365 through 152.370);

(T) **Bed and breakfast facilities per §152.354.**

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

§ 152.068 YARD AND LOT REQUIREMENTS.

	<i>All Uses</i>		<i>Accessory Structures</i>
Minimum lot area	7,000		-
Minimum lot width at setback line (ft.)	70		-
Minimum lot depth (ft.)	100		-
Minimum rear yard setback (ft.) building line to lot line	25		**
Minimum front yard setback (ft.) building line to lot line	25		25
Minimum side yard setback (ft.)	*		5
Maximum lot coverage	40%		-
Maximum building height (ft.)	35		15
Minimum Building Width	22		-
Minimum off-street parking spaces (See §152.495 (B))	2		-
<u>NOTES TO TABLE:</u> * 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)

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) Group Care Facilities;
- (D) Public parks and playgrounds;
- (E) Retirement, nursing and convalescent homes;
- (F) Accessory Structures per §§ 152.325 through 152.330;
- (G) Home occupations per §§ 152.350 through 152.352;
- (H) Essential services; and

(I) 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) Home occupations per § 152.353;

(K) Water recreation and water storage;

(L) Governmental buildings and libraries;

(M) Manufactured home parks;

(N) Mixed use structures per §§ 152.478 through 152.479;

(O) Neighborhood commercial;

(P) Places of assembly;

(Q) **Bed and breakfast facilities per §152.354.**

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

§ 152.083 YARD AND LOT REQUIREMENTS.

	<i>All Uses</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
Off street parking shall comply with 152.490 through 152.496		

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.

§ 152.084 USABLE OPEN SPACE.

Except for nursing homes and assisted living facilities, each multiple-family dwelling site shall contain at least 350 square feet of usable outdoor open space for each dwelling unit contained therein. Open space shall not include wetlands, detention or retention ponds, driveways, parking lots or other surfaces designated or intended for vehicular use. Outdoor open space shall include, but is not limited to, green space, recreational facilities, playgrounds, and trails.
(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,
- (D) Two-family dwellings;
- (E) Home occupations per §§ 152.350 through 152.352;
- (F) Essential services; and
- (G) Accessory Structures per §§ 152.325 through 152.330;
- (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)

§ 152.097 CONDITIONAL USES.

- (A) Self-service establishments;
- (B) Entertainment facilities;
- (C) Eating and drinking establishments;
- (D) Banks;
- (E) Studios;
- (F) Vehicle service stations;
- (G) Multiple family dwellings – See also §152.267;
- (H) Nursing homes;
- (I) Group care facilities;
- (J) Home occupations per § 152.353;
- (K) Places of assembly;
- (L) Drive-up facilities;
- (M) Public utility building;
- (N) Bed and breakfast facilities per § 152.354;
- (O) Neighborhood Commercial;
- (P) Mixed use structures per §§ 152.478 through 152.479;
- (Q) Car wash;
- (R) Funeral homes;

(S) Governmental buildings.

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

§ 152.098 YARD AND LOT REQUIREMENTS.

	All Uses	Accessory Structure
Minimum lot area (sq. ft.)	5000	-
Minimum lot width as front yard setback (ft.)	50	-
Minimum lot depth	100	-
Minimum rear yard setback (ft.)	15	5
Minimum front yard setback (ft.)	25	25
Minimum side yard setback (ft.)	*	5
Maximum lot coverage	50%	-

Maximum building height (ft.)	35	15
Minimum building width (ft.)	22	-
Off street parking shall comply with 152.490 through 152.496		
	<u>NOTES TO TABLE</u> *10% of lot frontage to a maximum of ten feet	

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) Vehicle service stations per § 152.475;
- (G) Car wash per § 152.476;
- (H) Retail businesses;
- (I) Commercial recreation and entertainment centers;
- (J) Essential services;
- (K) Accessory uses;
- (L) Supply yards (lumber yards and the like);
- (M) Banks;
- (N) Hospitals and clinics for humans;
- (O) Animal clinics.

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

§ 152.112 CONDITIONAL USES.

- (A) Light ~~industrial~~; manufacturing;
 - (B) Places of assembly;
 - (C) Educational institutions;
 - (D) Wind Energy Conversion Systems per § 152.385;
 - (E) Water recreation and water storage;
 - (F) Fire station and governmental buildings;
 - (G) Public utility buildings;
 - (H) Wholesale buildings;
 - (I) Mixed use structures per §§ 152.478 through 152.479;
 - (J) Drive-through establishments; and
 - (K) 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.

	All Uses	Accessory Structures
Minimum lot area (sq. ft.)	12,000	-
Minimum lot width at front yard setback (ft.)	100	-
Minimum lot depth (ft.)	120	-
Minimum rear yard setback (ft.)	15*	5
Minimum front yard setback (ft.)	25	25
Minimum side yard setback (ft.)	**	5
Maximum lot coverage – total of all structures combined	60%	
Maximum building height (ft.)	60	15

§ 152.114 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, and cross access with like uses.

(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 no further than 15 feet apart and must form a complete visual barrier within three years. 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) Governmental buildings and libraries;
- (G) Trade and vocational schools;
- (H) Commercial recreation;
- (I) Animal clinics;
- (J) Hospitals and clinics for humans;
- (K) Essential services; and
- (L) Accessory uses;

(M) **Private, public and parochial schools.**

(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) Multiple-family dwellings – **See also § 152.267;**

(E) Group care facilities;

(F) Wholesale business;

(G) Supply yards;

(H) Places of assembly;

(I) Fraternal organizations;

(J) Bed and breakfast facilities per § 152.354;

(K) Rental storage facilities;

(L) Drive-up facilities;

(M) Mixed use structures per §§ 152.478 through 152.479;

(N) Manufactured home parks; and

(O) 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.

	All uses	Accessory Structures
Minimum lot area (sq. ft.)	-	-
Minimum lot width at front yard setback line (ft.)	25	-
Minimum lot depth (ft.)	100	-
Minimum rear yard setback (ft.)	25*	5
Minimum front yard setback (ft.)	**	-
Minimum side yard setback (ft.)	10%***	5
Maximum lot coverage	-	-
Maximum height (ft.)	35	15
NOTES TO TABLE: *Rear yard setback is required when the rear or side line abuts a residential district, or when a building contains any dwelling units. **Front yard setback is not required on property abutting a public right-of-way. ***Side yard setback is only required when the side line abuts a residential district.		

§ 152.134 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. All displays shall be adjacent and contiguous to the business offering the items for sale, rental or lease. No displays shall be placed on the street. Displays shall be situated a minimum of 15' from fire hydrants. At least four feet of clear, unobstructed travel space for pedestrian travel shall be maintained between the display and the inside edge of the curb.

(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) Public Utility Buildings;
- (C) Vehicle, implement and/or equipment sales, services and repair;
- (D) Trade and vocational schools;
- (E) Research and testing laboratories;
- (F) Supply yards (lumber yards and the like);
- (G) Warehousing of non-explosive material or equipment;
- (H) Truck terminals;
- (I) Wholesale businesses;
- (J) Radio and television offices and stations;
- (K) Freight and parcel shipping facilities;

(L) Rental establishments;

(M) Recreational vehicle/trailer sales, service and repair;

(N) Essential services;

(O) Storm water retention areas;

(P) Accessory uses; and

(Q) 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) Wind Energy Conversion System per § 152.385;
- (C) Personal and professional services;
- (D) Impound lot for storage of inoperable vehicles (vehicle wrecking) per § 152.477; and

(E) 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)

§ 152.153 YARD AND LOT REQUIREMENTS.

	All Uses	Accessory Structure
Minimum lot area (sq. ft.)	20,000	-
Minimum lot width at front yard setback (ft.)	100	-
Minimum lot depth (ft.)	100	-
Minimum rear yard setback (ft.)	30*	12
Minimum front yard setback (ft.)	25*	25*
Minimum side yard setback (ft.)	15*	5
Minimum corner yard setback (ft.)	25*	25*

Maximum lot coverage (all structures on lot combined)	40%	-
Maximum height (ft.)	40	25
<u>NOTES TO TABLE:</u> *Setback from “R” district boundary: 30 feet.		

§ 152.154 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. 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;

(H) Accessory uses; and

(I) Essential services.

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

§ 152.172 CONDITIONAL USES.

(A) Junk/salvage yards (see also Chapter 113);

(B) Chemical fertilizer plant;

(C) Wind Energy Conversion System per § 152.385;

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

(E) Vehicle service stations per § 152.475;

(F) Impound lot for storage of inoperable vehicles (vehicle wrecking) per § 152.477;

(G) Car washes per § 152.476;

(H) Livestock sales or auction centers and confinement buildings;

(I) Meat processing plants; and

(J) 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.

	All Uses	Accessory Structure
Minimum lot area (sq. ft.)	20,000	-
Minimum lot width (ft.)	100	-
Minimum lot depth (ft.)	100	-
Minimum rear yard setback (ft.)	50*	12
Minimum front yard setback (ft.)	25*	25*
Minimum side yard setback (ft.)	20*	5
Minimum corner setback (ft.)	30*	30*
Maximum lot coverage (all structures combined)	60%	-
Maximum height	45	25
NOTES TO TABLE:		
*Setback from "R" district boundary: 75'		

§ 152.174 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 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 inappropriate 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 prevention 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 on 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 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.* Common open space or service facilities provided within the PUD 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 every successive buyer.

(f) The open space restrictions must be permanent and in perpetuity.

(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) *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.

§ 152.192 RESIDENTIAL PUD

The following section is intended to apply for planned unit developments primarily for residential uses and facilities.

(A) *Minimum Land Area*

(1) The minimum area shall be one acre of buildable area.

(B) *Maximum Units Allowed per Acre*

Zoning District	Maximum Dwelling Units Per Acre

A-O	4 DU/AC
R-1	4 DU/AC
R-2	12 DU/AC
R-3	24 U/AC

(2) In A-O and R-1 districts, if a parcel contains more than one acre of land, the maximum number of dwelling units shall be calculated as if the parcel was divided into one-acre tracts. Any individual building shall not contain more dwelling units than the maximum per acre from the chart.

(C) Permitted Uses

(1) Permitted uses in the underlying zoning district;

(2) Multiple-family dwelling units including but not limited to detached, clustered, semi-detached, or attached multistory structures;

(3) Retirement, nursing, and convalescent homes;

(4) Public parks and playgrounds;

(5) Places of assembly;

(6) Accessory uses;

(D) Design Standards

(1) 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;

(2) A minimum of 5% of total buildable area shall be reserved for common open space or recreational space. Wetlands, detention or retention ponds, parking areas, building footprints, streets, and driveways shall not be considered open space.

(E) Landscaping

(1) The parking areas shall have at least one tree per ten spaces.

(2) There shall be at least one tree for every fifty lineal feet of frontage.

(3) 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.

(F) Setbacks

(1) Setbacks at the periphery of the PUD should be at least the same imposed in the underlying district.

(G) Parking

(1) Parking shall be provided in accordance with Off-Street Parking and Loading Regulations

§ 152.193 MIXED USE PUD

The following section is intended to apply for planned unit developments for a mix of uses and facilities. Mixed use PUDs shall be allowed in B-1, B-2 and B-3, R-3 zoning districts.

(A) Minimum Land Area

- (1) The minimum area needed is 20,000 square feet.

(B) Permitted Uses

- (1) Permitted uses in the underlying zoning district;
- (2) Retail businesses;
- (3) Neighborhood commercial;
- (4) Offices;
- (5) Multiple-family dwellings;
- (6) Retirement, nursing, and convalescent homes;
- (7) Public parks and playgrounds;
- (8) Places of assembly;
- (9) Accessory uses;

(C) Design Standards

(1) 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;

(2) A minimum of 10% of total buildable area shall be reserved for open space or recreational space. Wetlands, detention or retention ponds, parking areas, building footprints, streets, and driveways shall not be considered open space.

(D) Landscaping

- (1) The parking areas shall have at least one tree per ten spaces.
- (2) There shall be at least one tree for every fifty lineal feet of frontage.

(3) A ten (10) feet wide landscape frontage strip shall be installed on each property abutting the public street as measured from the property line. Planting in the landscape frontage strips shall include not less than the following:

- (a) A minimum of one deciduous or evergreen shrub per four lineal feet of street frontage

shall be planted in the landscaping strip. The vegetation is not required to be planted in a singular row and may be placed in a designed arrangement provided the full total of required shrubs is placed within the frontage strip.

(4) Site planting requirements shall require the following:

(a) At least ten (10) percent of the gross site square footage shall be pervious, unpaved planted surfaces. The required planting strips shall be included in the calculation of planted areas.

(b) All planted surfaces shall be planted with grasses, shrubs, perennials, or groundcover plants so that they shall be completely covered by installed plants within three years of the planting date. Open mulch or rock beds shall not be accepted as planting area.

(c) Large deciduous shade trees shall be installed in parking lots in excess of thirty (30) spaces. The trees shall be located in planting areas of not less than fifty (50) square feet of unpaved surface per tree and at least one tree shall be planted for each three thousand (3,000) square feet of paving on site.

(d) 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;

(5) Maintenance: Property owners shall maintain all planting and irrigation systems located on private property. All planting shall respect city codes for sight lines at intersections and electric line restrictions.

(E) Setbacks

(1) Setbacks at the periphery of the PUD should be at least the same imposed in the underlying district unless;

(F) Parking

(1) Parking shall be provided in accordance to Off-Street Parking and Loading Regulations §152.490 through §152.496.

(G) Architecture

(1) All structures shall be constructed of wall materials including brick, stone masonry, stucco like exterior systems, pre-cast concrete wall panels, or other like material. Painted concrete block or flat poured concrete walls are not allowed unless the blocks include an architectural finish and an articulated pattern that varies the block sizes, horizontal face alignment, and/or the coursing and vertical joints. Building walls may also be constructed of wood, fiber cement board, architectural CMU block, vinyl, aluminum, or steel lap siding, or corrugated metal only when at least twenty-five (25) percent of any street facade is constructed of approved masonry.

(2) Walls shall extend above flat roofs as necessary to screen views of roof-mounted equipment. Cornice lines will be established using metal materials and shall be straight and true. Alternative screening system for roof top mechanical may be considered provided they completely screen the mechanicals from public view.

(3) Awnings and architectural features shall not extend beyond property lines. They shall not be installed higher than building roof lines.

- (4) The front facade of any structure shall be comprised of at least thirty-five (35) percent windows and doors at the ground level.
- (5) Accessory structures shall be constructed of similar and/or complimentary materials as the primary structure
- (6) Accessory structures shall not be placed in such a manner that they extend in front of the front building line of the primary structure.
- (7) Screening walls, decorative walls and/or retaining walls shall not be made of smooth face concrete unless treated with another material or design element.

(H) Outdoor Dining

- (1) Outdoor dining shall comply with all local, state, federal liquor licensing requirements.
- (2) Outdoor dining areas shall be contiguous to the primary building and may not be located within the public right-of-way.
- (3) Structures used for providing shade or weather protection shall be designed of durable materials that will not deteriorate and must be maintained at all times.
- (4) Furnishings shall be made of durable materials.
- (5) Outdoor dining areas shall be designed so as not to encroach upon the required off-street parking spaces.
- (6) Walls and fencing shall be subject to Sections 152.420 through 152.428 and Architecture, above.

(I) Lighting

- (1) Light pole materials shall be painted or finished aluminum or steel. Wood poles shall not be accepted.
- (2) Site lighting must not spread onto adjoining properties or the public right-of-way unless a shared parking lot is in use.

(J) Access Management

- (1) Curb cut widths and design shall be in accordance with adopted public works standards for access management as referenced in Section 152.495 of City Code including sight visibility standards.
- (2) Shared curb cuts (between properties) are encouraged.
- (3) Either one two-way curb-cut or two one-way curb cuts are allowed onto the public street where property has one hundred fifty (150) feet or more of street frontage.
- (4) For corner lots, a maximum of one curb cut is allowed on each intersecting side street that each property has frontage on regardless of the length of the frontage.

(K) Pedestrian Features

- (1) A five foot wide as constructed or designated, accessible, pedestrian route shall be installed on each property to connect each building's primary access door with the public sidewalk located in the public street right-of-way. An accessible route may be designated with painted markings on parking lot pavement.
- (2) Construction or reconstruction of sidewalks and decorative street improvements shall be in accordance with adopted City standards.

(L) Placement of uses

- (1) In a mixed-use structure, commercial uses should be placed on the ground floor;
- (2) Commercial uses may be separate buildings from residential portions within the development, or a part of a residential building;
- (3) Parking areas shall be set back 5 feet from the property line and shall be landscaped with vegetation and/or turf grass. This requirement can be waived where parking lots adjoin and have cross access agreements/easements.

§ 152.194 SUBMISSION REQUIREMENTS.

Two paper copies and one electronic copy 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 § 152.195.

(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) Follow site plan requirements as listed in § 152.010 Site Plan Requirements.
- (3) 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;

(4) 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:

- Area devoted to residential uses;
- Area devoted to residential use building types;
- Area devoted to common open space;
- Area devoted to public open space;
- Approximate area devoted to streets;
- Approximate area devoted to and number of off-street parking and loading spaces and related access;
- Approximate area and floor area devoted to commercial uses; and
- Approximate area and floor area devoted to industrial or office use.

(5) 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;

(6) 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

(7) 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.

(D) *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:

- Zoning classification required for development stage submission and any other public decisions necessary for implementation of the proposed plan;
- Two paper copies and one electronic set 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:

- 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);

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

- 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;

- 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;

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

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

- Proposed lots and blocks, if any, and numbering system;

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

- Detailed sketches and provisions of proposed landscaping;

- General grading and drainage plans for the developed PUD; and

- 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.

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

- A tabulation indicating the number of residential dwelling units and expected population;

- 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);

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

- 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;

- 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;

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

(E) *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 Local Building Codes. (Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.195 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 by ordinance or deny 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 per § 152.285.
(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>Table 1: Shoreland Classification</i>		
<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
<u>NOTES TO TABLE:</u> *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

	<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

Table 2: Minimum Size and Width above the Normal High Water Mark			
	<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

Table 3: Structure Setbacks*		
	<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.
<u>NOTES TO TABLE:</u> * 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 the more restrictive setback requirements. 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.

Table 4: Setbacks and Size Requirements Regardless of the Classification of the Waterbody

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	Same as underlying Zoning District
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:

Commercial Planned Unit Development Floor Area Ratios* Public Waters Classes			
*Average Unit Floor Area (sq. ft.)	<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
<u>NOTES TO TABLE:</u> * 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

§ 152.264 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

§ 152.265 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

§ 152.266 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.

§ 152.267 OPEN SPACE REQUIREMENTS FOR MULTIPLE-FAMILY DWELLING.

Except for nursing homes and assisted living facilities, each multiple-family dwelling site shall contain at least 350 square feet of usable outdoor open space for each dwelling unit contained therein. Open space shall not include wetlands, detention or retention ponds, driveways, parking lots or other

surfaces designated or intended for vehicular use. Outdoor open space shall include, but is not limited to, green space, recreational facilities, playgrounds, and trails.

§ 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 lot area, width, or depth may be utilized for single-family detached dwelling purposes; provided, the proposed single-family dwelling meets the front, side, and rear yard setbacks, open space (lot coverage), building height, and off-street parking requirements for the zoning district in which it is located. 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.
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(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;

(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 facilities 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. § 462.357, 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 A-O Agricultural-Open Space, B-2 Highway Business, I-1 Light Industrial, & I-2 Heavy Industrial 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, and National Electrical Codes; State Building Code, local Zoning Code, and PUC 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. See § 152.002 for all definitions.

§ 152.392 PERMITS AND STANDARDS.

(A) *Rooftop 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, the proposed dwelling and accessory building(s) comply with the provisions of Section 152.270 and this Chapter. 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 one year, 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 increases its non-conformity.

(B) Should the structure be destroyed by any means to an extent of more than 50% of its estimated market value, as indicated in the records of the County Assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged, 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 whatsoever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(D) 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) 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.

(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 more than one year, 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 land 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)

SMALL WIRELESS FACILITY

§ 152.410 GENERAL

The installation or attachment of an antenna or other wireless communications equipment utilizing small cell technology (the “wireless equipment”) to poles in the City of Windom or City-owned facilities shall be subject to the criteria set forth below. In some cases, the existing pole may require replacement with a new combination pole that can accommodate the equipment proposed to be attached and the street light luminaire, signal head/mast arm or other appurtenances (the “replacement pole”). If an existing pole is proposed to be utilized for attachment, detailed engineering calculations shall be submitted by a Licensed Professional Engineer showing that the pole can accommodate the additional loads.

§ 152.411 APPLICATION PROCESS

(A) The small wireless facility operator or contractor/installer shall submit a permit application(s) to the Windom Building & Zoning Office detailing the type of equipment to be installed, specs regarding weight and size of equipment, photo of cabinet and other equipment to be attached or placed in the City’s right-of-way, and proposed locations for installation of the equipment. The City may request additional information if deemed necessary.

(B) Any fees for the permit application shall be set by resolution of the Windom City Council.

§ 152.412 POLE CRITERIA

Specific Criteria:

(A) Only one installation per pole on a first-come, first-served basis is permitted.

(B) If wireless equipment is to be installed on a City-owned street light pole, the operator, at its expense, shall replace the existing street light pole with a chambered pole to segregate wireless and utility services. The specs of the proposed pole shall be approved by the Windom Electrical Department.

(C) The wireless equipment is not permitted to protrude more than five (5) feet above the streetlight luminaire or mast arm itself.

(D) The mounting height of the luminaire on the streetlight pole shall be no more than thirty-five (35) feet.

- (E) The mast arm length of a replacement pole shall match the existing streetlight pole being replaced.
- (F) The color and surface treatment of the replacement pole shall match the surrounding area poles.
- (G) Pole heights shall be the same as all surrounding poles of the same use.
- (H) No Company signs are permitted to be placed on a pole, including a replacement pole, except to the extent required by local, state, or federal laws or regulations.
- (I) All pole-attached wireless equipment must be a minimum of ten (10) feet above the sidewalk elevation.
 - i. All ground-based wireless equipment including, but not limited to, equipment cabinets or power pedestals shall be placed at the back of the right-of-way whenever possible.
- (J) All pole-mounted equipment shall match the color of the pole or replacement pole.
- (K) For each individual pole type or style used to support the wireless equipment, one spare replacement pole shall be provided by the small wireless facility operator to the City at the end of the project so that the pole can be replaced promptly in case of a knockdown.
- (L) All plans shall be signed and sealed by a Professional Civil and Electrical Engineer.
- (A) All other details in the City of Windom Street Light Design Standards and Engineering Standards shall apply.
- (B) The replacement pole and the wireless equipment attached to the pole shall not increase the diameter of the existing pole that is replaced by more than sixty (60) percent, not to exceed eight (8) inches total, or increase the height of the existing pole by more than ten (10) percent, not to exceed four (4) feet. The distance from the edge of the pole to the street or sidewalk shall meet all setback requirements per the City's Engineering Standards.
- (C) Antenna shall be limited to snug-mount, canister-mount, and concealed antennas and mounted no more than six (6) inches off the pole.
- (D) All cables or wires for the attached wireless equipment shall be located inside the pole except where such cables or wires attach to the ports in the antenna.
- (E) When wireless equipment is attached to a replacement pole, the primary purpose of the pole shall remain as a pole structure supporting a streetlight luminaire, signal mast arms/heads, or power facilities and related fixtures as originally established within the City right-of-way.

§ 152.413 Equipment Cabinets

- (A) Equipment cabinet locations shall comply with the height and development standards of the underlying zoning district.
- (B) Cooling Fans: In residential areas, the small wireless facility operator shall use a passive cooling system. In the event that a fan is needed, the small wireless facility operator shall use a cooling fan with a low noise profile.

(C) The associated equipment will be reviewed by the City for each location and will be screened wherever the same can be screened in a commercially reasonable manner.

(D) No more than one equipment cabinet and/or power pedestal shall be located at and serve any one pole site.

§ 152.414 Above-Ground Utility Structures

(A) When requesting above-ground structures greater than twenty-four (24) inches in height, they must meet the following criteria and the following information must be submitted:

- a. Evidence or documentation that where the above-ground structure is over thirty-six (36) inches in height, given its proposed location, the structure will comply or be in compliance with applicable City Of Windom Zoning Ordinances.
- b. City will provide documentation that identifies a potential site for replacement within a neighborhood. (The site will be selected on the basis of aesthetics and technical/engineering restrictions.)
- c. Evidence that the structure shall be placed on the same side of the right-of-way as refuse containers or utility poles. (The structure shall not block trash truck access and alley access.)
- d. Verification of sight-triangle compliance.
- e. Three (3) photographs of the proposed structure, one (1) at ninety (90) degrees, the other two (2) at forty-five (45) degrees on either side of the proposed location. (Identify the location of the proposed structure, mark the location with white tape, use an orange traffic cone, etc.)
- f. Evidence or documentation of the dimension of the structure.
- g. Evidence or documentation that the structure shall not exceed thirty-six (36) inches in height in front of the front yard of a residential home.
- h. Information as to the specifications of the structure, if available.

§ 152.415 SIGNAGE/LIGHTING/LOGOS/DECALS

(A) Signage: The small wireless facility operator shall post its name, location identifying information, and emergency telephone number in an area on the cabinet of the small cell facility that is visible to the public. Signage required under this section shall not exceed four (4) inches by six (6) inches, unless otherwise required by law (e.g. RF ground notification signs) or the City. If no cabinet exists, the signage shall be placed at the base of the pole.

(B) Lights: New small wireless facilities and wireless support structures shall not be illuminated, except in accord with state or federal regulations, or unless illumination is integral to the camouflaging strategy such as design intended to look like a street light pole.

(C) Logos/Decals: The small wireless facility operator shall remove or paint over unnecessary equipment manufacturer decals. The color shall match or shall be as approved by the City. Small

wireless facilities and wireless support structures shall not include advertisements and may only display information required by a federal, state or local agency. The small wireless facility operator shall utilize the smallest and lowest visibility radio frequency (RF) warning sticker required by government or electric utility regulations. Placement of the RF sticker shall be as close to the antenna as possible.

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 respective 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 upon the property being fenced. See Section 152.421 for specifics regarding placement of fences.

(C) No fence shall interfere with vision clearance triangle requirements including fences on corner lots.

(D) Front-yard fences

(1) Front-yard fences shall not be more than four feet in height, must contain a gate on the side facing the street that is a minimum of three feet in width, and must have no more than sixty percent (60%) opacity of screening.

(2) No fence shall be placed in the boulevard.

(E) All other residential fences shall be no more than six feet in height.

(F) The screening provisions for residential districts shall supersede, where applicable, the provisions of this section.

(G) All posts or similar supporting instruments used in the construction of fences shall be faced inward toward the property being fenced. The property owner is required to maintain both sides of the fence.

(H) Every fence shall be constructed in a substantial workmanlike manner of new materials. Examples of approved fencing materials include, but are not limited to, wood, vinyl, wrought iron, and chain link fencing. Examples of materials not approved for fencing include, but are not limited to, cattle/hog panels, pallets, corrugated metal, and tires. Fencing materials shall be approved by the Building Official prior to installation.

(I) No fence shall obstruct drainage.

(J) All fences located within a utility easement require a conditional use permit.
(Ord. 125, 2nd Series, passed 12-15-2003)

(K) Height, setback, and sight line requirements also apply to hedges and walls.

(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 structure, vehicle, fence, wall, hedge or other physical obstruction shall be erected, placed, planted or allowed to grow over a height of two feet in locations where it will interfere with traffic or pedestrian visibility including the vision clearance triangle. Exceptions include public utility poles or utility boxes and street signs. These regulations shall apply unless it can be demonstrated to the Building Official that the object does not obstruct 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. See § 152.002 for all definitions.

§ 152.442 GENERAL PROVISIONS.

(A) All sign installations require a sign permit, except for temporary signs 16 square feet or less.

(B) Sign permits will not be reviewed based on content except as provided in (J) below.

(C) 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.

(D) 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.

(E) 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.

(F) 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.

(G) Signs are prohibited within the public right-of-way of any street or easement.

(H) 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.

(I) Signs giving off an intermittent or rotating beam or ray of light shall be prohibited.

(J) 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.

(K) In all zoning districts, a street address or property number shall be required to be displayed on

the property and visible from the street.

(L) 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 BILLBOARDS.

Billboards are permitted only under a conditional use permit.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.444 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 height less than ten feet above the sidewalk.

(D) Construction, anchors, support and materials to be used shall be approved by the Building Official before a permit is issued.

(E) Signs on awnings shall be measured by the area of printed material, not by the overall size of the awning.
(Ord. 125, 2nd Series, passed 12-15-2003) Penalty, see § 152.999.

§ 152.445 ROOF SIGNS.

Roof signs are permitted only by conditional use in all districts.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.446 ILLUMINATED SIGNS.

Illuminated signs may be permitted. Illuminated signs shall be diffused or indirect so as not to create a public nuisance, or direct rays of light into adjacent property or onto any public way. All illuminated signs must also meet the requirements in Minnesota Statute § 173.155 Subdivision 3(3).
(Ord. 125, 2nd Series, passed 12-15-2003) Penalty, see § 152.999.

§ 152.447 FLASHING SIGNS.

Flashing signs that meet the requirements of Minnesota Statute § 173.155 may be permitted. All other flashing signs shall be prohibited.

§ 152.448 MOBILE 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 signs shall be removed within 30 days of placement or installation.

§ 152.449 TEMPORARY SIGNS.

Temporary signs are permitted in all districts in accordance with the following:

- A. The individual sign area is limited to 16 square feet;
- B. Only one sign shall be erected on each road frontage with a maximum of two signs per premise.
- C. Temporary signs shall be removed within 60 days of placement or installation.

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

§ 152.450 SIGN MAINTENANCE.

(A) *Upkeep.* All signs shall have routine maintenance completed and be kept in good repair. Signs shall be free from rust, rot, broken pieces, missing letters, ripped canvas and peeling paint.

(B) *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.

(C) *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) All other signs not prohibited that do not conform to the provisions of this chapter.

(B) All prohibited 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 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 an active product or establishment 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) Residential identification signs shall not exceed two square feet and bear only the name, address and/or professional activity of the occupants of the premises.

(B) Home occupation signs except in the R-1 District.

a. One non-illuminated identification sign, not to exceed two square feet, for the permitted use.

(C) Temporary signs

(D) Mobile signs

(E) Approved neighborhood commercial establishments, or other approved non-residential uses, may have one illuminated or non-illuminated sign not to exceed 24 square feet in area.

(F) Other signs, such as subdivision plat signs and housing development signs, may be approved

through a Conditional Use Permit.

(G) No dimension of a sign may be more than twice the other dimension.

§ 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) Maximum total attached sign area per building must not exceed 30% of the longest street frontage. The total sign ratio has a 1 to 1 ratio from linear feet to square feet when converting, such that a 100 feet street frontage would permit a maximum of 30 square feet of sign area.

(1) Permitted Attached Signs:

<i>Sign Type</i>	<i>Maximum Face Area Per sign</i>
Wall Sign	16 Square Feet
Canopy/Awing Sign	16 Square Feet

a) A maximum of one attached sign per building face is allowed.

b) In structures with joint tenancy and individual outside entrances, each tenant may have its own wall sign above its entrance of a size not to exceed 16 square feet.

b. *Permitted Detached Signs:*

<i>Sign Type</i>	<i>Maximum Face Area</i>
Cantilevered Ground Sign	9 Square Feet
Monument Sign	100 Square Feet

a) A maximum of one detached sign per lot is allowed.

b) Maximum height for detached signs is 15 feet. A variance application may be considered for taller signs.

§ 152.461 SIGNS PERMITTED IN OTHER BUSINESS AND INDUSTRIAL DISTRICTS.

The following signs shall be permitted in other business and industrial districts where the uses are otherwise permitted in the district:

(A) Maximum total attached sign area per building must not exceed the longest street frontage. The total sign ratio has a 1 to 1 ratio from linear feet to square feet when converting, such that a 100 feet street frontage would permit a maximum of 100 square feet of sign area.

(1) Permitted Attached Signs:

<i>Sign Type</i>	<i>Maximum Face Area Per sign</i>
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Wall Sign	10 % of the building face
Canopy/Awing Sign	20 Square Feet

- (a) In Structures with joint tenancy and individual outside entrances, each tenant may have its own wall sign above its entrance of a size not to exceed 32 square feet.

(2) Permitted Detached Signs:

<i>Sign Type</i>	<i>Maximum Face Area</i>
Cantilevered Ground Sign	9 Square Feet
Monument Sign	100 Square Feet
Pylon Sign	100 Square Feet

- a) A maximum of one detached sign per lot is allowed.
b) Maximum height for detached signs is 25 feet. A variance application may be considered for taller signs.

§ 152.462 SIGNS PERMITTED IN PLANNED UNIT DEVELOPMENTS.

Signs shall be permitted in planned unit developments. In no case shall signs in a residential planned unit development exceed the sign requirements stipulated in § 152.459, nor signs in a mixed use planned unit development exceed the requirements of the B-1 District (§ 152.460).
(Ord. 125, 2nd Series, passed 12-15-2003)

VEHICLE SERVICE STATIONS; CAR WASH REGULATIONS

§ 152.475 VEHICLE SERVICE STATIONS.

Vehicle service 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 vehicle service 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 vehicle service 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.

§ 152.477 STORAGE OF INOPERABLE VEHICLES (VEHICLE WRECKING).

A storage location for inoperable vehicles (“impound lot”) shall be allowed as a conditional use only in the I-1 or I-2 zoning districts and shall be subject to the following:

(A) Use of the impound lot shall be limited to a business providing vehicle wrecker services and towing of vehicles.

(B) Storage of inoperable vehicles shall be permitted only as temporary storage for the time period required to conclude any insurance or legal proceedings or disposal arrangements in connection with each specific vehicle.

(C) No scrapping, dismantling, or salvage of vehicles or vehicle parts shall be allowed.

(D) The business owner and/or property owner shall be responsible for:

(1) Compliance with any requirements of the Minnesota Pollution Control Agency and, if applicable, Minnesota Department of Natural Resources concerning vehicle fluids and hazardous substances; and

(2) Verifying the proximity of the proposed impound lot in relation to the city’s drinking water sources management area.

(E) The storage area shall be kept in a neat and orderly condition.

(F) The storage area shall be enclosed by a fence. The location, type, and height of fencing and/or screening shall be set forth in the conditional use permit granted by the City Council for the specific property.

(G) The City Council may add additional conditions to the conditional use permit as deemed advisable, such as a limitation on hours of operation, depending on the location of the conditional use.

(Ord. 188, 2nd Series, passed 2-16-2021)

MIXED USE STRUCTURE

§ 152.478 PURPOSE.

The purpose of a mixed use structure is to allow for a mixture of land uses on a lot that are compatible with surrounding land uses. The intention of mixed use is to promote more small scale employment and residential opportunities as well as enhance walkability.

§ 152.479 GENERAL PROVISIONS.

(A) All mixed use structures must follow all provision of underlying zoning districts such as setbacks and height restrictions, unless otherwise approved.

(B) The ground floor of all mixed use buildings must be of commercial use, or sheltered parking.

(1) Sheltered parking cannot be the primary use of the structure.

(2) Sheltered parking in the B-3 zoning district must only be accessed from an alley.

(C) Additional floors must be a permitted use in the underlying zoning district, or a residential use.

(D) Only one principal mixed use structure is permitted per lot. If additional non-accessory structures are desired, please refer to § 152.193 Mixed Use PUD.

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.

(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, gymnasiums, auditoriums 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: All required parking spaces shall meet the design requirements of §152.495.

<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
Beauty salon, barber shop	2 spaces per chair, plus 1 space for each employee
Bowling alleys	3 spaces for each alley
Cemetery	2 spaces per gross acre
Auditoriums, gymnasiums, 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-thru banks	Reserve space equal to 3 times the number of drive-thru window units
Dwelling, efficiency	1 space per dwelling unit
Dwelling, multi-family	2 spaces per dwelling unit [See §152.495 (B)]
Dwelling, single-family	2 spaces per dwelling unit [See §152.495 (B)]
Dwelling, two-family	2 spaces per dwelling unit [See §152.495 (B)]

Funeral homes	1 space for each 15 seats with a minimum of 10 spaces
General Retail and Grocery Store	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
Recreational Vehicle Park, campground	1.5 per RV site/dwelling unit, plus one per employee
Restaurants, night clubs, clubs over 1000 sq. ft.	1 space per 75 sq. ft. of floor area

*The minimum number of parking spaces required for a use not specifically mentioned in this section shall be for the most similar use listed herein as determined by the Zoning Administrator.

(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) General Standards

(1) All off-street vehicle 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.

(2) All required parking areas for commercial, industrial, and institutional properties and parking lots for multi-family units (of three or more) and planned unit developments shall be paved with asphalt or concrete surfacing, afford adequate drainage, and shall have bumper guards where needed. All parking shall be arranged to allow for orderly and safe parking and loading and unloading.

(3) Curb Cut Specifications for Residential Properties: The minimum width of a curb cut for a driveway shall be 12 feet and the maximum shall be 24 feet. At least 16 feet is recommended. On lots where the frontage is at least 70 feet, approval may be obtained from the Street Superintendent authorizing a curb cut in excess of 24 feet and up to 36 feet. The width of the curb cut shall not

exceed the width of the garage. The Street Superintendent shall be designated, on behalf of the City, to evaluate all requests for multiple curb cuts. Regardless of the public road surface, if a property owner requests two driveway approaches on the same property and these approaches are on the same street, there shall be a minimum of 75 feet between the approaches.

(4) Curb Cut Specifications for Commercial/Industrial/Institutional Properties: The minimum width of a curb cut for a driveway shall be 20 feet and the maximum shall be 36 feet. At least 26 feet is recommended. The Street Superintendent shall be designated, on behalf of the City, to evaluate all requests for curb cuts for commercial/industrial/institutional properties. On lots that are used by larger commercial vehicles, the Street Superintendent shall have the authority to authorize a curb cut in excess of 36 feet. The Street Superintendent shall be designated, on behalf of the City, to evaluate all requests for multiple curb cuts. Regardless of the public road surface, if a property owner requests two driveway approaches on the same property and these approaches are on the same street, there shall be a minimum of 75 feet between the approaches.

(5) Driveway Approach Specifications: These specifications apply to the “driveway approach” which is the area between the gutter and the property line. (This area is included in the street right-of-way.) There shall be a minimum of 3 inches of compacted Class 5 gravel (or similar grade material approved by the Street Superintendent) under the curb and gutter and driveway approach. There shall be an expansion joint the full width of the curb cut where the gutter and driveway meet. There shall be contraction joints in the gutter and driveway approach at a maximum of 12-foot intervals. There shall be a contraction joint at the front property line which runs the full width of the driveway approach. The driveway approach shall flare out a minimum of 3 feet by 3 feet from the curb on each side of the driveway. The depth of concrete or asphalt in the driveway approach and the flare at the curb opening shall be 3½ inches thick for residential driveways. The depth of the concrete or asphalt in the driveway approach and the flare at the curb opening shall be at least 6 inches thick for commercial/industrial/institutional driveways. The curb and gutter section must be poured separate from the driveway. The curb and gutter section to be replaced shall match the material, width, depth, and profile of the adjacent curb and gutter.

(6) Driveways Adjacent to Granular Streets or Alleys: If a driveway is adjacent to a granular street or alley, the driveway and driveway approach may be gravel or other approved granular material. A minimum of 6 inches of compacted granular material shall be required in the driveway approach. The driveway approach may not interfere with any storm sewer intakes or outlets.

(7) Material Standards: Granular material includes, but is not limited to, Class 5 gravel, red rock, crushed rock, crushed concrete or crushed asphalt. All granular material shall be compacted. All granular and asphalt specs shall be approved by the Street Superintendent. All concrete shall be a minimum of 4,000 psi exterior concrete mix.

(8) Property owners are not allowed to raise the grade of their driveways from the street by installing pipe in the gutter. The elevation of the driveway entrance is to match the street elevation.

(B) Residential Standards

(1) All single-family homes built, assembled, or placed on residential lots must provide, at minimum, access to and space for off-street parking for two standard-sized vehicles. This requirement shall include sheltered, off-street parking for a minimum of one standard-sized vehicle. The minimum dimensions of the sheltered space shall be a depth of 20 feet and a width of 12 feet with a door height of 7 feet. Multi-family structures are exempt from this provision.

(2) Off-street front-yard parking areas for one- or two-family uses shall be upon a well-defined

driveway. Additional front-yard parking may be on an area not to exceed 12 feet in width abutting only one side of the driveway. The driveway shall be surfaced with either concrete or asphalt except as otherwise provided in Section 152.495(A)(6). The parking area abutting a driveway shall be surfaced with either concrete, asphalt, or in cases where the existing driveway is gravel or an approved granular material, similar material may be used for the additional parking area.

(3) Additional parking areas in the side and/or rear yards shall be surfaced with concrete, asphalt, gravel, other approved granular material, pavers, or other similar durable, non-organic, hard-surfaced materials. Grass and weeds shall not be allowed to grow up around these areas. If said parking areas are surfaced with concrete or asphalt, they may abut the property lines but shall not create drainage runoff issues onto adjoining property. If said parking areas are surfaced with other approved materials, they shall be set back from the property lines by at least one foot.

(4) Zoning permits shall be required for all curb cuts, driveway openings, front-yard parking areas, and rear- and side-yard parking areas.

(5) Off-street parking for multi-family units of three or more shall be on a designated parking lot pursuant to the standards set forth in Section 152.495(A).

(C) Planned Unit Development Standards

(1) The parking area shall be designed to minimize headlights shining into residential properties when possible.

(2) Off-street parking for planned unit developments (PUDs) shall be on a designated parking lot, or as approved in the Development Stage Plan for the PUD, pursuant to the standards set forth in Section 152.495(A).

(3) Shared driveways are permissible.

§ 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.

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 offense.

(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 any 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)